



AGENDA

REGULAR MEETING

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CLAYTON CITY COUNCIL

* * *

TUESDAY, April 21, 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
- 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 *

April 21, 2015

1. **CALL TO ORDER THE CITY COUNCIL** – 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 April 7, 2015. ([View Here](#))

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

(c) Accept the City's Investment Portfolio Report for Third Quarter of FY 2014-15, ending March 31, 2015. ([View Here](#))

(d) Approve a Resolution approving and adopting an amended City Investment Policy to add federal agency notes as an investment option. ([View Here](#))

(e) Adopt a Resolution approving and adopting an update to the City of Clayton Standard Specifications (dated March 2015) concerning the construction of public improvements, and authorization to post it on the City's website. ([View Here](#))

(f) Adopt a Resolution approving a covenant, and the recordation thereof, with Lester Ipsen, Jr. for the perpetual maintenance of stormwater treatment facilities on real property located at 6024 and 6062 Main Street (APNs 119-013-003 and 119-013-004; dba Skipolini's Pizza). ([View Here](#))

4. **RECOGNITIONS AND PRESENTATIONS**

(a) Presentation of its Annual Report for 2014 by Joyce Atkinson, President of the Clayton Community Library Foundation. ([View Here](#))

(b) Proclamation declaring the week of April 20th - 24th, 2015 as "Clayton Community Library Volunteer Recognition Week," and recognition of Clayton's "Library Volunteers of the Year." ([View Here](#))

5. REPORTS

- (a) Planning Commission – Commissioner Gregg Manning.
- (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 - None.

8. ACTION ITEMS

- (a) Discussion of current land use designation(s) for ground floor land uses and alternative(s) for possible amendments to the City's General Plan, Zoning Code, and/or Town Center Specific Plan regarding public and privately-owned real properties in the Clayton Town Center (downtown). ([View Here](#))
(City Council; City Manager)

Staff recommendation: Following City Council discussion and opportunity for public comment, the City Council provide general policy direction regarding the City's existing ground floor land use designations of public and privately-owned real properties in the Clayton Town Center (downtown).

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

10. **CLOSED SESSION**

- (a) *Government Code Section 54957.6*, Conference with Labor Negotiator
Instructions to City-designated labor negotiator: City Manager
Employee Organization: Clayton Police Officers' Association (CPOA)

11. **ADJOURNMENT**– the next regularly scheduled City Council meeting is May 5, 2015.

#

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, April 7, 2015

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 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, City Clerk/HR Manager Janet Brown and Maintenance Supervisor John Johnston (arrived at 7:12 p.m.).

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

3. **CONSENT CALENDAR**

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

 - (a) Approved the minutes of the special joint meeting of February 9, 2015 and the regular meeting of March 17, 2015.
 - (b) Approved Financial Demands and Obligations of the City.
 - (c) Adopted Resolution No. 09-2015 approving and authorizing the execution of a multi-year Agreement (up to 10 years) with the City of Concord for its continued provision of police dispatch, detention and information technology services to and for the City of Clayton's Police Department.
 - (e) Approved an Addendum to the Exclusive Sales Listing Agreement with Transwestern Property Company West, Inc. to extend the existing terms and conditions to January 2, 2016 for the list and market for sale and development certain City-owned real-properties in the Clayton Town Center (APN 118-560-010, vacant 1.67 acre parcel off Main Street; and APNs 119-050-034, 119-050-008, and 119-050-009 located at 1005 and 1007 Oak Street).

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 – City Manager Gary Napper reported he has been reviewing the Governor's Executive Order on drought/water restrictions. The 25% water use reduction requirement will cause the City to not turn on the newly-updated splash pad at The Grove Park; the City Hall courtyard fountain and the Clayton Fountain have also been turned off until the water restrictions are lifted.
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Councilmember Haydon attended a meeting of the Contra Costa County Mayors' Conference and announced the Clayton Business and Community Association Spring Bocce Ball League session has begun.

Councilmember Pierce attended a meeting of the Contra Costa County Mayors' Conference. She also announced under the terms of a joint agreement with Contra Costa Transportation Authority, City of Concord and the Concord Naval Weapons Station, Honda will use the newly branded "GoMentum Station" of its automated and connected vehicle technology at the Concord Naval Weapons Station. Honda also plans to participate in a consortium committed to making Contra Costa County home to a premier testing facility for automated drive technologies.

Councilmember Diaz attended a joint hearing in Sacramento on the Senate Business, Professions and Economic Development (Hill), Assembly Business (Bonilla), and Assembly Arts, Entertainment, Sports, Tourism and Internet Media (Calderon); a League of California Cities – East Bay Division meeting, and the Clayton Library Committee Creekside Art Show. He also announced the Clayton Community Library Foundation's murder mystery play, "Death and Disloyalty", will show on Friday, April 24th and Saturday, April 25th at the Library. Councilmember Diaz advised he will be attending the League of California Cities' Public Safety Policy Committee which plans to discuss State Budget and Issues, and SB175 (Huff) Peace Officers: Body Cameras.

(Maintenance Supervisor John Johnston arrived)

Vice Mayor Geller attended the monthly meeting of the Clayton Business and Community Association and announced the upcoming 2015 Saturday Concerts in The Grove schedule has been printed on flyers being mailed in the *Clayton Pioneer* and posted on the City's website.

Mayor Shuey reported he recently met separately with members of the Clayton Police Officers' Association and with Miscellaneous City Employee staff members to exchange information regarding labor negotiations and his decision making processes; he thought the meetings went well.

- (e) Other – None.

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

Tamara Steiner from the *Clayton Pioneer* announced upcoming Clayton community events: Clayton Cleans Up! on April 25th; Clayton Community Library Foundation "Death and Disloyalty", a Library murder mystery play April 24th and April 25th; and Clayton Historical Society's 23rd Annual Gardens Tour April 25th and 26th.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Consider recommendations from the Trails and Landscaping Committee (TLC) regarding priority of proposed general improvement projects within the Citywide Landscape Maintenance District (CFD – 2007).

Maintenance Supervisor John Johnston presented the staff report indicating the preference of Option 1 from the Trails and Landscaping Committee which encumbers \$300,000.00 of Landscape Maintenance District reserve funds, noting no plantings will occur until the Governor's Severe Drought Water Restrictions are lifted. Specific landscape plans for the various subdivision entries would be internally designed by staff during this drought period, subject to review by the Trails and Landscaping Committee with final approval by City Council by June 2016. Plant designs would be drought tolerant and include use of appropriate hardscape to minimize water use and enhance ease of maintenance. In the interim staff will be moving forward with the previously-budgeted Landscape District projects to repair trail bridges and broken planter boxes in the downtown.

Mayor Shuey inquired if engineered type of products [recycled materials] will be used as the surface replacements on the seven bridges' renovation project along the trail system? Maintenance Supervisor Johnston advised at this time he is not sure if the existing structures will be able to support the additional weight of a manufactured heavier material. Staff will be exploring it further.

Councilmember Pierce advised the existing bridge structures are already in need of additional structural support and understands they may not be able to accommodate a heavier material. Mr. Johnston noted this issue and option will be deferred to the contractor who would have the expertise in this field.

Mr. Johnston continued with the staff report presentation describing the various gradations of repair and replacement that are needed on the downtown raised planter boxes on Main Street and Center Street. The Chinese Pistache tree roots need larger planter boxes, which is why the existing ones are breaking apart. The planter box on the corner of Center and Diablo Street was damaged by a vehicle; however the City recovered insurance funds to be used for repairs.

Vice Mayor Geller asked if the existing Crape Myrtle and Chinese Pistache trees could be possible reasons for the elevation of surrounding sidewalks? Mr. Johnston advised each planter box will be re-evaluated prior to the start of the renovation to see if there are other potential problems.

Councilmember Haydon inquired about any existing irrigation problems? Mr. Johnston advised a determination cannot be assessed prior to a complete evaluation which will occur on the planter boxes that are falling apart, including the irrigation system. Councilmember Haydon noted the Clayton Valley Garden Club was once hand watering the planter boxes in the downtown area.

Mr. Johnston noted the raised planter boxes on Center Street are only in need of minor repairs because they were added later and he designed them properly sized. He concluded by indicating the Trails and Landscaping Committee reviewed the Landscape District's mid-year budget and determined that, with a minimum reserve of \$200,000.00 for cash flow purposes, there are still additional monies available to take on some new landscaping projects when the drought is over.

Mayor Shuey inquired on the specific estimated cost break down on Option 1 and requested exactly what is planned to be done to the existing landscaping areas? Mr. Johnston advised each subdivision entry way will be thoroughly evaluated and if existing plants can be saved they will be. Mr. Johnston prefers Hawthorne shrubs such as those on Regency Drive as those bushes coordinate well with other plants and are low maintenance. City Manager Napper added specific designs for each entry way will be drawn; once the proposed design process is complete, it will be reviewed by the Trails and Landscaping Committee and then will come back to the City Council for final approval at a public meeting.

Vice Mayor Geller inquired on how the estimates were reached for the proposed general improvement projects within the Citywide Landscape Maintenance District? Mr. Johnston advised actual unit expenses from the recent Clayton Road median project were tripled because these entry way projects are smaller sites and include irrigation controller replacements, power for lighting; ultimately, each site will need further evaluation to refine actual improvement costs. City Manager Napper added the figures provided are guesstimates only; the proposed landscaping improvement project is still subjected to competitive bid by state law.

Vice Mayor Geller asked if the hardscape improvements could be installed and delay the landscape plants if the drought continues? Mr. Johnston advised much of his contemplated replacement design will involve hardscape; plants cannot be the main focus any longer as the State of California is in a drought, water usage needs to be reduced by 25 percent, and future water use is risky.

Vice Mayor Geller complimented Mr. Johnson on the design and finished product of the renovated medians on Clayton Road; they are beautiful.

Councilmember Haydon inquired once the reduced water usage order is lifted, would the City be able to phase in plants that need water? Mr. Johnston responded hardscape is the intended landscape with focus plants much like the project completed at the traffic signal island in front of the Clayton Fountain.

Mayor Shuey opened the item to receive public comments; no public comments were offered.

It was moved by Vice Mayor Geller, seconded by Councilmember Haydon, to approve Option 1 (subdivision entry ways) as the priority for landscape and hardscape improvement projects in the Citywide Landscape Maintenance District during calendar years 2015 and 2016. (Passed; 5-0 vote).

- (b) Consider and discuss a request by Council Member Diaz to create and design a City of Clayton flag.

Councilmember Diaz opened the discussion of a City of Clayton flag noting he was recently approached by a business colleague who would like to design a City of Clayton flag, pro bono, and he is seeking the input of the Council members if this was something of interest and discuss how to proceed.

Mayor Shuey asked if the proposal includes creation and the rights to a flag design? Councilmember Diaz confirmed the beginning process is to decide if the City Council would like to consider creating a City of Clayton flag; he further referenced a brochure was included with the staff report outlining suggested parameters in designing a flag.

Vice Mayor Geller liked the idea of having a City of Clayton flag and inquired how to precede with the design of the City flag: by contest, create a subcommittee or just hire the Councilmember Diaz's business colleague? Councilmember Diaz advised his business colleague will design the flag pro bono and is seeking the preference of the City Council if there was anything in particular to be included in the design.

Councilmember Haydon indicated his preference is to use the existing graphic that appears on the top of City of Clayton business cards and City of Clayton stationery.

Vice Mayor Geller asked, after reading the brochure, if the finished image is reproducible for both sides of the flag?

Councilmember Pierce concurred with Councilmember Haydon, preferring the use of the existing image of the City of Clayton business cards and City of Clayton stationery.

Mayor Shuey inquired if our image of Mt. Diablo is the same perspective one would see from the city of Clayton? Councilmember Pierce added it is a true image depending on where one is standing; it was designed by a high school student back in 1964, the original drawing is still in existence and stored at the Clayton Museum, and it has been copyrighted for the exclusive use of Clayton City Hall despite being used in other products sold by some in town.

Mayor Shuey asked if the City Council preferred the formation of a subcommittee to oversee the design of a flag? Councilmember Diaz advised his business colleague has designed flags for many state and national associations and has the experience in what makes a good design.

Vice Mayor Geller asked if the designer of the flag is also able to produce the flags? Councilmember Diaz advised his business colleague only designs flags, but is certain he can offer recommendations on producers. He also confirmed with City staff that our existing flagpoles are already equipped to fly up to three flags on each pole. Councilmember Pierce reminded the Council that often the third space on a flag pole is reserved for a POW/MIA flag and we should consider that when determining where to fly a City flag.

Vice Mayor Geller would like to see the design concepts before making a decision.

Mayor Shuey indicated it was general Council consensus that Councilmember Diaz move forward to submit the existing City of Clayton logo image to his business colleague to create a design for a City of Clayton flag.

Mayor Shuey opened the item to receive public comments; no public comments were offered.

No formal action was taken on this item.

9. **COUNCIL ITEMS** – None.

10. **CLOSED SESSION**

- (a) *Government Code Section 54956.8, Conference with Real Property Negotiator. Real Property: 6005 Main Street (APNs 119-011-002-1; 118-560-010-1; 118-370-041-6).*

Instructions to City Negotiators (Mayor David Shuey and Council Member Julie Pierce; and Ed Del Becarro, Managing Director, Transwestern) concerning price and terms of payment.

Negotiating Party: 1. Joshua Reed, Pacific Union Land Company.

8:25 p.m. Report Out from Closed Session: Mayor Shuey reported the City Council received information from its negotiators and gave general direction to staff.

11. **ADJOURNMENT**– on call by Mayor Shuey, the City Council meeting adjourned at 8:26 p.m.

The next regularly scheduled City Council meeting is April 21, 2015.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

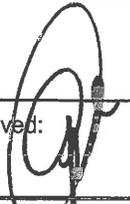
David T. Shuey, Mayor

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Agenda Date 4/21/2015

Agenda Item: 3b

Approved: 
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Kevin Mizuno, FINANCE MANAGER

DATE: 4/21/2015

SUBJECT: FINANCIAL OBLIGATIONS

RECOMMENDATION:

Approve the following Invoices:

4/17/2015 Cash Requirements	\$ 108,603.08
4/14/2015 Payroll, PPE 4/12/15, Pay 4/15/15	\$ 82,326.05

Total \$ 190,929.13

Attachments:

Cash Requirements Report dated 4/17/2015 (4 pages)
ADP Report Week 16, PPE 04/12/15 (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
Bank of America								
Bank of America	4/21/2015	4/15/2015	DT5	Deposit Slips - 200	\$18.00	\$0.00		\$18.00
<i>Totals for Bank of America:</i>					<u>\$18.00</u>	<u>\$0.00</u>		<u>\$18.00</u>
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	4/21/2015	4/15/2015	746041	March Services	\$8,000.00	\$0.00		\$8,000.00
Best Best & Kreiger LLP	4/21/2015	4/15/2015	746042	Silver Oaks Estates, March 2015	\$2,328.69	\$0.00		\$2,328.69
Best Best & Kreiger LLP	4/21/2015	4/15/2015	746043	LMI - Groebner porperty sale	\$3,630.00	\$0.00		\$3,630.00
<i>Totals for Best Best & Kreiger LLP:</i>					<u>\$13,958.69</u>	<u>\$0.00</u>		<u>\$13,958.69</u>
BMI (Broadcast Music Inc)								
BMI (Broadcast Music Inc)	4/21/2015	4/15/2015	26312376	2015 Concert Season	\$335.00	\$0.00		\$335.00
<i>Totals for BMI (Broadcast Music Inc):</i>					<u>\$335.00</u>	<u>\$0.00</u>		<u>\$335.00</u>
Jessica Boscacci								
Jessica Boscacci	4/21/2015	3/4/2015	Petty Cash	Petty Cash replenishment	\$385.91	\$0.00		\$385.91
<i>Totals for Jessica Boscacci:</i>					<u>\$385.91</u>	<u>\$0.00</u>		<u>\$385.91</u>
CalPERS Retirement								
CalPERS Retirement	4/21/2015	4/15/2015	CC 4/24/15	City Council for Month Ending 4/24/15	\$286.29	\$0.00		\$286.29
CalPERS Retirement	4/21/2015	4/15/2015	PPE 4/12/15	Retirement PPE 4/12/15	\$20,973.79	\$0.00		\$20,973.79
<i>Totals for CalPERS Retirement:</i>					<u>\$21,260.08</u>	<u>\$0.00</u>		<u>\$21,260.08</u>
CCWD								
CCWD	4/21/2015	4/15/2015	3/30/15	water stmt 3/30/15	\$270.47	\$0.00		\$270.47
CCWD	4/21/2015	4/15/2015	J Series	Irrigation - 2/6/15-4/6/15	\$5,608.71	\$0.00		\$5,608.71
<i>Totals for CCWD:</i>					<u>\$5,879.18</u>	<u>\$0.00</u>		<u>\$5,879.18</u>
Clayton Community Church								
Clayton Community Church	4/21/2015	4/17/2015	TUP/NP	Event Cancelled refund fees	\$332.00	\$0.00		\$332.00
<i>Totals for Clayton Community Church:</i>					<u>\$332.00</u>	<u>\$0.00</u>		<u>\$332.00</u>
Clean Street								
Clean Street	4/21/2015	4/15/2015	77840	monthly sweep fee March 2015	\$3,500.00	\$0.00		\$3,500.00
<i>Totals for Clean Street:</i>					<u>\$3,500.00</u>	<u>\$0.00</u>		<u>\$3,500.00</u>
Cole Supply Company								
Cole Supply Company	4/21/2015	4/17/2015	27992	black liners	\$460.80	\$0.00		\$460.80
<i>Totals for Cole Supply Company:</i>					<u>\$460.80</u>	<u>\$0.00</u>		<u>\$460.80</u>
Comcast								
Comcast	4/21/2015	4/15/2015	4/5/15	high speed internet 4/10/15-5/9/15	\$403.95	\$0.00		\$403.95
<i>Totals for Comcast:</i>					<u>\$403.95</u>	<u>\$0.00</u>		<u>\$403.95</u>
Contra Costa County Department of Conservation & Development								
Contra Costa County Department of Co	4/21/2015	3/31/2015	Q3 FY 15	Q3 FY 14/15 business license fee	\$52.00	\$0.00		\$52.00

