



AGENDA

REGULAR MEETING

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CLAYTON CITY COUNCIL

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TUESDAY, April 16, 2019

7:00 P.M.

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

Mayor: Tuija Catalano
Vice Mayor: Julie K. Pierce

Council Members

Jim Diaz
Jeff Wan
Carl Wolfe

- 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 16, 2019

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

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

3. **CONSENT CALENDAR**

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

(a) Approve the minutes of the City Council's regular meeting of April 2, 2019.

[\(View Here\)](#)

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

(c) Adopt a Resolution setting the City's Equivalent Runoff Unit (ERU) real property parcel assessment rates in FY 2019-20 at current rates to pay for local storm water/clean water programs and services required by the unfunded federal and state-mandated National Pollution Discharge Elimination System (NPDES) Program (storm water pollution prevention). [\(View Here\)](#)

(d) Approve the First Amendment to the existing Cooperative Agreement between the City of Clayton and the City of Concord establishing full funding for the El Molino Drive Sanitary Sewer Improvements Project (City CIP No. 10422).

[\(View Here\)](#)

(e) Adopt a Resolution approving the City of Clayton's list of local transportation improvement projects for Fiscal Year 2019-20 using Road Maintenance and Rehabilitation Account – Local Streets and Road Funds (RMRA-LSR; SB 1).

[\(View Here\)](#)

(f) Approve the multi-year (3) award of low-bid contract to Apex Grading in the amount of \$42,300 per year for performance of the City's 2019 Annual Weed Abatement Program for fire hazards on City-owned properties and open space (funded by the Citywide Landscape Maintenance District, CFD 2007-1).

[\(View Here\)](#)

(g) Approve the new "Making a Difference" Recognition Program to Clayton adults for distinguished and inspiring community and vocational service to others.

[\(View Here\)](#)

(h) Adopt a Resolution awarding a 3-year low-bid contract (with options for three 1-year extensions) to Environtech Enterprises, Inc., in the 3-year amount of \$199,101.00 for the management of the City-owned oak/grassland savannah open space parcels north and south of Peacock Creek in the Oakhurst Development areas for calendar years 2019-2021. [\(View Here\)](#)

- (i) Approve the award of consultant services agreement to Kennedy Associates in the amount of \$42,317 for preparation of the City's Green Infrastructure (GI) Plan pursuant to an unfunded state regulatory mandate of the San Francisco Regional Water Quality Control Board. ([View Here](#))
- (j) Approve the annual request of Council Member Diaz for the City to allow the hosting of six (6) Wednesday Night Classic Car Shows with a DJ in the off-street City parking lot at 6099 Main Street plus ancillary use of portions of the City's vacant dirt lot adjacent to the public parking lot at 6005 Main Street during selected dates in 2019, with all event costs funded by private donations. ([View Here](#))

4. RECOGNITIONS AND PRESENTATIONS

- (a) Certificate of Recognition to the MDSA Storm Boys Soccer Team and Coaches for a remarkably successful 2018-19 Season and 2nd Place finish in the AYSO U-10 Division Western Championship Tournament. ([View Here](#))

5. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – Meeting held on April 15, 2019.
- (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 should 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) Consider the Second Reading and Adoption of Ordinance No. 485 of a proposed City-initiated Ordinance No. 485 amending Clayton Municipal Code Section 15.08.040 (G) regulating temporary noncommercial signs on private real properties. ([View Here](#))
(Community Development Director)

Staff recommendations: **1)** Receive the staff presentation; **2)** Receive public comments; **3)** Following public comments and City Council discussion and subject to any modifications to the Introduced Ordinance, approve a motion to have the City Clerk read Ordinance No. 485 by title and number only and waive further reading; and **4)** Following the City Clerk’s reading, by motion adopt Ordinance No. 485 with the finding this Ordinance will not result in a significant adverse environmental impact.

- (b) Council Member request for the City Council to discuss the “CASA Compact” (Committee to House the Bay Area – February 2019) involving various objectives to address the region’s housing affordability crisis, and request to take an official City position on the plan. ([View Here](#))
(Councilmember Wan)

Staff recommendation: Following Council Member Wan’s remarks and opportunity for City Council discussion and public comments, that Council provide policy direction or action.

- (c) City Council discussion and determination of its preferred process regarding the recruitment and employment and other considerations involved in the selection of its next city manager due to retirement. ([View Here](#))
(City Manager)

Staff recommendation: Following City Council discussion and public comment, that Council provide direction to staff regarding its preference for an in-house or executive search firm process to recruit and employ its next city manager.

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

10. **CLOSED SESSION** – None.

11. **ADJOURNMENT**

The next regularly scheduled meeting of the City Council will be May 7, 2019.

#

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 4-16-2019

Agenda Item: 3a

TUESDAY, April 2, 2019

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Catalano in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Catalano, Vice Mayor Pierce and Councilmembers Diaz, Wan and Wolfe. Councilmembers absent: None. Staff present: City Manager Gary Napper, Assistant City Attorney Heather Lee, Interim Community Development Director David Woltering, and City Clerk/HR Manager Janet Calderon.

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

3. **CONSENT CALENDAR**

Mayor Catalano advised Item 3(a) had proposed revisions requested by Councilmember Wan.

Vice Mayor Pierce understands this is a suggestion for verbatim transcription of comments made by a member of the public, she is unsure if this is something the City wants to start doing. She honestly thinks a summary of the comments in a simple sentence would be advisable. The city is currently using Live Stream allowing the public ability to look at the video at any time and hear exactly what someone has said and tone of voice. She suggested summary minutes adding a time stamp to assist the public in finding the part of the meeting they may want to refer back to. She thinks we are asking staff at this point to start transcribing a meeting, she does not feel this is a wise use of our time and resources. She suggested staying with the existing summary minutes.

Councilmember Wan disagrees when he read through the minutes, he didn't think it captured the substance of the statements that were made in this case the specific criticism that was leveled in the comments along with some of the questions he had were not captured, he doesn't think it reflects the sentiment that was offered. There was an extensive discussion in the previous meeting and when the comments were made they characterized our discussion about changes of our existing ordinance like Jim Crow laws and are if we were enacting poll taxes and conducting literacy tests. He thinks that sentiment needs to be reflected because when you read through the minutes, most people will read the minutes rather than watch the videos. It does more accurately capture what was said.

Councilmember Diaz agreed with Vice Mayor Pierce in many of the nonprofit and for profit boards that he has served, they never went to the detail it was a summary and to the point of what the essence was and not a verbatim.

Councilmember Wan agrees that is what this is, his suggestion is not a verbatim, and it would be several more paragraphs. When he wrote this suggestion, he did it from memory, and knows when he sent the suggested edits, our City Manager was going to validate on whether or not he accurately captured the substance or ask that it be done. He thinks if he misstated anything, but really when we are talking about the nature of the

comments that really was the main substance, not verbatim, rather a summary of what was said.

Councilmember Wolfe asked staff and City Attorney on what is incumbent upon us to do? Is that verbatim? There are a lot of things he said in the last City Council meeting that was not included in the minutes, it is included in summary, he had an exchange with Mr. Grimmond that was not in the minutes, he does not object to that. What he is worried about we are creating busy work when the busy work is already out there on video tape and can be seen from the livestream. He disagrees that people are reading the agenda and thinks that they prefer to watch the livestream. He feels that we are creating more busy work, in that if you read the statement verbatim it is a rather confusing statement, like reading an email you don't the know the actual reflection is, what the tone is, he tends to lean toward wanting to take a look at the video to find out the intent, how was it said, the reflection, rather than getting a transcribed copy on the agenda.

City Attorney Heather Lee advised there is no obligation for the City to take verbatim minutes; this would be something within the Councils discretion to decide as a body.

It was moved by Vice Mayor Pierce, seconded by Councilmember Wolfe, to approve the Consent Calendar as submitted. (Passed 4-1 vote; Wan, opposed).

- (a) Approved the minutes of the City Council's regular meeting of March 19, 2019.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 10-2019 awarding contract to Axon Enterprise Incorporated in the amount of \$89,223.13 to replace the Clayton Police Department's existing but antiquated patrol vehicles' in-car camera system.

4. RECOGNITIONS AND PRESENTATIONS

- (a) Presentation of its Annual Report for 2018 by Jeanne Boyd, President of the Clayton Community Library Foundation (CCLF).

Jeanne Boyd, President of the Clayton Library Foundation, presented the 2018 Annual Report of the Clayton Community Library Foundation highlighting: over 5,000 hours of in-library service hours provided by volunteers for daily needs and special events, valued at \$145,450.00; Boy Scout Troop 444 assistance with physical tasks; Clayton Valley Garden Club maintenance of flower boxes and garden areas; the twenty-third Birthday Celebration of the Clayton Community Library; Clayton Community Library Foundation generated income of \$37,000.00 from a variety of sources in 2018; the Foundation provided a \$2,000.00 donation to the City to assist in funding the extra Sunday operation hours of the Library paid by the City. Ms. Boyd also informed the community the Creekside Arts Fest began in 2004 by Arlene Kikkawa Nielsen, Volunteer Coordinator, noting this event takes a lot of work and effort and it has been decided not to continue with this event in the future.

Members of the City Council expressed their appreciation for the wonderful works by the Clayton Community Library Foundation supporting the operation and existence of the library.

- (b) Proclamation declaring the week of April 7 - 13, 2019 as "Clayton Community Library Volunteers Recognition Week," and recognition of Clayton's "Library Volunteers of the Year for 2019."