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
<i>Totals for Contra Costa County Department of Conservation & Development:</i>					\$52.00	\$0.00		\$52.00
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	4/21/2015	4/15/2015	45335584	contract for May 2015	\$342.17	\$0.00		\$342.17
<i>Totals for De Lage Landen Financial Services, Inc.:</i>					\$342.17	\$0.00		\$342.17
Division of the State Architect								
Division of the State Architect	4/21/2015	3/31/2015	Q3 FY 15	Disabilty Access & Education Fee Q3 FY 14/	\$24.00	\$0.00		\$24.00
<i>Totals for Division of the State Architect:</i>					\$24.00	\$0.00		\$24.00
Environtech Enterprises								
Environtech Enterprises	4/21/2015	4/15/2015	A001B-1B-15	mustard, yellow star thistle abatement Feb/Ma	\$13,000.00	\$0.00		\$13,000.00
Environtech Enterprises	4/21/2015	4/15/2015	A001A-2A-15	thistle abatement February	\$6,800.00	\$0.00		\$6,800.00
Environtech Enterprises	4/21/2015	4/15/2015	A001-A1-15	thistle abatement January	\$9,200.00	\$0.00		\$9,200.00
<i>Totals for Environtech Enterprises:</i>					\$29,000.00	\$0.00		\$29,000.00
Geoconsultants, Inc.								
Geoconsultants, Inc.	4/21/2015	4/15/2015	18729	Well Monitoring March 2015	\$1,546.50	\$0.00		\$1,546.50
<i>Totals for Geoconsultants, Inc.:</i>					\$1,546.50	\$0.00		\$1,546.50
Hammons Supply Company								
Hammons Supply Company	4/21/2015	4/17/2015	88067	Library Supplies	\$298.59	\$0.00		\$298.59
<i>Totals for Hammons Supply Company:</i>					\$298.59	\$0.00		\$298.59
Hyde Printing Inc								
Hyde Printing Inc	4/21/2015	4/15/2015	69389	Concert in the Grove Flyers	\$1,004.98	\$0.00		\$1,004.98
<i>Totals for Hyde Printing Inc:</i>					\$1,004.98	\$0.00		\$1,004.98
ICMA Retirement Corporation								
ICMA Retirement Corporation	4/21/2015	4/15/2015	15223	annual plan fee for 4/1/15-6/30/15	\$125.00	\$0.00		\$125.00
<i>Totals for ICMA Retirement Corporation:</i>					\$125.00	\$0.00		\$125.00
John Deere Landscapes Inc								
John Deere Landscapes Inc	4/21/2015	4/17/2015	71058586	Order # 79627438	\$673.11	\$0.00		\$673.11
John Deere Landscapes Inc	4/21/2015	4/17/2015	71161675	Order # 79762135	\$233.07	\$0.00		\$233.07
John Deere Landscapes Inc	4/21/2015	4/17/2015	71081705	Order # 79808212	\$4,771.67	\$0.00		\$4,771.67
<i>Totals for John Deere Landscapes Inc:</i>					\$5,677.85	\$0.00		\$5,677.85
LarryLogic Productions								
LarryLogic Productions	4/21/2015	4/15/2015	1492	City Council Meeting 4/7/15, DVD Copy	\$300.00	\$0.00		\$300.00
<i>Totals for LarryLogic Productions:</i>					\$300.00	\$0.00		\$300.00
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	4/21/2015	4/17/2015	415-1152-4	Library Maintenance for April 2015	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	4/21/2015	4/17/2015	415-1151-4	City Hall Maintenance for April 2015	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	4/21/2015	4/17/2015	415-1146-3	Library Maintenance for March 2015	\$502.17	\$0.00		\$502.17
Marken Mechanical Services Inc	4/21/2015	4/17/2015	415-1148-3	City Hall Maintenance for March 2015	\$332.50	\$0.00		\$332.50

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
<i>Totals for Marken Mechanical Services Inc:</i>					\$1,134.67	\$0.00		\$1,134.67
NBS Govt. Finance Group								
NBS Govt. Finance Group	4/21/2015	4/15/2015	115000191	Clayton DM	\$255.76	\$0.00		\$255.76
<i>Totals for NBS Govt. Finance Group:</i>					\$255.76	\$0.00		\$255.76
Neopost Northwest								
Neopost Northwest	4/21/2015	4/15/2015	N5262507	contract 5/7/15-6/6/15	\$158.20	\$0.00		\$158.20
<i>Totals for Neopost Northwest:</i>					\$158.20	\$0.00		\$158.20
Neumannn Construction								
Neumannn Construction	4/21/2015	4/17/2015	CAP0143	Deposit Refund for 137 Hurd Place	\$2,500.00	\$0.00		\$2,500.00
<i>Totals for Neumannn Construction:</i>					\$2,500.00	\$0.00		\$2,500.00
PERMCO, Inc.								
PERMCO, Inc.	4/21/2015	4/15/2015	10360	General City Engineering Svcs 3/28/15-4/10/1	\$3,651.35	\$0.00		\$3,651.35
PERMCO, Inc.	4/21/2015	4/15/2015	10361	CAP Inspection 4/6/15	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	4/21/2015	4/15/2015	10362	Prep prelim plans for Caltrans	\$1,148.75	\$0.00		\$1,148.75
PERMCO, Inc.	4/21/2015	4/15/2015	10363	plans/bid package	\$1,330.90	\$0.00		\$1,330.90
PERMCO, Inc.	4/21/2015	4/15/2015	10364	review submittals, discussions	\$1,774.50	\$0.00		\$1,774.50
PERMCO, Inc.	4/21/2015	4/15/2015	10365	PG&E Conduits - Regency & Rialto	\$600.00	\$0.00		\$600.00
<i>Totals for PERMCO, Inc.:</i>					\$8,526.25	\$0.00		\$8,526.25
pmsigns								
pmsigns	4/21/2015	4/15/2015	18142	Clayton Cleans Up Banner Date Change	\$54.25	\$0.00		\$54.25
<i>Totals for pmsigns:</i>					\$54.25	\$0.00		\$54.25
Rock & Waterfall Co								
Rock & Waterfall Co	4/21/2015	4/17/2015	121-99	Waterfall Maintenance	\$650.00	\$0.00		\$650.00
<i>Totals for Rock & Waterfall Co:</i>					\$650.00	\$0.00		\$650.00
Roto-Rooter Sewer/Drain Service								
Roto-Rooter Sewer/Drain Service	4/21/2015	4/17/2015	D-95-15	Work Order C371308	\$424.20	\$0.00		\$424.20
<i>Totals for Roto-Rooter Sewer/Drain Service:</i>					\$424.20	\$0.00		\$424.20
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	4/21/2015	4/17/2015	5314009315-155	service 2/28/15-3/25/15	\$280.84	\$0.00		\$280.84
<i>Totals for Sprint Comm (PW & ADM):</i>					\$280.84	\$0.00		\$280.84
Staples Advantage								
Staples Advantage	4/21/2015	4/15/2015	8033896025	Supplies for March, 2015	\$245.90	\$0.00		\$245.90
<i>Totals for Staples Advantage:</i>					\$245.90	\$0.00		\$245.90
US Bank Corp Pymt System (Cal Card)								
US Bank Corp Pymt System (Cal Card)	4/21/2015	4/17/2015	Stmt 3/23/15	Stmt Ending 3/23/15	\$9,098.31	\$0.00		\$9,098.31
<i>Totals for US Bank Corp Pymt System (Cal Card):</i>					\$9,098.31	\$0.00		\$9,098.31

City of Clayton Cash Requirements Report

<u>Vendor Name</u>	<u>Due Date</u>	<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Balance</u>	<u>Potential Discount</u>	<u>Discount Expires On</u>	<u>Net Amount Due</u>
Western Exterminator								
Western Exterminator	4/21/2015	4/15/2015	3101341	service March 2015	\$370.00	\$0.00		\$370.00
				<i>Totals for Western Exterminator:</i>	<u>\$370.00</u>	<u>\$0.00</u>		<u>\$370.00</u>
				GRAND TOTALS:	\$108,603.08	\$0.00		\$108,603.08

0 Employees with Overflow Statement 1 Total Statement
0 Overflow Statement 1 Total Statement
Tot Cks/Vchrs:00000000037 Tot Docs in all:00000000040
First No. Last No. Total
Checks: ADPCHECK ADPCHECK 00000000005
Vouchers: 00000160001 00000160032 00000000032

PPE 4/12/15

Z7L TOTAL DOCUMENT
CITY OF CLAYTON
LOCATION 0001

CHECK STUFFING, RECONCILIATION

82326.05 GROSS
59905.81 NET PAY (INCLUDING ALL DEPOSITS)
8784.81 FEDERAL TAX
224.13 SOCIAL SECURITY
1133.71 MEDICARE
.00 MEDICARE SURTAX
.00 SUI TAX
2765.02 STATE TAX
.00 LOCAL TAX
67064.13 DEDUCTIONS
2354.25 NET CHECK

COMPANY CODE Z7L
CITY OF CLAYTON
TOTAL DOCUMENT
LOCATION 0001

COPY COPY

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

VOID VOID VOID VOID VOID VOID VOID VOID VOID VOID

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



Agenda Date: 4-21-2015

Agenda Item: 3c

STAFF REPORT

Approved:

Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: KEVIN MIZUNO, FINANCE MANAGER AND CPA

DATE: April 21, 2015

SUBJECT: INVESTMENT PORTFOLIO REPORT – THIRD QUARTER FY 2014-15

RECOMMENDATION:

Accept the City Investment Portfolio Report for the Third Quarter of Fiscal Year 2014-15 ending March 31, 2015.

BACKGROUND

With adoption of the revised Investment Policy on August 3, 2010, the Finance Manager is required to submit a quarterly investment report to the City Council. The Third Quarter 2014-15 Fiscal Year report is provided herein.

FISCAL IMPACT

With the third quarter of the fiscal year completed, annual interest earnings for the General Fund is at \$28,846, or 76.72% of estimated General Fund interest revenues per the 2014-15 adopted budget of \$37,600. City-wide investment earnings solely attributable to pooled investments (i.e. not related to cash with fiscal agents such as bond proceeds) through the third quarter of fiscal year 2014-15 totaled \$108,847. Approximately 36.0% of the current City Investment Pool (the Pool) is invested in Local Agency Investment Funds (LAIF), which is a decrease of 5.8% since the last quarter ended December 31, 2014. The LAIF quarterly apportionment rate for this quarter was approximately 0.26%, which is a slight increase (0.01%) from a rate of 0.25% in the preceding quarter. In comparison, one year ago on March 31, 2014, the LAIF apportionment rate was approximately 0.23%. Even more astounding is that six years ago on March 31, 2009 the LAIF apportionment rate was 1.91%, or 7.64 times higher than the current apportionment rate.

Certificates of Deposit comprised approximately 59.46% of the City investment portfolio as of the quarter ended March 31, 2015. Approximately 4.50% of the pool is made up

of cash deposits and low (0.01%) interest bearing money market funds.

The market value of the total investment portfolio as of March 31, 2015 was approximately \$16,357,130, which is \$71,028 (or 0.44%) greater than total carrying value as of March 31, 2015. This demonstrates how the conservative nature of the City's investment strategy mitigates the risk of the City incurring large unrealized losses in market declines. At the same time, given less risk being incurred, more predictable and modest investment returns will be realized following this same strategy.

Relatively low interest earnings are largely attributable to older high yielding investments continuing to mature and the City placing those matured proceeds into our LAIF account or liquid money market funds for easy access. Easy access to invested funds is pertinent given upcoming RDA dissolution expected payments to Contra Costa County arising from the conclusion of our Due Diligence Review (DDR) agreed-upon-procedures pursuant to AB 1484. The Low-Mod and All Other Funds DDRs were approved by the Clayton Successor Agency Oversight Board on March 13, 2015 and submitted to the California Department of Finance (DOF) for their final review and approval on March 19, 2015.

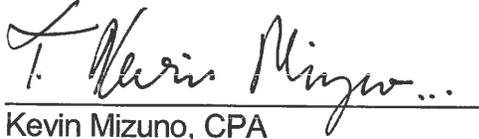
Once the DDRs are reviewed and approved by the DOF, and following the resolution to any disagreements the Successor Agency has with the DOF's determination, the Successor Agency will remit payment as directed by the final DDRs to Contra Costa County. The majority of funding necessary to make anticipated DDR demands, although part of the investment pool, is restricted and reported separately within a private purpose trust fund (fiduciary fund) in the City's financial statements.

The payment expected to be made to the County resulting from the DDRs is currently \$4,229,621, making up a massive 25.97% of the carrying value of the City's cash and investment pool as of March 31, 2015. Given this foreboding scenario, management has been diligent to diversify the City Investment Portfolio with assets immediately available in LAIF, money market funds and cash accounts. If the total DDR obligation were to substantially increase based on review by the DOF, it is possible that certificates of deposit held now would need to be sold to have sufficient cash on hand to make said payment. Without question, the absence of former RDA reserves for future projects has resulted in the transformation of the City's investment portfolio from one that was previously heavily invested in time deposits to one that requires more readily available assets.

CONCLUSION

For the third quarter ended March 31, 2015, the City of Clayton Investment Portfolio is being managed in accordance with the City's investment policy adopted on August 3, 2010. The City's cash management program provides sufficient liquidity to meet the next six month's expenditures. As such, staff respectfully requests the City Council's acceptance of this staff report and the attached Investment Holdings Summary.