Mayor Catalano read the Proclamation declaring the week of April 7 – 13, 2019 as "Clayton Community Library Volunteer Recognition Week" and presented it to Jeanne Boyd, Clayton Library Foundation President, who then thanked the City Council, community and volunteers for their continued support.

Mayor Catalano presented Certificates of Recognition to "Library Volunteers of the Year 2019" Joan Carolan, Megan Day, Jill Day and Hope Koonin (not present), honoring their many hours of service to the Clayton Community Library.

- (c) Proclamation declaring the week of April 7 - 13, 2019 as "Clayton Community Library Week."

Mayor Catalano read the Proclamation declaring the week of April 7 – 13, 2019 as "Clayton Community Library Week" and presented it to Jeanne Boyd, Clayton Library Foundation President and Karen Hansen-Smith, Senior Library Community Library Manager.

5. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff

Mr. Napper introduced Heather Lee, Counsel from Best Best & Krieger, who is in attendance this evening for City Attorney Mala Subramanian. He also introduced Interim Community Development Director David Woltering providing a brief history of Mr. Woltering's experience.

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

Councilmember Diaz attended the Contra Costa County Fire Department Farewell to Chief Jeff Carman and swearing in of the District's 12th Fire Chief Lewis Broschard, and the League of California Cities Environmental Quality Policy Committee meeting.

Councilmember Wolfe attended the Clayton Business and Community Association's Oktoberfest committee meeting where he was nominated to serve as co-chair for this year's event.

Vice Mayor Pierce attended the Soroptimist Diablo Vista Chapter Annual Women of Distinction Luncheon where local resident Carin Kaplan received an award, Contra Costa Transportation Authority Committee meeting, and three Association of Bay Area Governments joint meeting of the Legislation Committee where she was nominated Chair of the Regional Legislative Task Force, and the Horizon Plan Bay Area 2050 event.

Councilmember Wan spoke with Mt. Diablo Elementary School Principal Kissinger regarding the recent incident of the student being hit by a vehicle.

Mayor Catalano attended the League of California Cities Transportation, Communication, and Public Works Policy Committee meeting, and the Clayton Business and Community Association Art and Wine Committee meeting. Mayor Catalano also met with sub-committee member Councilmember Wolfe in expanding the "Do The Right Thing" program started by former Councilmember Hank Stratford to include adults by proposing a pilot program in 2019 "Making a Difference in Our Community". The committee will be seeking help from the community for nominations of outstanding teacher, mentor or coach; not required to be a Clayton resident. She advised nominations can be emailed to Claytonmakingadifference@gmail.com.

Mr. Napper requested the committee come back to the City Council with written guidelines for the program for approval.

Mayor Catalano advised the committee will have guidelines prepared for the next City Council meeting.

- (e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Ann Stanaway, 1553 Haviland Place, advised she received an email from Mayor Catalano containing incorrect information on March 19 in response to concerns she had raised about parking in designated fire line on Haviland Court. She demanded to know where Mayor Catalano received the information for her position that Haviland Court is not a fire lane. California mandates clear fire access, fire apparatus access roads aka fire lanes to every *"building structure or portion"* still mandated in California fire code section 503.1.1. Additionally, she quoted from the City of Claytons own records *"because of the narrow width Westwood streets are fire lanes and parking should be prohibited which it has been for some time"* furthermore, California Fire Code Section 503.4 states *"fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles"* the matter is settled the City must enforce California Fire Codes as adopted no discretion is accorded She is very concerned that Mayor Catalano and others in City Hall do not view public safety with the appropriate forethought. See the big picture the safety of Westwood affects the lives of 1.2 million people in Contra Costa County by not enforcing parking restrictions which are in place to ensure the fire vehicles can completely access our neighborhoods in the event of an emergency. She cautioned to not to try and deflect these serious public safety concerns by attacking her creditably and place the focus on public safety and not on discouraging her reputation.

Chris Chreston, 1212 Mitchell Canyon Road, advised he resides near the location of the accident that recently occurred at Mt. Diablo Elementary School, approximately a month before he posted something on Nextdoor regarding people speeding down the street, which a lot of people agreed that there is a major traffic issue in that area. He and his wife thought about solutions to the speeding problem including speed bumps, additional stop signs, and additional police patrolling including ticket issuance before thinking some traffic relief could occur by not allowing a right hand turn from Mitchell Canyon to Pine Hollow during designated time frames such as morning and evening commute times, likewise if you are on Pine Hollow and restricting left turns on Mitchell Canyon Road, during afternoon commute times. They feel it wouldn't shut down Quarry traffic; it would stop the commuters from using their neighborhood as a cut through to avoid Clayton Road.

Terri Denslow wanted to clarify at the last City Council meeting she read something she is very passionate about. She heard Councilmember Wan and others say they were not sure of the context, she wanted to make that very clear, she is an advocate of civil rights and has seen firsthand the long term impact of some of the decisions in the past had on communities in Louisiana and Mississippi while living in those areas for four years have changed her life for forever changing her perspective of things like inclusion. The comments she made in regard to the Jim Crow laws were simply a question about whether we were finding ways to exclude people and if we were how were we doing that in a different way than what was done in the past. She said that to challenge our thinking not necessarily to call anybody out. Ms. Denslow put out a post on Nextdoor to ask if there were interest from citizens coming together to talk about solutions for the neighborhoods other than Regency Drive and how they are going to be impacted once the parking permit program comes into place. Since her post, she has received a number of responses, on Nextdoor, by text message and angry Nextdoor IM's. She has also had six different residents send her emails stating they do not feel they can speak out because they are concerned of harassment. They have shared emails with her and text messages of other neighbors harassing them for having a difference of opinion. The whole intention was to find a constructive solution and not intended to take away the parking permits. When she arrived today to hear that Councilmember Wan and Diaz are talking providing more detail than in her own comments it makes her concerned for the rest of the Clayton citizens that maybe the ones that have been emailing me about being scared in having a voice have a real issue.

7. PUBLIC HEARINGS

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 485 amending Clayton Municipal Code Section 15.08.040 (G) regulating temporary noncommercial signs on private real properties.
(Community Development Director)

Interim Community Development Director David Woltering provided background on this item noting on February 5, the City Council directed staff to provide formal consideration an amendment to the City's Municipal Code limiting the per sign size to sixteen square feet, and no aggregate. This matter was brought to the Planning Commission meeting of March 12, where the Planning Commission wanted to balance the fundamental rights and interests of assuring freedom of speech guarantee under the First Amendment of the Constitution of the United States. The Planning Commission understood the maximum sign limit size with a 42 inch separation between individual signs; however they are still concerned about potential sign blight. The Planning Commission was unable to agree on the aggregate and adopted a Resolution of "no recommendation". Mr. Woltering further noted the *Reed vs. Town of Gilbert* case does indicate jurisdictions can control aspects of temporary noncommercial signs that do not affect the message; noting the proposed ordinance establishes only a maximum individual sign size to sixteen square feet with no limit on the number, location, duration of display, or aggregate signage area of temporary noncommercial signs on private property. Mr. Woltering concluded his staff report anticipating the enforcement of the proposed amendment will be addressed as part of the City's regular Code Enforcement efforts and not require additional staff resources.

Councilmember Wolfe expressed his confusion because at the last meeting this item was discussed in length recalling the City Attorney required an aggregate size.

City Manager Napper his recollection is the City Attorney was comfortable at the last meeting with an aggregate size of eighty square feet, and it was the City Council who

decided after significant discussion that not to have an aggregate, so it is not a matter of the City Attorney changing her position, he thinks Mr. Woltering is making certain that the City Council wishes to continue to hold no limitation on the aggregate signage.

City Attorney Lee added we would want to make sure there were sufficient findings if an aggregate is something the Council wanted to consider as part of the approval.

Vice Mayor Pierce inquired on 42" of separation and how was that number determined. Mr. Woltering advised the Planning Commission did not come up with that number, as indicated by former Community Development Director Mindy Gentry, the separation is a provision in the code which she provided to the Planning Commission in terms of guidance in respect to if there were a larger number of signs placed on a property Ms. Gentry wanted to see what that might look like based on current standards.

Mayor Catalano advised the separation is included in Section 15.08.80 B.

Mr. Napper added he does not recall the separation requirement mentioned in the last presentation of this item.

Vice Mayor Pierce advised it seems the separation would be a requirement of all signs, she found our aesthetics allows to do that, but the law does not allow us to limit the sign size; that is reason why she made the motion last time for a sixteen square foot sign per sign with no aggregate she doesn't want to get challenged but she will support and hope that our citizens have more wisdom and more taste and more discretion to allow what is placed on their own property. She is hopeful that future folks wanting to put in noncommercial signs for any reason temporary noncommercial signs will have the same amount of aesthetic discretion in our community and not push this to the max. She doesn't think Clayton wants to look like other communities during certain times of the year.

Mayor Catalano opened public hearing to public comment; no comments were received.

Councilmember Wan advised when this issue first arose he is not in favor of limits, he finds it odd our City Attorney at the time recommended no individual limit but an aggregate limit, however the City Council went the other direction with no aggregate but an individual sign limit. The memo described establishing a limit carries some legal risk, he finds it odd the Council collectively is ok with certain risks in this matter then they are not in others. He maintains any limitation on speech should be looked at with heavy scrutiny and while it is supportable, that we meet the immediate scrutiny test for content neutral as well as the other five prongs analysis. He cautioned that anytime we are restricting speech, we should be very well prepared to defend why we want to limit someone's ability to speak; and he would not do so under any circumstance.