Respectively submitted,

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

Kevin Mizuno, CPA
Finance Manager

Attachments: City of Clayton Investment Holdings Summary – Third Quarter of Fiscal Year 2014-15
(January 1, 2015 - March 31, 2015)

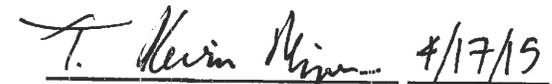
City of Clayton
Investment Holdings Summary
Quarter Ending
March 31, 2015

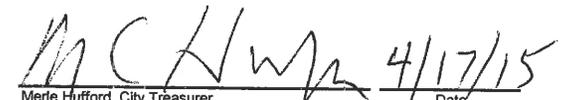
Investment Account	Investment Type	Institution	CUSIP	Carrying Value	Rate	Current Yield	Settlement Date	Maturity Date	Market Value
Morgan Stanley	Money Market Fund	Morgan Stanley		3,673.41	0.01%	0.01%	n/a	n/a	3,673.41
	Certificate of Deposit	World Financial Network Bank, Wilmington, DE	982999BI4	100,000.00	1.15%	0.19%	5/31/12	5/29/15	100,095.00
	Certificate of Deposit	GE Capital Retail Bank, Draper, UT	36159USX5	98,000.00	2.30%	1.14%	8/13/10	8/13/15	98,684.04
	Certificate of Deposit	BMW Bank of NA, SLC, UT	05568P3A3	100,000.00	0.65%	0.64%	4/12/13	10/13/15	100,208.00
	Certificate of Deposit	Ally Bank, Midvale Utah	02005QV34	100,000.00	0.65%	0.64%	4/10/13	4/11/16	100,135.00
	Certificate of Deposit	Ally Bank, Midvale Utah	02005QX99	148,000.00	0.70%	0.69%	6/12/13	6/13/16	148,435.12
	Certificate of Deposit	Aquesta Bank, Cornelius, NC	03841LAJ9	97,000.00	2.10%	2.05%	6/22/11	6/22/16	98,935.15
	Certificate of Deposit	Medallion Bank, Salt Lake City, UT	58403BF27	200,000.00	1.00%	0.99%	8/19/13	8/19/16	201,288.00
	Certificate of Deposit	Goldman Sachs Bank (Salt Lake)	3814264E2	99,000.00	1.85%	1.82%	8/24/11	8/24/16	100,591.92
	Certificate of Deposit	Investors Savings Bank, NJ	46176PDX0	49,000.00	0.90%	0.90%	3/27/15	3/27/17	48,975.99
	Certificate of Deposit	CIT Salt Lake City, UT	17284CBL7	48,000.00	0.90%	0.90%	4/10/13	4/10/17	47,938.56
	Certificate of Deposit	Citizens National, Putnam, CT	176252AQ7	100,000.00	1.20%	1.19%	7/13/13	7/13/17	100,824.00
	Certificate of Deposit	Investors Savings Bank, NJ	46176PDY8	100,000.00	1.20%	1.19%	3/26/15	3/26/18	100,299.00
	Certificate of Deposit	Bank of North Carolina, NC	06414QUC1	200,000.00	1.50%	1.48%	1/16/15	4/16/18	201,736.00
	Certificate of Deposit	Mercantile Bank of Grand Rapids, MI	58740XYT1	147,000.00	1.65%	1.62%	8/14/13	8/14/18	149,416.68
	Certificate of Deposit	Homebank, NA	43738AFU5	200,000.00	1.50%	1.49%	3/30/15	3/29/18	200,946.00
	Certificate of Deposit	Barclays Bank, DE	06740KHK6	149,000.00	2.10%	2.08%	7/23/14	7/23/19	150,104.09
	Certificate of Deposit	American Express Bank FSB, UT	02587CAJ9	247,000.00	2.00%	1.98%	7/24/14	7/24/19	248,929.07
	Certificate of Deposit	Comenity Bank, DE	20099A7A9	100,000.00	2.10%	2.04%	8/27/14	8/27/19	102,778.00
	Certificate of Deposit	Capital One Bank Glen Allen, VA	14042QQF0	130,000.00	2.15%	2.13%	10/16/14	10/16/19	131,116.70
	Certificate of Deposit	State Bk India, NY	8562842P8	50,000.00	2.25%	2.23%	8/27/14	10/17/19	50,340.50
	Certificate of Deposit	The Privatebank & Trust Co., IL	74267GUU9	100,000.00	1.90%	1.88%	1/23/15	1/23/20	100,799.00
	Certificate of Deposit	American Express Centurion Bank, UT	02587DXE3	47,000.00	1.95%	1.95%	1/30/15	1/30/20	46,961.59
	Certificate of Deposit	Peoples United Bank, CT	71270QML7	151,000.00	1.75%	1.74%	3/4/15	3/4/20	151,105.70
	Certificate of Deposit	Everbank, FL	29976DVW7	200,000.00	1.75%	1.74%	3/30/15	3/30/20	200,002.00
	Certificate of Deposit	HSBC Bank USA	40434ASZ3	247,000.00	1.25%	1.25%	3/30/15	3/30/20	245,204.31
	Total Morgan Stanley			3,210,673.41					3,229,512.83
Bank of America (book balance)	Cash (checking account)	Bank of America		717,970.58	0.00%	0.00%	n/a	n/a	717,970.58

Broker / Institution	Carrying Value	Percentage of Portfolio	Weighted Average Yield to Maturity	Weighted Average Maturity (yrs)	Market Value
Local Agency Investment Fund (LAIF)	5,868,425	36.0%	0.26%	0.64	5,870,676
Financial Northeastern Companies	49,042	0.3%	1.00%	1.48	49,443
UBS Financial Services Inc.	6,439,992	39.5%	1.53%	2.64	6,489,527
Morgan Stanley	3,210,673	19.7%	1.54%	3.18	3,229,513
Bank of America (book balance)	717,971	4.4%	0.00%	0.00	717,971
Total Investment Portfolio	16,286,102	100.0%			16,357,130
2014-15 Budgeted Interest - General Fund	\$		37,800		
2014-15 Actual Interest Revenue to date (7/1/14 - 3/31/15)			28,846		
Percent of General Fund Budget Realized			76.72%		
2014-15 Weighted Average Annual Yield*			1.01%		
2014-15 Total Pooled Investment Income To Date (7/1/14 - 3/31/15)	\$		108,847		

*This calculation excludes the City's non-interest bearing pooled checking account with Bank of America

I verify that this investment portfolio is in conformity with State laws and the City of Clayton's investment policy. The City's cash management program provides sufficient liquidity to meet the next six month's expenditures.


Kevin Mizuno, Finance Manager 4/17/15
Date


Merle Hufford, City Treasurer 4/17/15
Date



Agenda Date: 4-21-2015

Agenda Item: 3d

STAFF REPORT

Approved:

Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: FINANCE MANAGER

DATE: April 21, 2015

SUBJECT: ANNUAL REVIEW AND ADOPTION OF AN AMENDED CITY INVESTMENT POLICY

RECOMMENDATION

Adopt the Resolution approving the attached Investment Policy as amended.

BACKGROUND

The investment policy guides the City staff and its advisors for all investment activities. Investment activities are primarily governed by state law (California Government Code sections 53600-53610) and the City's Investment Policy. The City's policy is consistent with state law and is more restrictive for the purpose of added safety and liquidity.

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

DISCUSSION

During this year's annual review of the investment policy, it was discovered the wording in section VII, "Authorized Investments", is not sufficiently specific to allow for the City's investment in *federal agency notes*. Investment in federal agency notes is allowed by California Government Code section 53601(f). In order to take advantage of current and potential future investment opportunities in said investments, it is recommended Section VII of the current investment policy be revised to allow for the City's investment in federal agency notes. By adopting the attached resolution, the following section will be added to the investment policy in the "Authorized Investments" section VII (H):

Federal Agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There are no limits on the dollar amount or percentage that the City may invest in government-sponsored enterprises.

CITY TREASURER REVIEW

As required by the current Investment Policy, City Treasurer Merle Hufford considered the proposed amendment on April 17, 2015. It is Mr. Hufford's recommendation to support the proposed amendment.

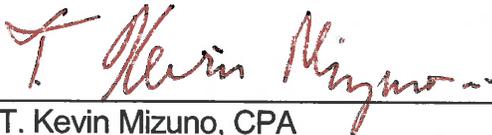
FISCAL IMPACT

There is no fiscal impact.

CONCLUSION

It is recommended the City Council accept the annual review of the Investment Policy and adopt the attached Resolution approving one revision into the current policy effective April 21, 2015.

Respectively submitted,



T. Kevin Mizuno, CPA
Finance Manager

- Attachments: 1. Resolution __-2015 with Exhibit A [10 pp.]
 2. City of Clayton Investment Policy (Changes Redlined) [8 pp.]

RESOLUTION NO. __-2015

**A RESOLUTION AMENDING AND ADOPTING THE
INVESTMENT POLICY FOR THE CITY OF CLAYTON**

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

WHEREAS, investment policies guide staff and their advisors for all investment activities on behalf of cities; and

WHEREAS, those investment activities are primarily governed by the individual city's adopted investment policies and by California state law (Government Code sections 53600-53610); and

WHEREAS, the Investment Policy for the City of Clayton is consistent with state law and, for the purpose of added safety and liquidity, is more restrictive than state law; and

WHEREAS, revisions to Government Code section 53646 now require annual review and approval of a city's investment policy only if there are changes, however it encourages cities to conduct an annual review and approval process even if there are no proposed changes; and

WHEREAS, this year City staff recommends one revision to the Investment Policy to section VII (H) "Allowable Investments";

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does herewith establish and approve the amended Investment Policy of the City, a true and correct copy of which is attached hereto as "Exhibit A" and incorporated herein by reference.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California, at a regular public meeting thereof held on the 21st day of April 2015 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CALIFORNIA

By: David T. Shuey, Mayor

ATTEST:

Janet Brown, City Clerk

INVESTMENT POLICY

CITY OF CLAYTON, CALIFORNIA

I. POLICY

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

II. SCOPE

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

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

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

III. DELEGATION OF AUTHORITY

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

IV. ASSIGNMENTS AND DUTIES

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

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

V. PRUDENCE

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

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

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

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

VI. INVESTMENT OBJECTIVES

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

A. Safety of Principal.

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

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

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

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

B. Liquidity.

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

C. Return on Investments.

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

VII. AUTHORIZED INVESTMENTS

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

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

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

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

- H. Federal Agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There are no limits on the dollar amount or percentage that the City may invest in government-sponsored enterprises.

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

VIII. PROHIBITED INVESTMENTS AND TRANSACTIONS

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- B. The City shall not purchase or sell securities on margin.
- C. The City shall not invest any Funds in any security that could result in zero interest accrual if held to maturity date.

IX. ALLOCATION OF INTEREST EARNINGS

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

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

X. DIVERSIFICATION

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

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

XII. ETHICS AND CONFLICTS OF INTEREST

The City Treasurer and other employees or elected officials involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions. The City Treasurer and investment employees and elected officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio and shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of their entity.

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

XIII. REPORTING REQUIREMENTS

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

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

XIV. INTERNAL CONTROLS

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

XV. GENERAL FUND RESERVE CONTINGENCY

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

The General Fund Reserves of the City shall include \$250,000.00 (two hundred fifty thousand dollars) designated as *GFRC – Emergency Component*. Further, the City will make every effort to maintain a *GFRC*, cash flow component, in an amount not less than fifty percent (50%) of the adopted annual General Fund budget. The amounts of the *GFRCs* will be reviewed annually prior to adoption of the General Fund budget. City Council approval shall be required for any expenditure that would decrease the amount of the *GFRC* below the level established at the time of budget adoption.

XVI. POLICY REVIEW

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

* * * * *

Established:

30 July 2002

City Council adopted revisions:

21 April 2015
03 August 2010
05 May 2005
06 August 2002

INVESTMENT POLICY

CITY OF CLAYTON, CALIFORNIA

I. POLICY

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

II. SCOPE

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

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

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

III. DELEGATION OF AUTHORITY

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

IV. ASSIGNMENTS AND DUTIES

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

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

V. PRUDENCE

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

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

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

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

VI. INVESTMENT OBJECTIVES

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

A. Safety of Principal.

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

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

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

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

B. Liquidity.

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

C. Return on Investments.

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

VII. AUTHORIZED INVESTMENTS

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

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

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

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

- H. Federal Agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There are no limits on the dollar amount or percentage that the City may invest in government-sponsored enterprises.

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

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* * * * *

Established:

30 July 2002

City Council adopted revisions:

21 April 2015

03 August 2010

05 May 2005

06 August 2002



Agenda Date: 4-21-2015

Agenda Item: 3e

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: APRIL 21, 2015

SUBJECT: CONSIDERATION OF RESOLUTION APPROVING, AND ADOPTING FOR USE, CITY OF CLAYTON STANDARD SPECIFICATIONS, DATED MARCH 2015, AND AUTHORIZING POSTING ON THE CITY'S WEBSITE

RECOMMENDATION

Adopt resolution.

BACKGROUND

The City of Clayton last adopted Standard Specifications for the construction of public improvements in November of 2010. The new specifications were based upon on Caltrans' specifications and were to be automatically updated as Caltrans updated its specifications.

However, since that time Caltrans has made significant changes to its specifications including reformatting of the sections. While most of the changes are automatically incorporated into the City's specifications, changes to titles, sections numbers and references have made it necessary for us to prepare an updated set of Standard Specifications.

The proposed updated Standard Specifications, dated March, 2015, are being presented herewith for approval and adoption by the City Council.

FISCAL IMPACT

None.

CONCLUSION

Based upon the above, it is recommended that the City Council approve the attached resolution approving and adopting for use the City of Clayton Standard Specifications, dated March 2015, and authorizing its posting on the City's website.

Attachments: Resolution
Standard Specifications, dated March 2015

RESOLUTION NO. - 2015

**A RESOLUTION APPROVING AND ADOPTING UPDATED CITY OF CLAYTON
STANDARD SPECIFICATIONS (DATED MARCH 2015) AND AUTHORIZING POSTING
OF SAME ON THE CITY'S WEBSITE**

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

WHEREAS, the City of Clayton last updated our Standard Specifications for the construction of public improvements in November, 2010; and

WHEREAS, the Standard Specifications are based upon the Standard Specifications issued by the State of California Department of Transportation (Caltrans); and

WHEREAS, since the City's Standard Specifications were last adopted, Caltrans has made significant changes and additions to their Standard Specifications necessitating the updating of the City's Standard Specifications; and

WHEREAS, the City Engineer has prepared the updated Standard Specifications, dated March, 2015, attached hereto and incorporated herein by reference; and

WHEREAS, the City Engineer has recommended approval and adoption of the updated Standard Specifications as well as posting of the documents on the City's website.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby approve, and adopt for use, the attached City of Clayton Standard Specifications, dated March 2015, and directs the City Clerk to post said document on the City's website for access by any interested parties.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 21st day of April, 2015 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

DAVID T. SHUEY, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on April 21, 2015.

Janet Brown, City Clerk



STANDARD SPECIFICATIONS

THE LATEST EDITION OF THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) STANDARD SPECIFICATIONS SHALL APPLY UNLESS MODIFIED OR SUPPLEMENTED IN THESE SPECIFICATIONS.

March, 2015

**Approved and adopted by the City of Clayton City Council on April 7, 2015
Resolution No. xx - 2015**

**CITY OF CLAYTON
6000 HERITAGE TRAIL
CLAYTON, CA 94517
(925) 673-7300**

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CITY OF CLAYTON
STANDARD SPECIFICATIONS

March, 2015

THE LATEST EDITION, INCLUDING ANY AMENDMENTS TO DATE, OF THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) STANDARD SPECIFICATIONS SHALL APPLY UNLESS MODIFIED OR SUPPLEMENTED IN THESE SPECIFICATIONS.

All references to Measurement and Payment do not apply to land development or encroachment permit projects. These specifications are supplemented by City Standard Plans, State Standard Plans, CCCSD Standard Plans and Specifications (sanitary sewer work only), and the construction documents for the specific project being constructed.

DIVISION I - GENERAL PROVISIONS

SECTION 1 GENERAL

1-1.07 DEFINITIONS

1-1.07A General

Whenever in the City Specifications or other contract documents the following terms, or pronouns in place of them, are used, the intent and meaning shall be interpreted as follows:

CITY – The City of Clayton, Contra Costa County, California.

CITY CLERK – The legally authorized City Clerk of the City of Clayton.

CITY COUNCIL – The legally authorized governing body of the City of Clayton.

CITY SPECIFICATIONS – City of Clayton, California, Standard Specifications.

CITY STANDARD PLANS – City of Clayton, California, Standard Plans.

DEVELOPER – Owner or permittee of a City-approved land development or encroachment permit project

1-1.07B Glossary

The following are modifications to the definitions specified in the Caltrans Standard Specifications.

Contractor – shall also mean the developer or permittee responsible for the work. A contractor must have a valid State of California Contractors License to work in the public right of way.

Department – The City of Clayton.

Director – The duly appointed City Manager of the City of Clayton.

Engineer or Office Engineer – The City Engineer or his designated representative.

Holiday – delete March 31st, Cesar Chavez Day, and 2nd Monday in October, Columbus Day.

State – The City of Clayton.

SECTION 2 BIDDING

(Section 2 of the Caltrans Standard Specifications does not apply)

2-1.01 Proposal Form

All bids must be made upon the bid form attached in the Specifications. The bid form is bound in a book together with the Notice to Contractors and Special Provisions. The bidder shall completely fill out the form in a clear and legible manner. Should there be any conflict between the unit price and the total shown by the bidder on the bid form for any individual item, the unit price shall govern.