Councilmember Wolfe advised he is in favor of free speech and limiting the size, limiting the font he does not limit what people want to say. It may be distasteful to him and may have to have a talk with his neighbor if something that size goes up across from his house. Which would be unfortunate but when it comes to being a free speech issue he does not see it. He doesn't see any reason why we can't go back to what we've discussed originally with a sixteen square foot sign size limit and we could discuss the aggregate.

Mayor Catalano cares deeply about the aesthetics in our small community and we absolutely have the ability to control signs as long as the regulation is content neutral she supports the First Amendment and is saddened to see inhere the type of dividedness we had during Election season to still continue. We as all citizens can do better in allowing all voices and all opinions to be heard without any fear of intimidation

and it is sad to hear that is continuing. That does not mean we have to allow signs the size of billboards in our residential community and allowing that type of blight and excessive signage when you actually can limit the size seems to be contrary to some of our type of aesthetics in our small city. The First Amendment is a fundamental right but it is not an absolute right the U.S. Supreme Court has said over and over again that you can have time place and matter restrictions as long as they are content neutral. We did talk on February 5 extensively about the individual sign size limit of sixteen square feet was within those perimeters and acceptable; she feels we can regulate the individual sign size and comfortable with continuing with the decision the City Council had at the previous hearing on this item.

Councilmember Wan wanted to clarify the content neutral test under intermediate scrutiny is just one aspect of the test, there is an additional five prongs of analysis that need to be done even for content neutral. One of the minimum requirements is restrictions in the least intrusive way possible he thinks when we consider these types of limits we are combating blight which however loosely that is defined then we have to also make the assertion that restricting people's ability to speak in the manner they wish is the least intrusive way possible.

Mayor Catalano asked the City Attorney whether or not we impose a limit on individual signs; she thinks at the last hearing we could limit it up to sixteen square feet per sign.

City Attorney Lee advised Mayor Catalano is correct and there is case law that supports that.

Vice Mayor Pierce added the final decision is that of the City Council's with and legal precedent a sixteen square foot limit on individual signs is defensible, it doesn't mean someone has to use a sign that large. She hears the concerns of aggregate, if someone were to use a sixteen square foot sign they can get away with approximately five of that size per property; barrage signs are also an option running a message across a property if wanted. She doesn't think they are making a restriction on free speech. The determination the Council has to make if they would like an aggregate limit as suggested at the last meeting of eighty feet or leave it unlimited.

It was moved by Vice Mayor Pierce, seconded by Councilmember Diaz, to have the City Clerk read Ordinance No. 485, by title and number only and waive further reading. (Passed; 5-0 vote).

The City Clerk read Ordinance No. 485 by title and number only.

It was moved by Vice Mayor Pierce, seconded by Councilmember Diaz, to adopt Ordinance No. 485 to amending Chapter 15.08 of the Clayton Municipal Code regarding Sign Provisions. (Passed 4-1 vote; Wan, opposed).

8. ACTION ITEMS

- (a) Discussion and City Council policy direction concerning the content and parameters of an Accessory Dwelling Unit (ADU) Ordinance.
(Community Development Director)

Community Development Director David Woltering provided a brief introduction in recent years the State of California has passed legislation finding Accessory Dwelling Units (ADUs) to be a valuable form of housing for various segments of the State's population; family members, students, the elderly, in-home health care providers, the disabled and

others seeking below market rate housing. An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three different forms; second unit, in-law units and granny units. The ADU can be detached or attached to the primary structure. It can be repurposed existing space within a primary residence converted into an independent living unit. It can also be a Junior Accessory Dwelling Unit similarly repurposed space with various streamlining measures required by the State of California. The passage of various laws by the State legislature has relaxed requirements for Accessory Dwelling Units by repurposing the development of this type of housing by property owners. The State has determined ADUs an essential part of California's housing supply an important component to address the housing crisis. Accessory Dwelling Units can provide a lower cost to meet the needs of many of the State's existing and future residents. ADUs can be built in neighborhoods on existing parcels thereby a reduction in land costs. Additionally, there can be a rental opportunity for the property owner. As a result of the passage of ADU laws by the State, Clayton's Municipal Code Chapter 17.47 Second Dwelling Units is null and void. The State Law will modify many of the provisions in Chapter 17.47. Clayton is not required to adopt a new ordinance to reflect the State changes, but if it does not, then the City of Clayton is compiled to apply with the States standards in government Code Section 65852.2 for requests to construct Accessory Dwelling Units in this community. In order to preserve a measure of local control the City Council may want to consider adopting its own ADU regulations, an ordinance to take advantage of where the State allows discretion. The city of Clayton adopted General Plan Housing Element promotes the development of this type of housing; pointing out State law requires ministerial nondiscretionary review process for ADUs and a decision to be made within 120 days of the jurisdiction receiving an application.

Mr. Woltering continued his presentation by asking the City Council nine policy questions for their consideration:

Policy Question 1 – Definition; Should the City decrease the minimum unit size from 220 square feet to 150 square feet and/or require only a partial bathroom and/or kitchen?

Policy Question 2 – Location; Should there be a minimum lot size for new detached ADUs not contained within an existing structure? Should more than one ADU be allowed per lot?

Policy Question 3 – Setbacks; Should the setbacks remain the same as second units, which would apply setbacks for the principal dwelling to ADUs? Should the ADU setbacks match the requirements of an accessory structure? Should different setbacks apply for small lot ADUs? Should alternative set of setbacks be considered?

Policy Question 4 –Unit Size; What should the maximum ADU unit size? Should the unit size be increased beyond the 1,200 square feet as mandated by State law? If so, should the larger ADUs be subject to a discretionary review by the Planning Commission and subject to additional standards? Should the maximum unit size differ between attached and detached ADUs?

Policy Question 5 – Height; Should the height requirement be higher than one-story or 15 feet for detached ADUs? Should the height requirements of detached ADUs match the height requirements of accessory buildings at 16 feet? Should the previously adopted second dwelling unit height standards be utilized?

Policy Question 6 – Off-Street Parking; Should the parking requirements be further reduced beyond the requirements of State law or even be eliminated for ADUs?

Policy Question 7 – Owner Occupancy; Should the same owner occupancy restriction for second units be carried forward to ADUs? Should the owner occupancy requirement restriction be removed? Should there be a requirement the property be used for rentals of terms longer than 30 days?

Policy Question 8 – Appeals; Should there be an appeal process established whereby an administrative decision can be appealed to the Planning Commission and then subsequently to the City Council?

Policy Question 9 – Junior ADUs; Should these types of units be allowed in Clayton? If so, should there be a requirement the rentals terms be longer than 30 days?

Councilmember Wolfe inquired Junior ADU can that replace any part of the ADU for instance having one inside and one outside?

Mr. Woltering explained a Junior ADU is similar to a repurposed internal dwelling unit; in terms of size and process.

Councilmember Wan requested clarification of policy question 7 if there are any existing short term rental restrictions in Clayton?

Mr. Napper advised the City Council reviewed short-term rentals such as Air BnB sometime back and decided to not regulate those at this time in the residential zones; waiting to see if they became a problem.

Councilmember Wan also inquired on the Appeals process in regards to the former Community Development Director if an owner disagreed with the Appeal process. Mr. Woltering advised in reviewing the second dwelling units in Clayton, there have been very few, in terms of the volume it has been very low with the action of the State and the local ordinance that may follow its very likely ADUs and constructional ADUs will increase, with the various provisions in an ordinance, they will be some discussion between the property owner and staff at some point, it would be helpful to have a clear appeal process spelled out in the Ordinance. Mr. Napper advised nothing has come to his level of anyone who has applied for an ADU and felt a denial of their rights not being heard, if it were to come to his level that someone wasn't satisfied with the Directors decision he would've asked the director to take the matter to the Planning Commission to provide response to the citizen.

Councilmember Wan inquired on connection fees, within the unit are not permissible and detached dwelling units are limited. He asked Mr. Woltering to provide an example of the cost of utility connection. Mr. Woltering advised this would have to have a more detailed review to provide an accurate cost, in general, State provisions indicate there cannot be additional connection fees for an internal ADU important in keeping costs down and proportional for detached ADU. Mr. Woltering offered to research further and reports his findings.

Councilmember Wan is curious on what the fees look like in a typical detached setting and if those fees still need to be determined. Mr. Napper added some cities provide their own water services, however, Clayton does not it and it is provided by a separate special district, Contra Costa Water District. The City has no control over what that special district charges for connections. In the past, when people were interested in

ADUs they found them to be cost prohibitive, the City charges a fee for sewer connections the application would need to be discussed with the City of Concord who is responsible for the operation and maintenance and the fees for people making connections to the sewer in Clayton.

Councilmember Wan noticed some developments provide for a maximum square footage per property for the residence would an ADU square footage count toward the maximum square footage aggregate? Mr. Woltering advised it could, referring to the Development Standards question, he is not prepared to discuss in great detail tonight, he thinks as Council may come back that they are interested in staff developing a schedule regarding size and setback and lot coverage showing the City Council what a lot would look like with a detached ADU. The idea is the jurisdiction has some discretion in those areas without any undue unreasonable incumbencies in the way of achieving more ADUs in the community. He requested more time to research more time to research the Annual Progress Report (APR) in terms of the Housing Element implementation. It is important to know HCD does count ADUs toward the RHNA numbers, looking at current APR in Clayton the total for this period is 141. The community has 51 in very low and 25 in the low category with none to date in either category. In theory, ADUs could be an opportunity to see some units in the low category.