2-1.02 Approximate Quantities

The quantities shown on the bid form are approximate and are given only as a basis for the comparison of bids, unless the Special Provisions specifically fix the quantity. The City does not expressly, nor by implication, represent that the actual amount of work will correspond to the estimate.

2-1.03 Examination Of Plans, Specifications, Special Provisions, And Site Of Work

The bidder is required to examine carefully the site of the work contemplated, the Bid, Plans, Specifications and Contract forms, and it will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, and as to the requirements of the Bid, the Specifications, Plans, Special Provisions, and the Contract. It is mutually agreed that submission of a Bid by the bidder shall be considered prima facie evidence that the bidder has made such an examination.

2-1.04 Addenda

The Engineer may, when he deems necessary, and at a time prior to the bid opening, issue addenda to the Plans and Specifications to amend, clarify or correct matter contained therein. Such addenda shall constitute a part of said Plans and Specifications and shall be equally binding with them. Addenda will be forwarded to all prospective bidders, insofar as they are known to the Engineer, in any manner determined by the Engineer.

2-1.05 Bidder's Guaranty

All bids shall be presented under sealed cover and shall be accompanied by cash, cashier's or certified check or a bidder's guaranty shall be in an amount equal to at least ten percent (10%) of the amount of the bid and made payable to the City of Clayton.

2-1.06 Withdrawal Of Bids

Any bids may be withdrawn, at any time prior to the time fixed in the Public Notice for the opening of bids, by filing a written request with the City Clerk for the withdrawal of the bid. The request shall be executed by the bidder or his representative. The withdrawal of a bid prior to the bid opening does not prejudice the right of the bidder to file a new bid. No bids may be withdrawn after the time fixed in the Public Notice for opening of bids.

2-1.07 Rejection Of Proposal Containing Alterations, Erasures Or Irregularities

Any bid may be rejected by the City Council if such bid shows any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, or substantial irregularities of any kind.

SECTION 3 CONTRACT AWARD AND EXECUTION

3-1.04 Contract Award

The award of the contract, if awarded, will be made within thirty (30) calendar days after the opening of the proposals. The award of the contract will be to the lowest responsible bidder whose proposal complies with all the requirements prescribed. Such time for award of the contract may be extended by the City Council.

The right is reserved by the City Council to reject any and all proposals at its discretion.

3-1.05 Contract Bonds (Public Contract Code §§ 10221 and 10222)

The Contractor shall, at his sole expense, furnish two (2) good and sufficient bonds. One bond shall be a faithful performance bond and the other a labor and materials bond. Each of the said bonds shall be executed in a sum of not less than 100% of the total contract price and shall be issued by a corporate surety or sureties admitted by the State of California Department of Insurance.

Whenever any surety on any such bonds becomes insufficient, or the City Engineer has reasonable cause to believe that such surety or sureties have become insufficient, a demand in writing may be made of the Contractor to furnish good and sufficient bonds as required by the terms of the contract. Thereafter, no payment shall be made upon such contract to the Contractor or any assignee of the Contractor until such further bond or bonds or additional surety has been furnished. All alterations, extensions of time, extra work, and other changes authorized by the contract documents may be made without securing the consent of the surety or sureties on the contract bonds.

3-1.18 Contract Execution

The contract shall be signed by the successful bidder and returned, together with the contract bonds, within ten (10) calendar days after the Contractor has received the contract. Failure to execute a contract and file acceptable bonds and certificates of insurance as provided herein shall result in forfeiture of the proposal guaranty.

3-1.19 Bidders' Securities

Within ten (10) calendar days after the award of the contract by the City Council and upon request by the bidder, the City Clerk will return to the unsuccessful bidders, the bidder's guaranty accompanying their respective bids.

SECTION 4 SCOPE OF WORK **(Shall Apply Without Modification)**

SECTION 5 CONTROL OF WORK

5-1.01 General

The City of Clayton does not utilize a website for contract administration and forms. Any available forms may be provided by and submitted electronically to the Engineer.

5-1.02 Contract Components

If there is a conflict between contract documents, the document highest in precedence shall control. The precedence shall be:

1. Permits from other agencies as may be required by law
2. Special Provisions
3. Project Plans
4. City Standard Plans
5. City Standard Specifications
6. Caltrans Standard Specifications
7. Caltrans Standard Plans
8. CCCSD Standard Plans and Specifications (for sanitary sewer work only)

Change Orders, Supplemental Agreements and approved revisions to Plans and Specifications will take precedence over items 2 through 6 above. Detailed plans shall have precedence over general plans.

Should it appear that the work to be done, or any matter relative thereto, is not sufficiently detailed or explained in these Specifications, Plans, and the Special Provisions, the Contractor shall apply to the Engineer for such further explanations as may be necessary, and shall conform to such explanation or interpretation as part of the contract, so far as may be consistent with the intent of the original specifications. In the event of doubt or question relative to the true meaning of the specifications, reference shall be made to the Engineer, whose decision shall be final.

In the event of any discrepancy between any drawing and the figures written thereon, the figures shall be taken as correct.

5-1.26 Construction Surveys

Additional provision: The Developer's Engineer will set stakes and furnish cut sheets to the City a minimum of twenty four (24) prior to the start of work.

5-1.46 Final Inspection

Additional Provision: Upon completion of the work, the Contractor shall submit a letter stating that all the improvements have been completed in accordance with the approved plans and request that the City accept these improvements. No final inspection will be made until all fees are paid.

5-1.36 Property And Facility Preservation

Additional Provision: The contractor and/or developer shall locate and preserve all property corners, monuments, bench marks and other survey points within the area of work. Any damaged points shall be reset by a licensed land surveyor at the contractor's and/or developer's expense.

5-1.36E Hours Of Work

Work within the public right-of-way is restricted to 7:00 a.m. to 6:00 p.m. on weekdays. Work that encroaches into the driving lanes on Clayton Road or Marsh Creek Road shall not occur prior to 9:00 a.m. in the north/westbound direction or after 3:00 p.m. in the south/eastbound direction unless written authorization is obtained from the Engineer.

No work will be allowed within the public right-of-way on Saturday, Sunday or legal holidays without written permission from the Engineer.

SECTION 6 CONTROL OF MATERIALS

6-3.01 General

Unless otherwise specified in the special provisions, the Contractor shall provide all required materials and construction testing. For development projects, the developer shall provide all required materials and construction testing.

All test results shall be provided to the City within twenty four (24) hours of test completion. Subsequent work may not proceed until City has reviewed and accepted preceding test results.

The cost of such testing shall be borne by the Contractor and/or developer.

SECTION 7 LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC

(Subsections 7-1.02K(2), 7-1.02K(3), 7-1.02K(4) and 7.102K(5) do not apply
to land development projects)

7-1.02K(6) Occupational Safety and Health Standards

Additional Provision: Contractor shall provide his annual trench and/or excavation permit issued by the State Division of Occupational Safety and Health.

7-1.06C Workers' Compensation and Employer's Liability Insurance

Additional Provision: The required Workers' Compensation and Employer's Liability Insurance Policy shall include a waiver of subrogation.

7-1.12 Acceptance Of Contract

Additional Provision: The work will not be accepted until a 15% maintenance bond has been provided by the contractor or developer, all fees have been paid, and cleanup has been completed.

SECTION 8 PROSECUTION AND PROGRESS

(Subsections 8-1.04, 8-1.06, 8-1.07, 8-1.08, 8-1.09 and 8-1.11 do not apply
to land development projects)

8-1.04A General

Additional Provision: For land development projects, no work will be permitted to proceed until:

- 1) Plans are submitted and approved by the City;
- 2) All fees are paid and permits/licenses are issued;
- 3) Bonds and insurance certificates are submitted and approved;
- 4) Easements and permits to enter upon private property are obtained;

- 5) A preconstruction meeting has been held.

8-1.06 Suspensions

Additional Provision: For land development projects, the City may suspend work if any of the following occur:

- 1) The developer, contractor, job engineer, or other Owner's representative fails to comply with these specifications, the City of Clayton Municipal Code, or specific instructions of the Engineer;
- 2) Traffic is improperly controlled;
- 3) A hazardous condition exists;
- 4) Defective materials or work are not corrected;
- 5) Dust problems are not corrected;
- 6) Stormwater treatment facilities are not provided or properly maintained.

SECTION 9 PAYMENT

(Does not apply to land development projects)

(Subsections 9-1.06, 9-1.07, 9-1.11 and 9-1.15 do not apply)

9-1.16 Progress Payments

The City may withhold or, on account of later discovered evidence, nullify all or part of any certification made to the Contractor by the City as to the amount determined to be due the Contractor, to such extent and period of time only as may be necessary protect the City from loss on account of:

- 1) Defective work not remedied;
- 2) Claims filed or reasonable evidence indicating probable filing;
- 3) Failure to properly pay Subcontractors for material or labor;
- 4) Reasonable doubt that the work can be completed for the balance then unpaid;
- 5) Damage to another Contractor, or third party.

9-1.23 Contractor's Financial Obligation

The Contractor shall promptly make payment to all persons supplying labor and materials, and before final acceptance of the work and final payment to the Contractor, including all sums retained by the City, the Contractor shall furnish to the City, satisfactory evidence that all claims for labor and material furnished and used in the construction of said work have been settled and that no legal claim can be filed against the City for such labor and material.

DIVISION II GENERAL CONSTRUCTION

SECTION 10 GENERAL
(Shall Apply Without Modification)

SECTION 11 QUALITY CONTROL AND ASSURANCE
(Shall Apply Without Modification)

SECTION 12 TEMPORARY TRAFFIC CONTROL

12-1.01 General

Additional Provision: It shall be the contractor's responsibility to notify all affected public service agencies including, but not limited to, police, fire district, emergency medical providers, school districts, public transit agencies, etc. as to construction schedules and the contractor shall maintain a current list or diagram of limited access areas.

12-1.03 Flagging Costs

Flagging costs will be borne solely by the contractor.

12-3.03A Flashing Arrow Signs Required

Flashing arrow signs are required on all arterial street lane closures.

12-4.02 Closure Requirements

Where widening occurs adjacent to a traffic lane is in use, the area adjacent to the traffic lane shall be sloped at 4:1 to provide for public safety. The material used for this slope shall be completely removed as the new structural section is being constructed to allow proper compaction and to tie the existing base rock and the new base rock together. The 4:1 slope will be required until the new base rock is 0.5 feet below the existing pavement section.

If temporary K railings are used, the 4:1 slope may be omitted.

SECTION 13 WATER POLLUTION CONTROL

13-2.04 Payment

Water Pollution Control Program costs will be borne solely by the contractor.

13-3.04 Payment

SWPPP preparation costs will be borne solely by the contractor.

13-4.04 Payment

Job site management costs will be borne solely by the contractor.

13-5.04 Payment

Temporary Soil Stabilization costs will be borne solely by the contractor.

13-6.04 Payment

Temporary Sediment Control costs will be borne solely by the contractor.

13-7.04 Payment

Temporary Construction Entrance costs will be borne solely by the contractor.

SECTION 14 ENVIRONMENTAL STEWARDSHIP **(Shall Apply Without Modification)**

SECTION 15 EXISTING FACILITIES

15-1.01 General

Additional Provisions: All existing facilities to be removed shall be removed from the worksite and, where appropriate, disposed of at recycling facilities. Prior to commencement of work, Contractor shall provide the City a list of recycling facilities he intends to use for the work. Prior to completion of the work and acceptance by the City, the contractor shall provide proof of delivery of such materials from the recycling facilities, including the actual quantities delivered and recycled.

All undamaged materials specified to be salvaged, shall be delivered to the City's corporation yard at 6000 Heritage Trail. The Engineer shall be given twenty four (24) hours notice prior to delivery of salvaged materials.

15-2.10B Adjust Frames, Covers, Grates, and Manholes

Additional Provisions: On manholes being adjusted to grade, only one additional manhole adapter ring will be allowed. It shall be attached by set screws or welding so that it does not move under heavy truck traffic. The top of the structure must be reconstructed as new construction if it does not fit the finished pavement grade within 0.05 feet.

Prior to beginning work, a false bottom shall be constructed in all manholes to prevent debris from falling into the pipes.

DIVISION III GRADING

SECTION 16 CLEARING AND GRUBBING

16-1.03 Construction

Additional Provisions: All trees are to be protected unless marked by the Engineer for removal. If the contractor or developer damages or removes an unmarked tree, he shall replace the tree with an equivalent tree of a species and size to be determined by the Engineer. Further, the cost to maintain the new tree until it is the size of the damaged or removed tree, in an amount to be determined solely by the Engineer, shall be paid to the City by the contractor or developer.

Tree stumps and roots over four (4) inches in diameter shall be completely removed and the ground recompact to 90% relative compaction.

The contractor shall have a water truck on the site during the clearing and grubbing phase.

16-1.04 Removal And Disposal Of Materials

All materials removed shall be disposed of in accordance with Subsection 7-1.13, "Disposal of Materials Outside the Highway Right of Way." The contract work area shall be left with a neat and finished appearance.

SECTION 17 WATERING **(Shall Apply Without Modification)**

SECTION 18 DUST PALLIATIVE **(Shall Apply Without Modification)**

SECTION 19 EARTHWORK

19-2.03E Blasting

Blasting will not be allowed within the City Limits.

19-3.02 Excavation For Culverts

When the plans require embankment construction prior to culvert excavation, the embankment shall first be constructed to two (2) feet above the top of pipe or to subgrade. Trench excavation and backfill shall conform to City Standard Plan S-16.

19-3.03H Culvert Bedding

Additional Provisions: Shaped bedding in lieu of bedding material as shown on City Standard Plan S-16 shall not be allowed.

Sand bedding will only be allowed if required by the utility company that is responsible for the conduit.

SECTION 20 LANDSCAPE
(Shall Apply Without Modification)

SECTION 21 EROSION CONTROL
(Shall Apply Without Modification)

SECTION 22 FINISHING ROADWAY
(Shall Apply Without Modification)

SECTION 23
(Reserved)

DIVISION IV SUBBASES AND BASES

SECTION 24 STABILIZED SOIL
(Shall Apply Without Modification)

SECTION 25 AGGREGATE SUBBASES

25-1.02a General

Additional Provision: Aggregate subbase shall conform to the grading and quality requirements shown in the Table for Class 2 Aggregate Subbase.

25-1.03D Compacting

The surface of the aggregate subbase shall not be higher than the grades established by the Engineer or shown on the plans. Low areas shall be filled with aggregate base during the spreading operation for aggregate base.

SECTION 26 AGGREGATE BASES

26-1.02B Class 2 Aggregate Base

Aggregate base shall conform to the grading and quality requirements shown in the Table for Class 2, 3/4 " maximum aggregate base.

26-1.03C Spreading

The aggregate base under the curb and gutter shall be spread and compacted at the same time as the roadway aggregate base.

SECTION 27 CEMENT TREATED BASES

(Shall Apply Without Modification)

SECTION 28 CONCRETE BASES

(Shall Apply Without Modification)

SECTION 29 TREATED PERMEABLE BASES

(Shall Apply Without Modification)

SECTIONS 30 - 36

(Reserved)

DIVISION V SURFACING AND PAVEMENTS

SECTION 37 BITUMINOUS SEALS

(Shall Apply Without Modification)

SECTION 38

(Reserved)

SECTION 39 HOT MIX ASPHALT

39-1.02E Aggregate

The aggregate for the surface course shall conform to the grading and quality requirements of 1/2" maximum, medium grading, Type B HMA.

The aggregate for the base course shall conform to the grading and quality requirements of ¾" maximum, medium grading, Type B HMA.

SECTION 40 CONCRETE PAVEMENT
(Shall Apply Without Modification)

SECTION 41 CONCRETE PAVEMENT REPAIR
(Shall Apply Without Modification)

SECTION 42 GROOVE AND GRIND CONCRETE
(Shall Apply Without Modification)

SECTIONS 43 - 45
(Reserved)

DIVISION VI STRUCTURES

SECTION 46 GROUND ANCHORS AND SOIL NAILS
(Shall Apply Without Modification)

SECTION 47 EARTH RETAINING SYSTEMS
(Shall Apply Without Modification)

SECTION 48 TEMPORARY STRUCTURES
(Shall Apply Without Modification)

SECTION 49 PILING
(Shall Apply Without Modification)

SECTION 50 PRESTRESSING CONCRETE
(Shall Apply Without Modification)

SECTION 51 CONCRETE STRUCTURES

51-7.01A General

Minor concrete structures shall be cast in place unless otherwise authorized by the Engineer.