Mayor Catalano asked if an ADU can be done in a new construction project or can it only be done on an existing property? Mr. Woltering advised an ADU can be constructed in either a new project or existing project.

Mayor Catalano inquired if ADUs are constructed in a new construction project that is more than ten units, is the City then subject to inclusionary housing requirements? Can those ADUs satisfy the Below Market Rate (BMR) requirements? Mr. Woltering advised he will need to research that a little further, in terms of density the ADUs do not count toward density.

Mayor Catalano opened Public Comment.

Chris Chreston advised based on the conversation between the City Council, he is unsure if the Council is pro-ADU or is trying set up guidelines and more restrictions to make it more difficult to have ADUs. As a builder it is already extremely difficult to build anything in the State of California, standard contracts are approximately \$500-\$600 per square foot. He also restricting possible sizes in his opinion it is great to have more housing for seniors and making more units available. Putting more intense restriction on square foot and sizes on the ADUs can potentially make it more difficult for someone to build one of these housing units for their family members or someone with disabilities.

Mayor Catalano closed Public Comment.

Councilmember Wan inquired if the policy questions the population of areas the City has discretion or are there other areas the City potentially has discretion understanding the law is quite complex are these the only areas the city has the ability to act in?

Vice Mayor added there are over 200 bills in Sacramento regarding housing thinking this encompasses most of the things the State has already adopted, but there is more on the horizon. She definitely wants to put in place our own rules, she does not want to beholden to the State standards, in some cases she would like them to be more liberal and others she just wants more definition, she is favor of putting Claytons own ADU Ordinance.

Mayor Catalano went through each policy question for the Council's feedback.

Policy Question 1 – Definition; Should the City decrease the minimum unit size from 220 square feet to 150 square feet and/or require only a partial bathroom and/or kitchen?

Vice Mayor Pierce wants to be as least restrictive as possible in favor of reducing the size to 150 square feet depending on the unit being unsure of a kitchen sink requirement and less than a full kitchen facility.

Councilmember Wan added this is essentially a room and inquired if there is an advantage to designate it as an ADU. He understands the city receives an increased RHNA number other than that.

Mayor Catalano recalled the only ADU the City has approved was for a generational change where a widowed elderly retired person is living in a single family home, too large for her, however her daughter was married with children needed a more affordable place to live, so they built a second unit on the property, where the elderly woman moved into and her daughter and her family moved into the single family home.

Councilmember Wan found the 150 square foot not sufficient in a multigenerational situation. He asked what benefit someone would receive in designating an ADU

Mayor Catalano advised there are some tax benefits. Mr. Woltering added there would be an opportunity for the City to get a RHNA credit, it also sets up a situation where there are different size homes in every community and maybe a smaller home, maybe a property owner wants to hold on to a certain amount of space but they may have a small area they could set up as an efficiency and rent that portion out, and it could meet the RHNA credit. Mr. Napper clarified the 150 square unit may be sufficient for an internal ADU, but did the Council want to have the same minimum requirement for external units. The council can make a distinction between an internal ADU and external ADU.

Councilmember Wolfe inquired on Casitas and rooms that already exist, does the city receiving credit for those or will they be considered ADUs? Mr. Woltering advised the property owner would have to come through the City to obtain necessary permits to have that permitted as an ADU. For example an accessory structure has been used for other purposes the owner may want to have the unit approved as an ADU they would need to go through the process whether it is State regulated or local ordinance at the time, and building code requirements to ensure it is a safe structure. The Casita that is out there today with the benefit of a building permit may not be an ADU the whole objective with State standards are to be less restrictive and maybe converting the Casita legal ADU in a cost effective manner. The city would get RHNA credit at a low. We are trying to get more safe housing.

Vice Mayor Pierce offered even as an external unit it can be an efficiency unit by adding a sink, microwave, refrigerator and hot plate it could be an efficiency unit. Even in smaller size lots these units could be external so long that they meet the setbacks. She doesn't see a need to increase the minimum size requirement.

Mayor Catalano prefers the 150 square foot whether interior or exterior.

Councilmember Wan is not concerned at this point with the minimum size as there are other factors to be determined. He requested more definition regarding a partial bath or kitchen. Mr. Woltering added the bathroom facility could be shared within the dwelling unit as an internal ADU, there could be a sink or microwave that also could be shared the opportunities for something small and efficient within the space or shared. Mr. Woltering advised there seems to be a desire for more information on this and would be happy to report his findings.