SECTION 52 REINFORCEMENT
(Shall Apply Without Modification)

SECTION 53 SHOTCRETE
(Shall Apply Without Modification)

SECTION 54 WATERPROOFING
(Shall Apply Without Modification)

SECTION 55 STEEL STRUCTURES
(Shall Apply Without Modification)

SECTION 56 SIGNS

56-2.01D Payment

Roadside signs shall be paid by the unit from actual count.

SECTION 57 WOOD AND PLASTIC LUMBER STRUCTURES
(Shall Apply Without Modification)

SECTION 58 SOUND WALLS
(Shall Apply Without Modification)

SECTION 59 PAINTING
(Shall Apply Without Modification)

SECTION 60
(Reserved)

DIVISION VII DRAINAGE FACILITIES

SECTION 61 CULVERT AND DRAINAGE PIPE JOINTS
(Shall Apply Without Modification)

SECTION 62 ALTERNATIVE CULVERTS
(Shall Apply Without Modification)

SECTION 63 RESERVED

SECTION 64 PLASTIC PIPE
(Shall Apply Without Modification)

SECTION 65 CONCRETE PIPE

65-2.02B General

Concrete pipe shall meet the minimum strength requirements of Class III pipe in accordance with the requirements of AASHTO Designation M170, unless a stronger class of pipe is shown on the plans. Non-reinforced precast concrete pipe shall not be used in the public right-of-way.

SECTION 66 CORRUGATED METAL PIPE
(Shall Apply Without Modification)

SECTION 67 STRUCTURAL PLATE CULVERTS
(Shall Apply Without Modification)

SECTION 68 SUBSURFACE DRAINS
(Shall Apply Without Modification)

SECTION 69 OVERSIDE DRAINS
(Shall Apply Without Modification)

SECTION 70 MISCELLANEOUS DRAINAGE FACILITIES
(Shall Apply Without Modification)

SECTION 71
(Reserved)

DIVISION VIII MISCELLANEOUS CONSTRUCTION

SECTION 72 SLOPE PROTECTION
(Shall Apply Without Modification)

SECTION 73 CONCRETE CURBS AND SIDEWALKS
(Shall Apply Without Modification)

SECTION 74 PUMPING EQUIPMENT AND CONTROLS
(Shall Apply Without Modification)

SECTION 75 MISCELLANEOUS METAL

75-1.02B Frames, Grates and Covers

Drainage inlet frames and grates shall be galvanized in accordance with the provisions of Section 75-1.05, "Galvanizing".

SECTION 76 WELLS
(Reserved)

SECTION 77 INFRASTRUCTURE
(Reserved)

SECTIONS 78 - 79
(Reserved)

SECTION 80 FENCES
(Shall Apply Without Modification)

SECTION 81 MONUMENTS

81-1.02 Materials

Survey marker disks, frames and covers for survey monuments shall conform to the dimensions and details shown on the City's Standard Plans. All materials shall be supplied by the contractor.

81-1.03 Construction

Survey monuments shall be cast-in-place and shall conform to the dimensions and details shown on the City's Standard Plans. Surplus excavated materials remaining after the monuments have been constructed shall be disposed of outside of the highway right-of-way.

DIVISION IX TRAFFIC CONTROL FACILITIES

SECTION 82 MARKERS AND DELINEATORS **(Shall Apply Without Modification)**

SECTION 83 RAILINGS AND BARRIERS **(Shall Apply Without Modification)**

SECTION 84 TRAFFIC STRIPES AND PAVEMENT MARKINGS **(Shall Apply Without Modification)**

SECTION 85 PAVEMENT MARKERS **(Shall Apply Without Modification)**

SECTION 86 ELECTRICAL SYSTEMS **(Shall Apply Without Modification)**

DIVISION X MATERIALS

SECTION 87 MATERIALS - GENERAL **(Reserved)**

SECTION 88 GEOSYNTHETICS **(Shall Apply Without Modification)**

SECTION 89
(Reserved)

SECTION 90 CONCRETE
(Shall Apply Without Modification)

SECTION 91 PAINT
(Shall Apply Without Modification)

SECTION 92 ASPHALTS
(Shall Apply Without Modification)

SECTION 93 LIQUID ASPHALTS
(Shall Apply Without Modification)

SECTION 94 ASPHALTIC EMULSIONS
(Shall Apply Without Modification)

SECTION 95 EPOXY
(Shall Apply Without Modification)

SECTIONS 96-98
(Reserved)

DIVISION XI BUILDING CONSTRUCTION

SECTION 99 BUILDING CONSTRUCTION
(Reserved)



Agenda Date: 4-21-2015
Agenda Item: 3F

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: APRIL 21, 2015

SUBJECT: A RESOLUTION APPROVING A COVENANT WITH LESTER IPSEN, JR. REGARDING THE PERPETUAL MAINTENANCE OF STORMWATER TREATMENT FACILITIES AT SKIPOLINI'S PIZZA.

RECOMMENDATION

Adopt the Resolution.

BACKGROUND

The recent improvements at Skipolini's Pizza (bocce ball courts, patio area, etc.) necessitated the construction of stormwater treatment facilities as required by the City's discharge permit from the Regional Water Quality Control Board. An operations and maintenance plan has been prepared by the owner's engineer and has been approved by the City Engineer.

In order to assure the perpetual maintenance of the stormwater facilities, the City prepared, and the property owner executed, the attached covenant. Upon approval by the City Council, this covenant will be recorded in the County Recorder's Office thereby assuring proper notice of the maintenance obligations to any future owner.

CONCLUSION

Staff recommends the City Council approve the attached Resolution approving the covenant and directing the Clerk to record the document.

Attachments: Resolution
Covenant
Operation & Maintenance Plan (for information only)

RESOLUTION NO. - 2015

A RESOLUTION APPROVING A COVENANT WITH LESTER IPSEN, JR. FOR THE PERPETUAL MAINTENANCE OF STORMWATER TREATMENT FACILITIES AT SKIPOLINI'S PIZZA.

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

WHEREAS, the owner, Lester Ipsen, Jr., of Skipolini's Pizza recently installed new improvements (bocce ball courts, patio area, etc.) on his property at 6024 and 6062 Main Street (APNs 119-013-003 and 119-013-004); and

WHEREAS, the new improvements required the installation of stormwater treatment facilities in accordance with the City's Discharge Permit from the Regional Water Quality Control Board; and

WHEREAS, an Operations and Maintenance Plan ("Plan") has been prepared for the facilities and the City must assure that said Plan will be implemented now and in the future by the property owner; and

WHEREAS, a covenant assuring such maintenance has been prepared by the City Engineer and executed by the property owner; and

WHEREAS, the City Engineer has recommended that the City Council approve said covenant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby approve the attached covenant with Lester Ipsen, Jr. and directs the City Clerk to record said covenant in the Office of the Recorder of Contra Costa County.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 21st day of April, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

David Shuey, Mayor

ATTEST:

Janet Brown, City Clerk

###

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular public meeting held on April 21, 2015.

Janet Brown, City Clerk

**Recording Requested By:
CITY OF CLAYTON**

**Return to: CITY OF CLAYTON
Engineering Department
6000 Heritage Trail
Clayton, CA 94517**

THE SPACE ABOVE THE LINE IS FOR RECORDER'S USE ONLY

Document Title

CITY OF CLAYTON

**COVENANT RUNNING WITH THE LAND,
STORMWATER MANAGEMENT FACILITY OPERATIONS
AND MAINTENANCE AGREEMENT, AND RIGHT OF ENTRY
(Single Parcel)**

PROJECT: Skipolini's Pizza

OWNERS NAME: Lester Ipsen Jr., Trustee

ASSESSOR'S PARCEL NUMBERS: 119-013-003 & 119-013-004

**COVENANT RUNNING WITH THE LAND,
STORMWATER MANAGEMENT FACILITIES
OPERATION AND MAINTENANCE AGREEMENT,
AND RIGHT OF ENTRY**

This Covenant Running with the Land, Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry ("Agreement") is made and entered into this 13 day of 3, 2013, by and between Lester Ipsen Jr., trustee, (hereinafter referred to as "Property Owner") and The City of Clayton, a municipal corporation ("City").

The following terms used in this Agreement shall have the meanings specified below:

DEFINITIONS

Maintain: The term "**Maintain**" or "**Maintained**" shall mean taking all actions deemed reasonably necessary by the City to keep the Stormwater Facility in first class operation, condition and repair, which actions include but are not limited to regular inspections, painting, cleaning, maintenance, refinishing, repairing, replacing and reconstructing the Stormwater Facility, and in the case of landscaping, plant replacement, mulch replacement, irrigating, trimming, mowing, and fertilizing the landscaping. The term shall also include the routine maintenance, and the annual inspection and reporting described in the Stormwater Control Operation and Maintenance Plan, and the payment of any applicable City fees.

NPDES Permit: The term "**NPDES Permit**" shall mean the San Francisco Bay Regional Water Quality Control Board's National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0029912 (issued to the City of Clayton) as amended, and as may be superseded by subsequent NPDES permits that are reissued from time to time.

Ordinance: The term "**Ordinance**" shall mean Chapter 13.12 of the City of Clayton Municipal Code (Stormwater Management and Discharge Control), as may be amended from time to time and any other provision of the City of Clayton Municipal Code deemed by the City of Clayton to be applicable to Stormwater Management and Discharge Control.

Property Owner: The term "**Property Owner**" and "**Property Owners**" shall mean Lester Ipsen Jr., trustee, and all heirs, successors, executors, administrators and assigns of Lester Ipsen Jr., trustee, in the Property (including all subsequent owners of any interest in the Property), it being the intent of the parties hereto that the obligations undertaken in this Agreement, as provided in Civil Code section 1468, run with the Property described in Exhibit A and constitute a lien against the Property.

Property: The term "**Property**" shall mean that certain real property located at 6024 and 6062 Main Street, and more particularly described in Exhibit A which is attached hereto and hereby incorporated herein by reference.

Plan: The term "**Plan**" or "**Operation and Maintenance Plan**" means the City-approved Stormwater Control Operation and Maintenance Plan prepared by DeBolt Civil Engineering and

approved by the City Engineer in writing, which may be subsequently modified from time to time with City Engineer's written approval.

Stormwater Facility: The term "**Stormwater Facility**" means the permanent stormwater management facilities located and constructed on the Property including subsequent alterations thereto consented to in writing by the City Engineer.

RECITALS

This Agreement is made and entered into with reference to the following facts:

- A.** The Property Owner is the owner of the real property more particularly described on the attached Exhibit A.
- B.** The City is the owner of Main Street and its storm drains that are adjacent to the Property, and the City is required to ensure that stormwater run-off from the Property into its storm drains meets the requirements of its NPDES Permit.
- C.** To meet its obligations under its NPDES Permit the City has required the Property Owner to construct the Stormwater Facility on the Property.
- D.** To meet its obligations under its NPDES Permit the City has approved the Property Owner's Operation and Maintenance Plan for the Stormwater Facility.
- E.** To meet its obligations under its NPDES Permit the City's Ordinance requires proper operation and maintenance in perpetuity of the Stormwater Facility constructed on the Property.
- F.** The Plan includes an annual inspection and reporting requirement for the Stormwater Facility constructed on the Property.
- G.** This Agreement memorializes the Property Owner's maintenance, operations, and inspection obligations under the City's Ordinance, the City's NPDES Permit and the Plan.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

SECTION 1

Responsibility for Operation and Maintenance: No portion of the Stormwater Facility may be altered, in any way, by the Property Owner without the prior written consent of the City Engineer of the City of Clayton. The Property Owner shall Maintain the Stormwater Facility in first class operating condition, and in compliance with all applicable state, county and city laws and regulations. Applicable regulations include, but are not limited to, the City-approved Stormwater Control Operation and Maintenance Plan, and the provisions of the Ordinance, as they may be amended from time to time.

The Property Owner shall engage a landscape contractor or other licensed contractor to maintain the Stormwater Facility. The City Engineer, in her or his sole absolute discretion, may approve in writing an alternate method for the maintenance of the Stormwater Facility. The City Engineer, also in her or his sole absolute discretion, may revoke the approval of a previously approved alternate method for the maintenance of the Stormwater Facility.

SECTION 2

Inspection by Property Owner: The Property Owner shall cause its contractor to conduct annual inspections during the month of September of each year. The annual inspection report shall include completion of the checklist described in the approved Operation and Maintenance Plan. The Property Owner or its contractor must submit the inspection report to the City Engineer within 30 days after the annual inspection. Any deficiencies noted during the inspection are to be corrected within 30 days of the annual inspection and an updated inspection report to be provided to the City Engineer. A Management and/or Inspection fee established in the City's standard fee schedule shall accompany the annual inspection report.

SECTION 3

Right of Entry and Stormwater Facility Inspection by the City: The Property Owner hereby grants permission to the City, its authorized agents and employees, and the Central Contra Costa Sanitary District, the Contra Costa County Fire Protection District, County Environmental Health Department, the Contra Costa Mosquito and Vector Control District, and the Regional Water Quality Control Board to enter the portion of the Property where the Stormwater Facility is located, and to inspect the Stormwater Facility whenever any of the forgoing entities deems necessary to enforce provisions of the City's Ordinance. These entities may enter the premises at any reasonable time to inspect the Stormwater Facility's maintenance and operation, to inspect and copy records related to compliance with stormwater regulations, and to collect samples and take measurements. Whenever possible, these entities will provide notice prior to entry.

SECTION 4

Failure to Perform Required Stormwater Facility Repairs or Maintenance by the Property Owner: If the Property Owner or its successors fails to Maintain the Stormwater Facility in good working order and in accordance with the approved Plan and the City's Ordinance, the City, with prior notice, may enter the Property to return the Stormwater Facility to good working order. The City is under no obligation to Maintain or repair the Stormwater Facility, and this Agreement may not be construed to impose any such obligation on the City. If the City, under this section takes any action to return the Stormwater Facility to good working order, the Property Owner shall reimburse the City for all the costs incurred by the City, including administrative costs (herein "costs of abatement"). The City will provide the Property Owner with an itemized invoice of the City's costs and the Property Owner will have 30 days to pay the invoice. If the Property Owner fails to pay the invoice within 30 days, the City may, without the necessity of any judicial process, secure and record a lien against all real property of the Property Owner in the amount of such costs. In addition the City may make the cost of abatement of the nuisance caused by the failure to maintain the Stormwater Facility a special assessment against the Property that may be collected at the same time and in the same manner as ordinary municipal taxes are collected as provided in Government Code

section 38773.5. This Section 4 does not prohibit the City from pursuing other legal recourse against the Property Owner.

SECTION 5

Indemnity: The Property Owner agrees to defend with legal counsel of City's choice, indemnify and holds harmless the City, its officials, employees and its authorized agents from any and all damages, accidents, casualties, occurrences, claims, penalties or fines which might arise or be asserted against the City and which are in any way connected with the construction, operation, presence, existence or maintenance of the Stormwater Facility by the Property Owner, or from any personal injury or property damage that may result from the City or other public entities entering the Property under Section 3 or 4.

SECTION 6

Successors and Assigns: The covenants of the Property Owner set forth in numbered Sections 1 through 5 above shall run with the land, and the burdens thereof shall be binding upon each and every part of the Property and upon the Property Owner, its successors and assigns in ownership (or any interest therein), for the benefit of Main Street and its storm drains and each and every part thereof and said covenants shall inure to the benefit of and be enforceable by the City, its successors and assigns in ownership of each and every part of the Street and storm drains.

SECTION 7

Severability: Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions and all other provisions shall remain in full force and effect.

Recommended for approval:

City of Clayton:



City Engineer

Mayor

Reviewed by:

Attest:

City Attorney

City Clerk

Property Owner:



Lester Ipsen Jr., Trustee

Attachments: Acknowledgement
Exhibit A

ACKNOWLEDGMENT

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

State of California
County of CONTRA COSTA)

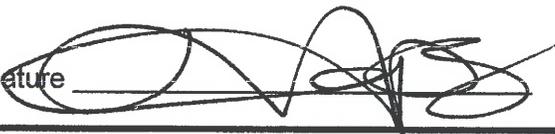
On MARCH 13th 2015 before me, V CAMPOS - NOTARY PUBLIC
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature



(Seal)

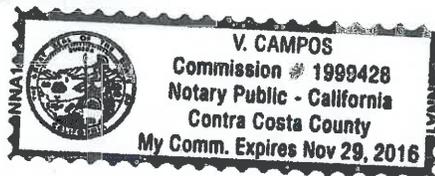


EXHIBIT A
Legal description

The land referred to herein is situated in the State of California, County of Contra Costa, City of Clayton, and is described as follows:

All of Lots 1 and 2 as described in that certain Lot Line Adjustment No. LLA 14-02, recorded March 25, 2014, as document No. 2014-0044320-00, in the Office of the Recorder of said County.

Containing 12,378 square feet, more or less.

2014 ANNUAL REPORT

The Clayton Community Library Foundation, established July 1989, continues to be actively involved in support of the Clayton Community Library. The CCLF is an all volunteer, tax exempt, non-profit 501(c)(3) corporation. The purpose of the CCLF is to support the Library by providing a pool of volunteers and funds to provide books, materials, special programs and furniture not provided by City and County budgets. The City of Clayton owns the 15,500 square foot building and its furnishings. The Board of Directors of the Foundation serves as the City of Clayton Library Advisory Committee.

Clayton Community Library in-library volunteers donated 6,450.16 hours of library service in 2014. More hours than any other library in the county. Our volunteers checked in and shelved returned books, repaired books and videos, provided computer assistance, tutored students and helped out where needed. Volunteers working in the library numbered 87 adults and students. The Volunteer Coordinator oriented 6 adults and 4 students. Four adult and 7 student volunteer tutors assisted 23 students, one-on-one, for a total of 205 hours. Three adult and 6 student group-study tutors worked 288 hours assisting 26 students. Two Computer Helpers worked 198 hours assisting 66 patrons with use of the Internet and word-processing. Once again we had a Book Buddy, Gail Fitzgerald, who volunteered 20 hours reading to 82 children. The very popular "Paws to Read" had 59 children reading to 8 friendly, and very happy dogs. Based on the 2013 Independent Sector figure for the value of volunteer labor in California, \$26.34 per hour, the total monetary value of in library volunteerism is \$169,897.21! Our library operates on 3/5ths of the normal staffing – our wonderful volunteers provide the rest of the staffing.

Other volunteers donated 2503 hours working on Used Book Sales and other Foundation related activities worth \$65,929. Even our paid Volunteer Coordinator volunteered 211 hours, or 18 hours a month. Boy Scout Troop 484 provides man power to move books for our book sales and the Clayton Garden Club maintains our flower boxes and other garden areas surrounding the library. And don't forget those 4th of July volunteers. We are truly a community library.

As part of the County Library Strategic Plan, Clayton Community Library users identified our library as "a focal point that draws people together and as a place to gather". In response to these answers CCLF is actively seeking to partner with other volunteer organizations in sponsoring programs of general interest for the community. Our goal is to attract more residents into our library. In October, CCLF co-sponsored with Clayton Branch AAUW, a Clayton City Council Candidate's Night.

We like to keep our volunteers happy, and this year Volunteer Coordinator, Arlene Kikkawa-Nielsen, planned three parties for the student volunteers: a Last Day of Tutoring party for student tutorees and their families and tutors with 36 attendees; an end of year/graduation pizza party with 24 attendees and a holiday pizza party with card and board games with 13 attendees. The adult volunteers were entertained at a Spring luncheon and the Lead Volunteers were entertained at a Holiday Luncheon at Joyce and Dave Atkinson's home.

The Nineteenth Birthday celebration included the Annual Meeting of the Clayton Community Library Foundation and the Volunteer Recognition Coffee on Saturday, March 8th, 2014 and the Creekside Arts Celebration "Mount Diablo...Rising from the Ashes" on the weekend of March 21st through 23rd. On Friday, March 22nd there was an artist's preview, "Annie & Friend" our live dog and pony appeared.. Art Awards for the juried show, were presented. Juried by the Bedford Gallery, California Writer's Club, Art Concepts Inc., and the Arts & Culture Commission of CCC. Festivities on Saturday and Sunday included ongoing sales and demonstrations by local artists and crafters. Activities and entertainment featured "plein air" painting; Jim Hale, Ethnobotanist & Wildlife Biologist; discussed the Morgan Fire and the regeneration; Clayton Artwalk Spring Tour led by Jeffery DeSalles, Diablo Taiko

drums; "Cora's Quilt" a Civil War Tale in Clayton, presented by Joy Koonin and a Ukelele Jam. The net income from this weekend totaled \$1,192.30.

128 students from four Mt. Diablo Elementary second grade classes visited the library and 57 students received library cards. Experience tells us that rest already had library cards. The ve popular Book Club led by Sunny Solomon continues to meet at the Clayton Community Library.

The Clayton Community Library participated in the 4th of July Parade for the 16th year. Our entry highlighted the Summer Reading Program, "Paws to Read". Organized by Arlene Kikkawa Nielsen, 28 students and 5 adults volunteered 308 hours to make our library entry another success. This year's entry featured 9 kids, 6 dogs, 18 student teens and 25 adults, 6 dogs and 1 pony. Total volunteer hours – 473.

In 2014 the CCLF was able to generate \$48,206.79 in income from a variety of sources, \$7,353 of this represents the value of in-kind materials, in the form of used books and tapes/CD/DVDs donated for the booksales and diverted to the library collection. The Foundation maintained an average membership of 288 units in 2014, which brought in \$8,600 in revenue. This year we opened a used book store – run on the honor system this store earned \$937.94 of the revenue from Used Book Sales. Used Book Sales grossed a total of \$15,127.95; United Way/LIC donations added \$2,999.39; Organizations donated \$8,200, \$500 from Clayton Valley Woman's Club and \$6,700 from the Clayton Business and Community Assn. (CBCA); \$900 from Clayton Valley Sunrise Rotary, and other organizations \$100. Matching Gifts, donations and memorials in addition to account interest, merchandise sales, and fundraising activities complete our total revenue.

CCLF spent \$48,183.45 on Library Support. As mentioned in the previous paragraph, in-kind materials added to the collection from patron donations, valued at \$7,353, represent a portion of this amount. In 2014 CCLF gave \$24,942.32 for materials, books, CD's, DVD's and library programs. Fourteen reader's chairs were purchased with the money donated by CBCA. \$10,800 was paid to the City of Clayton, which in turn pays our volunteer coordinator, a private contractor. Additional mon provided insurance for volunteers, and volunteer recognition events.

CCLF spent \$3,760.47 on library programs and special events. This included 12 major programs, craft supplies for the programs presented by our talented staff, and prizes for the 4th of July, Creekside Celebration, the February "Bee A Reader" completed by 29 kids K through 2nd and for the Summer Reading Program and Teen Reading Program.

We no longer count the number of readers signing up for the Summer Reading Program, because some signed up on line and we could not track those folks. However, 371 completed the program at the Clayton Community Library. Must be due to our great prizes!

This was the seventh year for "Clayton Reads". Special programming focused on the book, "The Book Thief". CCLF purchased 150 copies of the book so they could be made available to the public to encourage everyone to take part in this event.

The Clayton Community Library Foundation thanks the City Council, Staff and the community, for all the support you have shown over the years. The Clayton Community Library is a terrific asset to the community and it is a good feeling to know that this community values its public library. The 2014 circulation at the Clayton Community Library was 177,740 a slight decrease from 2013. We believe eBooks is responsible for the slight decrease in our circulation. The door count was 122,988. The money raised by CCLF enables the staff to schedule more programs and purchase additional materials and therefore attract patrons into our library to utilize library services.

I want to encourage any interested citizen to attend our board meetings and become involved in our work. We meet on the 3rd Wednesday of the month at 7:30 in the Library Story Room. We do n meet in December or July.

Joyce Atkinson, President

**Declaring
The week of April 20th - 26th
as
"Clayton Community Library Volunteers" week**

WHEREAS, the Clayton Community Library has a total of 87 in-library adult and student volunteers whose work is essential to the support and functioning of library services; and

WHEREAS, In-library volunteers contributed 6,450 hours and Foundation volunteers contributed 2,503 in 2014, for a total of 8,953 hours, which is still the largest library volunteer program in Contra Costa County; and

WHEREAS, on July 4, 2014, 52 Clayton Community Library volunteers and patrons contributed 165 hours to promote the Library's Summer Reading Program at the downtown parade, highlighting the importance of summer reading and summer library visits; and

WHEREAS, 11 volunteer tutors spent 205 hours, one-on-one with 13 students to provide homework help; and in the Group Tutoring Sessions on Wednesday afternoons 3 adult and 6 student tutors spent 288 hours to provide help to an additional 26 students; and

WHEREAS, Clayton Community Library volunteers shelve all the materials at the library, check in returned materials, do all mending of materials, read to children, deliver books to homebound patrons, provide art and environmental education programs, and much more; and

WHEREAS, the 10th Annual Creekside Arts Celebration was held to showcase local artisans, performance and environmental groups and to promote the education of such to the community as well as raise funds for purchasing library materials; and

WHEREAS, the Clayton Community Library Foundation contributed \$48,204 in 2014 for volunteer support and recognition, library materials and furniture, programs for adults, teens and young children, and Creekside Arts Celebration expenses.

NOW, THEREFORE, I, David T. Shuey, Mayor, on behalf of the Clayton City Council, do hereby acknowledge, April 20-26, 2015, as Clayton Community Library Volunteer Week, and urge my fellow citizens to recognize that the Clayton Community Library volunteers are a gift to the community and thank the operational volunteers, tutors, book buddies, computer helpers, parade volunteers, Creekside habitat and garden volunteers, homebound deliverers, Creekside Arts Celebration volunteers, Creekside Artists Guild artists, Library Commissioners, Foundation members, and Board for their outstanding volunteerism.

Agenda Item: 4b

Agenda Date: 4-21-2015

DIANA BAUER
"Volunteer of the Year"
2015
for
25 years of
outstanding service to the
Clayton Community Library

JEANNE BOYD
"Volunteer of the Year"
2015
for
25 years of
outstanding service to the
Clayton Community Library

JOYCE ATKINSON
"Volunteer of the Year"
2015
for
25 years of
outstanding service to the
Clayton Community Library

CAROL WOLFE
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

CAROLYN McCOMBS
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

CLAIRE HOLMSEN
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

CLARE ROGERS
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

DAVID ATKINSON
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

LARRY ROGERS
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

LOUSIE WALL
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

MARNIE MALCOLM
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

TED HOLMSEN
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library

YOLA LIANG
"Volunteer of the Year"
2015
for
20 years of
outstanding service to the
Clayton Community Library



Agenda Date: 4-21-2015

Agenda Item: 8a

Approved: 
Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CITY MANAGER
DATE: 21 APRIL 2015
SUBJECT: DISCUSSION OF CURRENT LAND USE DESIGNATIONS FOR GROUND FLOOR IN THE CLAYTON TOWN CENTER

RECOMMENDATION

It is recommended the City Council, following discussion and opportunity for public comment, provide general policy direction regarding the City's existing ground floor land use designations on public and privately-owned real properties in the Clayton Town Center.

BACKGROUND

Presently, the City holds title to several real properties within the Clayton Town Center area that it previously attempted, with marginal progress, to self-advertise for sale and development to a private developer for construction of improvements consistent with the City Council's vision for its downtown contained in the *Clayton Town Center Specific Plan*. The real properties available are:

1. An unimproved vacant parcel with some frontage on Main Street (with dual access rights) consisting of approximately 1.67 acres acquired by the City in April 2013 from the Clayton Community Church. The land has two (2) signs posted on it by Transwestern noticing the property for sale (APN 118-560-010). Including original purchase price, escrow expenses and carrying costs, at this time the City has approximately \$1.045 million of taxpayer monies for title to the property; and
2. Three smaller parcels with frontage on the west side of Oak Street, between Center and High Streets, comprised of two (2) unoccupied ramshackle bungalows abutting Mitchell Creek, along with an unimproved adjacent hillside parcel to the west. Records indicate City ownership going back to 1974 and 1986.

The latter parcels listed above enjoy, through significant financial efforts of the former Clayton Redevelopment Agency (RDA), a fully-entitled City-approved development project known as "Creekside Terrace." This commercial mixed-use project involves the permitted construction of a mixed-use two story building with a western-style frontage characteristic of architectural themes suggested in the *Town Center Specific Plan*. The first floor plans for

approximately 7,200 sq. ft. of retail commercial space with a 20-foot ceiling. The second floor calls for seven (7) residential units which originally were targeted for affordable housing opportunities with additional financial assistance of the RDA. In the current entitled plan, the residential units are 1-bedroom with several containing dens.

The Creekside Terrace Project received its City entitlements on 06 July 2010, and those land use permits have been extended by City Planning Commission actions to now expire on 06 January 2016 (note: further extensions are eligible). The City initially placed small billboards on the property depicting and illustrating with color renderings the front elevations of the approved project. Those postings elicited several telephone calls and interests. At this time, the City has one (1) prospective developer slowly performing due diligence work to acquire and construct the project, including the exchange of bona fide offers on the lands.

COMMERCIAL BROKER

At its public meeting on 01 April 2014, following the City's solicitation of proposals from several commercial realty companies, the City Council unanimously approved an agreement with Transwestern Property Company West, Inc. (dba Transwestern) to list and to market the City's vacant and underutilized real properties in the Town Center. Since that time, Transwestern has created and developed a marketing plan, has outreached to numerous retail commercial companies and prospective developers, and has brought several interested developers to meet with the City Council Sub-Committee on Economic Development and City staff.

The Exclusive Sales Listing Agreement with Transwestern was approved for an extension of time to 02 January 2016 at the last City Council meeting.

PROGRESS ON MARKETING CITY PROPERTIES

Since receiving the Listing Agreement, Transwestern (Ed Del Beccaro, Managing Director) reports his company has presented the real properties to approximately 650-700 distinct retailers (yes, including Trader Joe's). Although Clayton is a desirable community (11,200 pop.), when retailers do respond to our outreach pushing retail commercial land uses on the ground floor, Transwestern indicates the dominant response is "not interested" due to the lack of density (i.e. population, building mass) in the surrounding area to justify larger retail commercial investment and operation. The same variables that make Clayton desirable to so many (e.g. small town, geographic setting, less traffic volumes, low housing density, etc.) are also the same factors impeding the likelihood of significant retail commercial interest in the properties. While many Claytonians enjoy the quaintness and nostalgia of our Clayton Town Center, there simply are insufficient numbers of actual or potential consumers to frequent the Downtown or offer consistent patronage to warrant significant retailer development. And for some Claytonians, that reality is actually valued and endorsed for the quality of life reasons listed above.

The city of Clayton has two retail commercial sectors: 1. Clayton Station shopping center; and 2. Clayton Town Center. Frankly, neither are major players in terms of area shopping destination points or retail sales productions. In Fiscal Year 2014-15 it is projected the City of Clayton's sales and use tax revenues (1% from the 8.5% sales tax levy) will generate approximately \$300,000 in annual City tax revenue, total. For comparison, the next smallest city in Contra Costa County (Moraga; 16,348 pop.) produces \$771,740 per year in base sales tax revenue while its Measure K 1¢ sales tax rate increase approved by voters in 2012 brings in an additional \$1.68 million per year. In some circles of community dialogue, the "business" of Clayton is well known to be residential uses.

Unsurprisingly then, while Transwestern recently tendered two (2) actual offers by prospective developers to purchase the City's vacant parcel (1.67 gross acres) in the Town Center, neither offer entailed full retail commercial uses on the ground floor and each contained the dominant component of residential units (ground and second stories). For the City and its elected officials, the reality of receiving professional news on what the market will bear for commercial in its Town Center now confronts Clayton's long-desired vision and hope for a prominent retail village in its Downtown.

CITY COUNCIL DISCUSSION

Before the City considers altering the marketing plan of its real properties for sale in any fashion to entertain land uses other than those in compliance with its current General Plan, Zoning Code and Town Center Specific Plan, the City Council wished to initiate public discussion of the current ground floor retail commercial designation and evaluate whether it is an impediment to development of these properties and/or other under-utilized or vacant private properties in the Clayton Town Center. For reference purpose, staff has included the pertinent land use documents of the City governing the Town Center area.

- Exhibits: 1. General Plan Map and Land Use Legend of the Town Center [2 pp.]
2. List of Allowable Uses in the Town Center area [3 pp.]
3. Zoning Map of the Town Center [1 pg.]
4. Applicable Zoning Code Chapters of the Clayton Municipal Code [12 pp.]
5. Real Property Map of the Town Center [1 pg.]

General Plan Map – Legend

RESIDENTIAL

UNITS/GROSS ACRE

RD

RURAL ESTATE

(0 TO 1.0)

LD

SINGLE FAMILY LOW DENSITY

(1.1 TO 3)

MD

SINGLE FAMILY MEDIUM DENSITY

(3.1 TO 5)

HD

SINGLE FAMILY HIGH DENSITY

(5.1 TO 7.5)

MLD

MULTIFAMILY LOW DENSITY

(7.6 TO 10)

MMD

MULTIFAMILY MEDIUM DENSITY

(10.1 TO 15)

MHD

MULTIFAMILY HIGH DENSITY

(15.1 TO 20)

ID

INSTITUTIONAL DENSITY

(7.6 TO 20)

COMMERCIAL

TC

TOWN CENTER

KC

KIRKER CORRIDOR

CC

CONVENIENCE COMMERCIAL

COMMUNITY FACILITIES

CV

CULTURAL CENTER

PQ

PUBLIC/QUASI-PUBLIC

I

INTERMEDIATE SCHOOL

E

ELEMENTARY SCHOOL

P

PRIVATE SCHOOL

OPEN SPACE

PR

PRIVATE OPEN SPACE

FU

PUBLIC PARK/OPEN SPACE/
OPEN SPACE AND RECREATIONAL

AG

AGRICULTURE

Q

QUARRY

PR

PRIVATE OPEN SPACE (GOLF COURSE)

--- TRAILS

CLAYTON TOWN CENTER SPECIFIC PLAN

TOWN CENTER COMMERCIAL (TC)Permitted Uses

Retail sales, commercial services, and offices, as well as limited residential and visitor accommodation uses, as listed below. Use marked by an asterisk (*) are limited to upper floor locations, unless a use permit is granted for a ground floor location as noted in the following section.

- Antique shops
- Art galleries and frame shops
- Art and photography studios*
- Audio/video equipment, including home theater systems
- Bakery goods stores and bakeries
- Banking
- Barber shops, beauty shops, and personal care salons*
- Books, newsstands, and magazines
- Business, editorial, and professional offices*
- Camera and photographic equipment
- Candy and ice cream
- Clothing and shoes
- Computer, office, and electronic equipment sales
- Computer, office, and electronic equipment service*
- Copying and printing
- Dance, music, exercise, and martial arts studios*
- Drapery and yardage
- Drugstores
- Electric appliances (small appliances only)
- Financial services*
- Floor coverings
- Flowers and house plants
- Food and groceries
- Hardware and garden supply
- Interior decorating stores
- Jewelry, watches, and clocks
- Lamps and lighting
- Laundry and dry cleaning pick-up stores, excluding any dry-cleaning on-site
- Liquor, wine, and beer (off-sale)
- Locksmiths
- Luggage and leather goods
- Medical and dental offices*
- Museums (upper floors preferred)
- Music, including recordings, instruments, and sheet music
- Opticians
- Parking spaces and loading areas
- Pets and animal grooming (excluding kennels)

Private mail and packaging services
Real estate offices and title companies*
Residential uses (upper floors only)
Restaurant (including outdoor dining, on-site service, and take-out service) and associated bars
Saddles and equestrian equipment
Sporting goods and bicycles
Stationery supplies
Tailors and dressmakers*
Tobacco shops
Toys, hobbies, and crafts
Travel agencies*
Variety stores
Video rentals
Accessory buildings, structures, and uses clearly incidental and appurtenant to a permitted use
Temporary and seasonal outdoor uses, subject to Temporary Use Permit provisions (Chapter 17.70) of the Zoning Ordinance
Other retail, commercial service, or office uses which are determined by the Planning Commission (or the City Council on appeal) to be of the same general character and will not impair the present or potential use of adjacent properties.

Uses Subject to Use Permit

The following uses are allowed only after special review and the granting of a use permit. The primary purpose of the review is to assure an appropriate mixture and balance of uses in the Town Center—a mixture and balance that the uses listed below could jeopardize, for a variety of factors including:

- The location would interfere with the pedestrian and retail orientation of the district; or
- The use or its size, in conjunction with existing uses, would overwhelm the Town Center or interfere with the pedestrian and retail orientation of the district.

Further, some of the uses listed below might require building or storage areas that would be too large or otherwise inappropriate in the Town Center:

Bars which are not part of a full-service dining establishment
Bed and breakfast guest facilities
Commercial recreation (including billiards/pool and video arcades with more than three machines)
Establishments with dancing, live entertainment, or live audio/video entertainment
Home appliances, except small electrical appliances
Home furnishings, except lamps and lighting
Massage therapy, unless part of recognized medical office or clinic
Office, commercial service, personal service, or studio uses (listed as Permitted Uses above) in ground floor locations

MULTI-FAMILY LOW DENSITY RESIDENTIAL

Dwelling units at density of 7.6 to 10 units per gross acre. This designation is intended for and allows cluster units such as townhouses, garden units, and other types of planned developments, including single-family detached dwellings on smaller lots, that provide a development with amenities to balance the increased density. This density must be adequately buffered from adjacent single-family developments. Development intensity can reach 100 percent of individual parcel coverage provided that each unit has access to private outdoor space, use of recreational amenities, and provision of useable open space. Second dwelling units are allowed.

MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL

Dwelling units at a density of 10.1 to 15 units per gross acre. Areas so designated on the Land Use Plan are deemed to have adequate site area-and are located with respect to the Towne Center road system-such that the range of density can comfortably be accommodated.

MULTI-FAMILY HIGH DENSITY RESIDENTIAL

Dwelling units at a density of 15.1 to 20 units per gross acre. Areas so designated on the Land Use Plan are deemed to have adequate site areas-and area located with respect to the Town Center road system-such that the range of density can comfortably be accommodated. This designation is intended for and allows the two-story (or higher) apartments or condominiums located where higher densities may be appropriate, such as near major public transportation and commercial centers. Development within this density shall be encouraged to use a PUD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 65% of the site area.

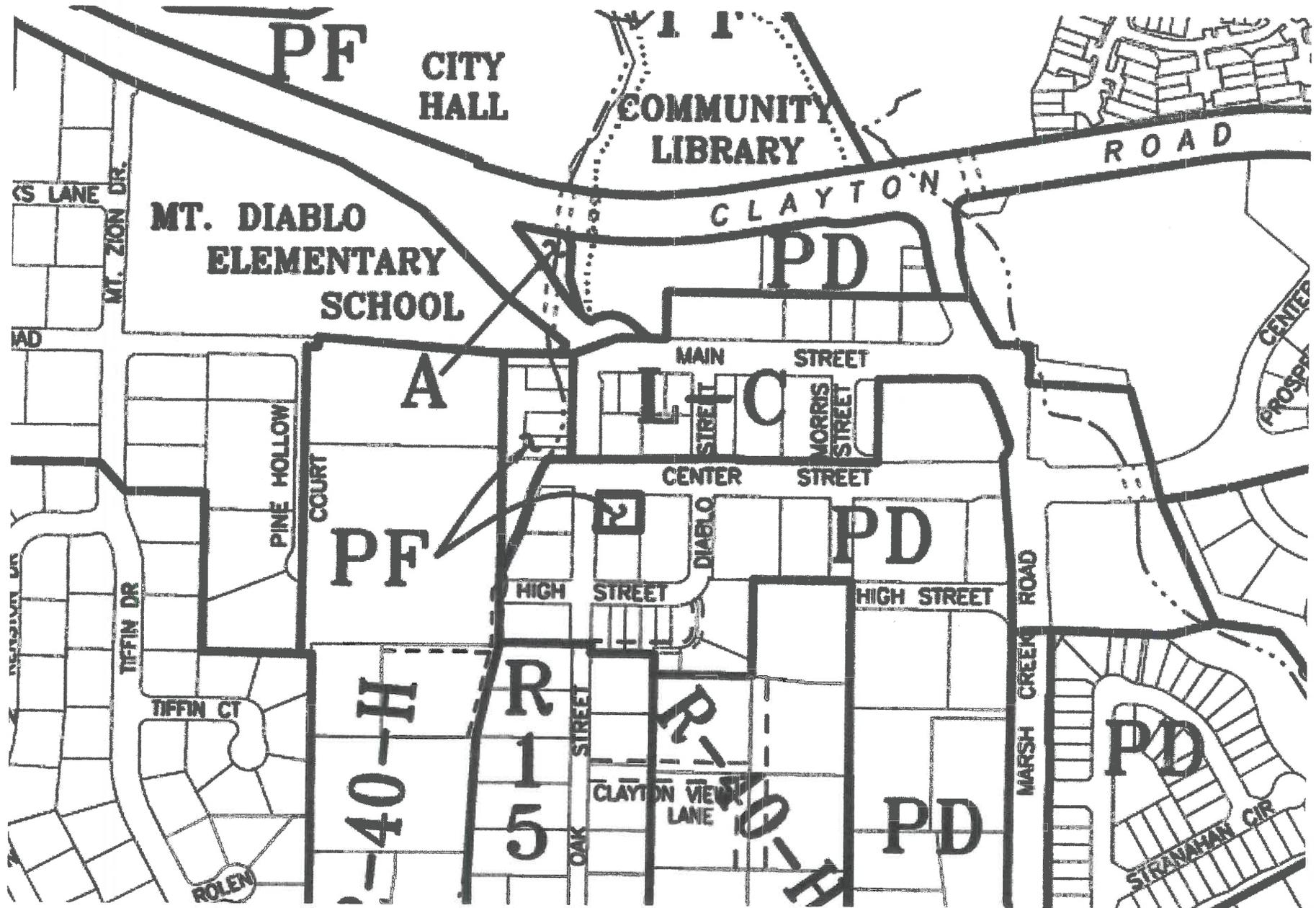
INSTITUTIONAL RESIDENTIAL

Senior housing at a density of 7.6 to 20 units per gross acre. This designation is intended for development of various forms of senior housing under the sponsorship of public or quasi-public agencies. Group dining, limited vehicles, medicine-dispensing services, and other characteristics and amenities make this form of housing unique. Development intensity can reach 100 percent structural coverage for individual parcels. Structural coverage shall not exceed 50 percent of the site areas.

PUBLIC FACILITY

Publicly –owned facilities such as government offices and facilities, community centers, museums, parks and recreational areas, the Community Library, the fire station, the Clayton Corporation yard, and ancillary structures and uses.

Zoning Map of Clayton Town Center



Chapter 17.24

LIMITED COMMERCIAL (LC) DISTRICTSections:

- 17.24.010 Permitted uses--Generally.
 17.24.020 Permitted uses--Principal.
 17.24.030 Lot area.
 17.24.040 Building height.
 17.24.050 Setbacks.
 17.24.060 Parking and Loading.

17.24.010 Permitted uses--Generally. All land within a limited commercial district (map symbol LC) may be used for any of the uses under the regulations in this chapter. (Ord. 52 Ch. II Sec. 5(part), 1968).

17.24.020 Permitted uses – Principal. Unless the land is located within the boundary of the Town Center Specific Plan, the principal permitted uses in the Limited Commercial District are as set forth herein. If the land is located within the boundary of the Town Center Specific Plan, the principal permitted uses are the retail sales, commercial service, restaurant, bar, commercial recreation, office, upper-floor residential, and visitor-accommodation uses specifically set forth in the “Town Center Commercial” land use designation of the Town Center Specific Plan.

- A. Retail business or service establishment supplying commodities or performing services for residents of the surrounding community, such as a junior department store, grocery, fruit, or vegetable store, bakery, drugstore, barbershop and beauty shop, clothes cleaning and laundry pickup station, business or professional offices and the like;
- B. Cafes, restaurants, grills, and similar enterprises, provided that such uses are conducted within a completely enclosed building;
- C. Business and technical schools, and schools and studios for photography, art, music and dance;
- D. Medical and dental offices and clinics;
- E. Administrative, executive, and editorial offices;
- F. Professional offices;
- G. Financial offices, including banks, and real estate and other general business offices;
- H. Outdoor sales activities, such as sidewalk cafes, and other similar uses, where the City finds any such use to be in the public interest and compatible with existing development in the general area where such use is proposed, and which use is maintained with sufficient screening or landscaping or both, where the same is or are determined by the City to be necessary to protect surrounding properties;
- I. Accessory uses and structures customarily appurtenant to a permitted use, such as incidental storage facilities;
- J. SRO facilities only with a Conditional Use Permit (See Section 17.60.030.B.6);
- K. Any other retail business, office or service establishment which the Commission finds not to be inconsistent with the purpose of this title and which will not impair the present or potential use of adjacent properties. (Ord. 325, 1996, Ord. 440, 2012)

17.24.030 Lot Area. Buildings or parts of buildings hereafter erected or altered for any of the uses described in this chapter shall be situated on a lot at least five thousand square feet in area and fifty feet in average width. (Ord. 325, 1996; Ord. 52 Ch. II Sec. 5(c), 1968).

17.24.040 Building Height. The building height in the Limited Commercial District shall not exceed forty (40) feet. (Ord. 403, 2007)

17.24.050 Setbacks. The setback in the Limited Commercial District shall be five (5) feet from all lot lines, unless the lot shares a common lot line with a lot in a residential district, in which case the setback shall be ten (10) feet from that portion of the common lot line. The setback may be reduced to zero (0) feet upon approval of a site plan review by the Planning Commission for the subject development in accordance with Chapter 17.44. (Ord. 403)

17.24.060 Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Chapter 17.37 (Off-Street Parking and Loading Regulations) (Ord. 408, 2007).

Chapter 17.28

PLANNED DEVELOPMENT (PD) DISTRICT

Sections

17.28.010	Planned Development District Defined
17.28.020	Purpose
17.28.030	Criteria for Planned Development District Application
17.28.040	Rezoning to Planned Development District
17.28.050	Land Use Permit Required
17.28.060	Permitted Uses
17.28.070	Density
17.28.080	Latitude of Regulations
17.28.090	Development Plan Application Requirements
17.28.100	Open Space
17.28.110	Maintenance of Common Areas
17.28.120	Circulation/Parking
17.28.130	Utilities
17.28.140	Review Procedures/ Development Plan Permit
17.28.150	Conditions of Approval
17.28.160	Standards of Review
17.28.170	Required Findings
17.28.180	Development Plan Modifications
17.28.190	Termination

17.28.010 Planned Development District Defined. A Planned Development District (PD) is a zone which allows for an integrated, comprehensively-planned area located on a single tract or contiguous tracts of land under a single or joint ownership which allows flexibility in the land use controls typically required by another zone. The Planned Development District requires a subsequent development level permit. (Ord. 308, 1993)

17.28.020 Purpose. The major purposes of the Planned Development District are:

- A. To implement the objectives of the General Plan.
- B. To conserve outstanding natural and archeological features.
- C. To provide more private and public open space.
- D. To encourage building variety and innovative approaches in environmental design. The Planned Development District permits, for example, mixed land uses, varied setbacks and building heights and diverse lot sizes.
- E. To promote economy and efficiency through shared facilities and services. (Ord. 308, 1993)

17.28.030 Criteria for Planned Development District Application. Any piece of land one half acre or larger with any General Plan designation or designations may be rezoned to Planned Development District. Mixed use development would require rezoning to Planned Development District prior to seeking development approval. (Ord. 308, 1993)

17.28.040 Rezoning to Planned Development District. An application to rezone or prezone an area to Planned Development District shall include all other submittals normally required by the City for a rezoning application pursuant to Chapter 17.56 of this Title. (Ord. 308, 1993)

17.28.050 Land Use Permit Required. For all areas zoned Planned Development District, a land use permit is required as follows:

- A. For residential uses of four (4) lots or less and containing four (4) dwelling units or less, a Site Plan Review Permit is required pursuant to Chapter 17.44.
- B. For multiple family development projects located on property designated as Multifamily High Density (MHD) on the General Plan Land Use Map, the development standards for Multiple Family Residential (M-R-H) Districts shall apply pursuant to Chapter 17.20 and the Site Plan Review Permit process shall be used for processing purposes pursuant to Chapter 17.44. Alternatively, applicants may choose to process a Development Plan under the provision of this PD District Chapter if desired. (Ord. 454, 2014)
- C. For residential uses of five (5) lots or more or containing five (5) dwelling units or more, a Development Plan Permit is required as specified below.
- D. For commercial or mixed use development on parcels less than 15,000 square feet in area (subject Subsection E below), a Site Plan Permit and/or a Use Permit is required pursuant to Chapters 17.44 and/or 17.60, respectively.
- E. For commercial or mixed use development on parcels 15,000 square feet or greater in area (subject Subsection E below), a Development Plan Permit is required as specified below.
- F. The applicable parcel areas for Subsections D and E above, are those shown on the Assessor's Maps of the Contra Costa County Assessor's Office as of January 1, 2007 (termed Original Parcels). Development projects located on parcels created by any subsequent division of the Original Parcels must comply with the requirements applicable to the parcel areas of the Original Parcels. (Ord. 402, 2007, Ord. 454, 2014)

17.28.060 Permitted Uses. The Planned Development District is designed to effectively control the development of a single use or mixture of uses as defined in the overlying category (or categories) designated in the General Plan. Personal property sales are allowed in residential neighborhoods within Planned Development Districts subject to the following standards:

- A. Personal property sales shall be allowed up to a maximum of six (6) days per calendar year;
- B. Personal property sales shall be limited to the hours between 8:00 a.m. and 5:00 p.m.;
- C. Personal property sales shall not result in adverse impacts related to noise, traffic, safety, congestion, and parking; and
- D. Personal property sales are only allowed in higher-density residential developments if the sales area does not adversely impact common areas or public areas. (Ord. 420, 2009).

17.28.070 Density. The maximum permissible density is defined by the overlying category(ies) designated in the General Plan. If the proposed Planned Development District spans more than one General Plan use and/or density category, then such use and/or densities may be mixed in the same proportions in the Planned Development District as designated in the General Plan. Strict adherence to overlying General Plan use/density boundaries may not be necessary if a reasonable mixture of uses/densities can be designed which is compatible with adjacent uses and which is not greater than the maximum permissible density as defined by the General Plan. (Ord. 308, 1993)

17.28.080 Latitude of Regulations. The Planning Commission or City Council may adopt as part of a Site Plan or a Development Plan pursuant to the Planned Development District regulations, limitations and restrictions different from those specified elsewhere in City Ordinances, but which are designed to protect, foster and maintain the health, safety, and general welfare of the community, including and relating to but not limited to the following:

- A. Setback and height limitations on structures;
- B. Percent coverage of land by structures;
- C. The location, width, and improvement of vehicular and pedestrian access to various portions of the property;
- D. Planting and maintenance of trees, shrubs, plants and turf in accordance with a landscaping plan;
- E. Construction of fences and walls;
- F. Limitations upon the size, design, number, lighting and location of signs and advertising structures;
- G. Arrangement and spacing of buildings and structures to provide appropriate open spaces around them;
- H. Location and size of off-street parking, loading areas and docks;
- I. Architectural design of buildings and structures; and
- J. Provision for exterior night lighting. (Ord. 308, 1993)

17.28.090 Development Plan Application Requirements.

- A. Design Team: Given the complexity of a Planned Development District and its potential long-term impact on the character and quality of development in the City, to qualify for consideration for a Development Plan Permit, the applicant must assemble and utilize a qualified professional design team whose members are licensed, as appropriate, and which should include the following disciplines: land planning, architect, landscape architect and civil engineering.
- B. Application Form/Requirements: The Submittal Package shall include the following(unless otherwise directed by the Community Development Director): (All plans and analyses shall be at scale 1" = 20' for site planning and 1/8" = 1' or greater for elevations and floor plans unless Community Development Director requires another scale.)
 - 1. Site Opportunities/Constraints Analysis (Use more than one map if necessary):
 - a. Environmental: Existing natural land features; type and diameter of trees six (6) inches or larger in diameter at four (4) feet, six (6) inches above natural grade (any such tree proposed to be removed shall be evaluated by a certified arborist in accordance with Chapter 15.70); topography (at two-foot contour intervals); soils; drainage patterns; water bodies and wetlands; flood hazard areas; surface and sub-surface geology plus geological hazards such as earthquake faults; natural features including view sheds and ridge lines; archeological sites; etc. (Ord 381, 2005)
 - b. Existing Improvements: The location and dimensions of all existing structures. Show all existing roads, paths, parking areas and all other improvements (pools, patios, decks, etc.). Identify all improvements to be retained showing location and dimensions.
 - c. Easements: The location, dimension, and purpose of all existing easements on the property.
 - 2. Site/Development Plan: (Smaller scale plans showing an overview of the proposed

development and its relationship to surrounding uses shall also be included.) The plan shall include, at minimum:

- a. Proposed use or uses of all lands within the subject area including all areas within the project proposed for private common areas and those proposed for dedication for public use.
 - b. Relationship of any existing improvements retained with proposed use or uses.
 - c. The anticipated grading for the development.
 - d. Proposed subdivision of land and buildings.
 - e. Proposed on-site and off-site improvements.
 - f. Landscaping, parking areas and proposed building envelopes for each proposed development.
 - g. If the intent is to develop the project in stages, each phase must be identified and shall be designed to be fully functional as a free-standing entity.
3. Architectural Design:
- a. Drawings and elevations, to scale, showing the architectural design of all structures proposed for the site.
 - b. Identify the exterior materials, color and finish of all structures.
 - c. Discuss the harmony of the proposed design with the significant design features or themes of adjacent and community structures.
4. Circulation Plan:
- a. Show all proposed, on-site private vehicular (automobile and bicycle) and pedestrian ways. (Show proposed equestrian trails, if applicable.)
 - b. Show proposed, on-site, public rights-of-way, walkways, paths, trails, etc. Identify pavement width and type.
 - c. Show the relationship of the proposed circulation facilities to the existing facilities (including but not limited to streets, highways, pedestrian walkways, public transit, bicycle paths, hiking and equestrian trails, etc.
5. Landscape Plan: A Landscape Plan shall be submitted which complies with the provision of Chapter 17.80 of this Title.
6. Community Facilities Plan:
- a. The location of significant historical, cultural and archaeological features of the site, including methods proposed to preserve and incorporate such elements into the proposed project.
 - b. The proposed layout, dedication and/or reservation of school sites, library sites, and public open space and usable recreation areas including parks and playgrounds, etc.
7. Open Space Requirements. The method for satisfying the open space requirements of Section 17.28.100.
8. Reports/statements including but not limited to:
- a. Identification of project applicant, proposed project developer, and owner (if different) and the identification of all members of the design team.
 - b. Legal description of the property.
 - c. A soils report for subject area.
 - d. A geotechnical report for the subject area.
 - e. A preliminary report indicating provisions for storm drainage, sewer disposal and public utilities (including cable television).
 - f. A feasibility analysis of all public or quasi-public recreational and educational areas

and facilities proposed to be located within the development. This analysis shall include a statement of anticipated financing, development and long-term maintenance.

- g. A residential density analysis of the subject area and the estimated population both adult and school-age resulting therefrom. The proposed number of school-age children shall be integrated with the analysis of educational needs and proposed facilities.
 - h. A detailed statement indicating how and why the proposed development conforms to the General Plan and Specific Plan, if applicable.
 - i. Any additional information as may be required by the Community Development Director.
- C. Submittal Packet: The number of copies of each of the above, which constitutes an Application Submittal Packet, will be determined by the Community Development Director.
- D. Application Fee: The Development Plan application materials shall be accompanied by a fee in such amount as may be fixed from time to time by resolution of the City Council. (Ord. 308, 1993; Ord. 402, 2007)

FOR ALL PROPOSALS REQUIRING A DEVELOPMENT PLAN PERMIT, THE FOLLOWING SHALL APPLY:

17.28.100 Open Space.

A. Open Space. Amount of Open Space. Projects must contain provisions for active and passive open space areas collectively comprising at least twenty (20) percent of the project site, except as follows: 1) commercial or mixed use projects on parcels less than one acre which must provide active open space on at least ten (10) percent of the project site; 2) affording housing projects may be required to provide less than twenty percent of the project site as open space subject to approval by the Planning Commission. These minimum requirements may be increased depending upon the amount and type of active open space improvements provided. (Ord. 440, 2012).

- B. Proportion of Active and Passive Open Space. At least half of the designated open space area should be active open space (except for commercial or mixed use projects on parcels less than one acre). However, the City may consider the following factors for determining the proportion of the open space area which is active open space and passive open space:
- 1. The topography of the project site;
 - 2. The proximity of the project site to other public areas of active open space and passive open space;
 - 3. The nature of any proposed active open space improvements including recreational areas (e.g., athletic facility, swimming pool, park, playgrounds, clubhouse, plaza, courtyard, walking trail) or open space amenities (e.g., public art, infrastructure for community events, landscaping);
 - 4. The extent to which the designated open space in commercial projects is accessible to the public or on-site customers; and
 - 5. The extent to which the provisions for active and passive open space are provided on-site, off-site, or through an in-lieu financial contribution.

- C. Off-Site Open Space and In-Lieu Contributions. Residential projects on sites less than three (3) acres as well as commercial or mixed use projects on sites less than one (1) acre may meet all or a portion of the open space requirements through one or more of the following means:
1. The acquisition of land for public open space and/or the construction of open space improvements on public open space at off-site locations.
 2. In-lieu financial contributions to the City for acquisition and/or maintenance of public open space. In-lieu financial contributions shall be based on the following criteria:
 - a. For the active portion (minimum fifty percent) of the open space requirement, a financial contribution for acquisition and/or maintenance of active recreation areas (e.g., athletic fields, playgrounds) in the City=s park system.
 - b. For the passive portion (maximum fifty percent) of the open space requirement, a financial contribution for maintenance of the City=s trail system.
 3. If the financial contributions are based upon maintenance costs, such contributions shall be based upon reasonable maintenance costs for a ten-year period and shall be proportional to the land area that would be required if the open space area was provided on-site.

- D. Open Space Standards. The following standards apply to all open space areas.
1. For purposes of calculating open space requirements, the project site area shall exclude areas to be dedicated for public right-of-way.
 2. Any active open space area shall not have a slope greater than ten (10) percent or any length or width dimension of less than ten (10) feet.
 3. Open space areas shall be owned and maintained as listed below. Alternatively, open space areas may be proposed and accepted for dedication as public open space.
 - a. Residential active open space -- by a property owners association.
 - b. Residential passive open space -- by a property owners association or by one or more individual property owners if the area is subject to development restrictions by a conservation easement.
 - c. Commercial or mixed use open space -- by a property owners association or the project site property owner.
 4. All open space improvements and in-lieu financial contributions are subject to approval by the City. (Ord. 402, 2007)

17.28.110 Maintenance of Common Areas.

Legal provision shall be made for the perpetual maintenance of all areas to be dedicated for common use including but not limited to active open space, passive open space, property owners association facilities, parking, and circulation. (Ord. 402, 2007)

17.28.120 Circulation/Parking.

- A. Road/street widths are to be determined by the Subdivision Regulations in conjunction with the City Engineer.
- B. Streets shall be dedicated for public use and maintenance or privately-owned and maintained but open for continual public use. (Ord. 308, 1993)
- C. Off-street parking and loading shall be provided in accordance with the requirements of Chapter 17.37 (Off-Street Parking and Loading Regulations). (Ord. 408, 2007)

17.28.130 Utilities. The design, location and installation schedule of all utilities are to be determined by the Subdivision Regulations and the City Engineer in consultation with the utility providers. (Ord. 308, 1993)

17.28.140 Review Procedures/Development Plan Permit.

- A. Hearing-Recommendation by Planning Commission
 1. After application filing, the Community Development Director shall determine if all submittal requirements have been met and if the application is complete. The Community Development Director shall then schedule the matter before the Planning Commission. The Planning Commission shall then hold a public hearing to review the Development Plan application. Notice of the public hearing shall be given in the manner and for the time required by Section 65091 of the California Government Code.
 2. The Planning Commission shall review the Development Plan Permit request and make a recommendation with conditions, as warranted, to the City Council. The recommendation shall be by affirmative vote of not less than a majority of Commissioners present at a duly constituted meeting of the Planning Commission. A denial of the Development Plan Permit request by the Commission shall cease further

consideration of the request for a period of one year following such denial, except in the following cases:

- a. An appeal is filed pursuant to Chapter 17.68 of this title;
 - b. When a new application, although involving all or a portion of the same property, is filed for a materially different proposal than that previously applied for; or
 - c. When the permit request was denied for the reason that the proposed development would not conform to the General Plan and the General Plan has subsequently been amended in a manner which would allow the proposed development.
3. The City Council shall review the Development Plan Permit request and recommendation from the Planning Commission. After its public hearing and review, the City Council shall approve the request, with conditions, as warranted, or shall deny the request. Action of the City Council shall be by vote of not less than a majority of the Council present at a duly constituted meeting of the City Council. A denial of the Development Plan Permit request shall cease further consideration of the request for a period of one year following such denial, except in the following cases:
- a. When a new application, although involving all or a portion of the same property, is filed for a materially different proposal than that previously applied for; or
 - b. When the permit request was denied for the reason that the proposed development would not conform to the General Plan, and the General Plan has subsequently been amended in a manner which would allow the proposed development. (Ord. 308, 1993)

17.28.150 Conditions of Approval.

- A. The Planning Commission and/or City Council reserves the right to require development which is less dense than the maximum permitted in the General Plan as well as to impose conditions to insure that the development meets the purposes of the Planned Development District as hereabove specified.
- B. The Planning Commission and/or City Council may as a condition of approval require a cash bond or surety bond to ensure the completion of all or specified parts of the development determined to be essential to the achievement of the purposes of this Chapter. (Ord. 308, 1993)

17.28.160 Standards of Review. In order to make the findings required by Section 17.28.170, the provision of the following amenities shall be thoroughly evaluated:

- A. Natural Open Space: The quantity and quality of open space areas. Whether significant natural areas will be preserved including: prominent land features, watercourses, minimize removal of existing trees, etc;
- B. Open Spaces: Quantity and quality of open space and associated improvements to be provided and whether such areas and improvements will be functional, safe, attractive and adequate (Ord. 402, 2007);
- C. Vehicular Access including parking location, amount and design of pedestrian access including trails and bike paths, and the safe separation of transportation modes including provision for emergency vehicles;
- D. Landscape Design: The degree of compliance with the water conserving guidelines found in Chapter 17.80 of this Title and, where appropriate, the degree of fire resistant landscaping;

- E. Site Design:
 1. Creative integration of visual focal points, views and topographic features;
 2. Sun and wind orientation; and
 3. Building grouping and sensitive siting on the terrain for access and privacy as well as to minimize the necessity for retaining walls.
- F. Design Features:
 1. Maximize the harmonious integration of a variety of architectural features, materials and colors and site layouts to prevent design monotony; and
 2. Provision for the dense landscape screening of vehicular parking areas both public and private.
- G. Ownership/Maintenance of Common Areas: That adequate provision is made for the ownership and maintenance of the common areas of the development for the duration of its economic life; and
- H. Other Features: Provision of such other features as the Planning Commission or City Council determine are appropriate. (Ord. 308, 1993)

17.28.170 Required Findings. A Development Plan Permit for a Planned Development District shall not be granted unless the Planning Commission and/or City Council makes the following findings:

- A. That the application of the Planned Development District, as proposed, will result in a significantly better quality development than would occur with a non-flexible zone and that the factors specified in Section 17.28.160 have been thoroughly evaluated;
- B. That the project complies with the open space requirements of Section 17.28.100 (Ord. 402, 2007);
- C. That the development is consistent with the City's General Plan;
- D. That the development will be compatible with and in harmony and character with the City as a whole and with adjoining areas and uses;
- E. That in the case of non-residential uses such development is needed at the proposed location to provide adequate facilities of the type proposed and such non-residential development will fit harmoniously into and will not have adverse effects upon the adjacent or surrounding areas;
- F. That the development's environmental impacts have been reviewed pursuant to CEQA; and
- G. The applicant intends to start construction within the allotted time as specified in Section 17.28.190. (Ord. 308, 1993)

17.28.180 Development Plan Modifications. The Development Plan may be modified by submitting an application amendment following the review procedures specified in Section 17.28.140 of this Chapter provided that the proposal is consistent with the General Plan. (Ord. 308, 1993)

17.28.190 Termination. If within 18 months after the approval by the City Council of the Development Plan Permit, construction has not commenced, then the Development Plan Permit shall become null and void.

The Planning Commission or City Council, on appeal, may grant extensions to commence construction for not more than one year at a time upon showing of good cause. (Ord. 308, 1993)