Councilmember Wans concern is with an exterior unit he would say 150 square feet is ok, he would want the partials on the external units.

Vice Mayor Pierce asked if this is where we should look at our floor ratios on our lots this may where we need to look at lot coverage, right now we are pretty restrictive on our lot coverages and we may want to reconsider some of the larger lots.

Mayor Catalano inquired on kitchen vs bathroom facilities in the external units finding it makes sense to have a separate bathroom facility with a partial kitchen.

Councilmember Wan is hesitant on partial bathroom and facility on the external units.

Policy Question 2 – Location; Should there be a minimum lot size for new detached ADUs not contained within an existing structure? Should more than one ADU be allowed per lot?

Councilmember Wan thought Single Family zoning you would have the maximum of the one external unit; consistent with the zoning.

Councilmember Wolfe likes the maximum of one external unit and would like more exploration on the Junior ADUs.

Councilmember Wan finds the Junior ADU as a different type of review and approval and streamlines the process in a reasonable amount of time.

Mayor Catalano also preferred a maximum of one external unit per lot

Councilmember Wan preferred a maximum of one external unit per lot.

Vice Mayor Pierce originally said one external unit per lot, but thinking of some of the larger lots in the City, there can easily be more than one unit on those lot still meeting a minimum lot size without requiring a lot split.

Councilmember Wan expressed concerns of having more than one family residing in a Single Family zoning area.

Vice Mayor Pierce added maybe those could be restricted to multigenerational family members.

Mayor Catalano also prefers one ADU per lot, but open to further review to larger lots. She does not want to impose any minimum lot size as it is governed by setbacks.

Mr. Woltering asked to clarify when the City Council is saying one ADU per lot as there is an opportunity for an internal ADU and the opportunity an external ADU.

Vice Mayor Pierce is ok with one internal and one external unit per lot.

Councilmember Wan would only like one ADU per lot either external or internal.

Councilmember Wolfe agreed with Councilmember Wan.

Mayor Catalano would like to limit the external unit to one and indifferent on internal units.

Mr. Woltering clarified if someone came in for an internal ADU, they could not come in later for an external unit.

Vice Mayor Pierce would like to look at this on a case by case basis as there may already be an existing external structure such as a pool house that may have the opportunity to be turned into an ADU, is there a reason why the pool house couldn't be turned into an ADU. The problem we have is there are a lot of large homes with seniors and because of Prop 13 they are unable to afford to move out to a smaller unit, there are underutilized spaces that could go back into their real use instead of having empty bedrooms.

Councilmember Wan prefers one unit per lot.

Vice Mayor Pierce prefers one internal and one external unit per lot.

Mayor Catalano prefers one internal and one external unit per lot.

Councilmember Wolfe prefers one unit per lot.

Councilmember Diaz prefers one internal and one external per lot.

Policy Question 3 – Setbacks; Should the setbacks remain the same as second units, which would apply setbacks for the principal dwelling to ADUs? Should the ADU setbacks match the requirements of an accessory structure? Should different setbacks apply for small lot ADUs? Should alternative set of setbacks be considered?

Councilmember Wan would like to be as consistent as possible throughout setbacks requirements notwithstanding the garage type of conversion and consistent with current setbacks also applying to external ADUs.

Vice Mayor Pierce would like to go with the Accessory Structure setbacks that we already have with the exception as State law suggests we can go 5' from the back and side and 12' from the front of the property. She finds the 65' setback from the front of the property unreasonable. We were trying to keep sheds visible from the front of the property but this is different from that.

Mayor Catalano agreed with Vice Mayor Pierce.

Councilmember Wolfe also agreed.

Councilmember Wan would like to keep the setbacks consistent with the primary residence, although he doesn't like the structure 5' from the side yard.

Mr. Woltering clarified Vice Mayor Pierce and Councilmembers Wan comments as they seem to differ.

Councilmember Wan expressed his concern of someone building a structure up to 15' in height with windows looking into their neighbor's yard.

Mayor Catalano added there are building codes that restrict that from happening.

Vice Mayor Pierce added design standards could be added to avoid windows installed looking into a neighbor's yard.

Policy Question 4 – Unit Size; What should the maximum ADU unit size? Should the unit size be increased beyond the 1,200 square feet as mandated by State law? If so, should the larger ADUs be subject to a discretionary review by the Planning Commission and subject to additional standards? Should the maximum unit size differ between attached and detached ADUs?

Mr. Woltering added there is some uncertainty of 1,200 square feet being the maximum size, he does not think that is a firm standard in State law there has been some discussion that a local agency could go to a larger size, but if you apply the State regulations, the maximum size is 1,200 square feet. The council has the authority in the local ordinance to go above or below 1,200 square feet maximum ADU size. He added other jurisdictions have gone 800 to 1,200 square feet is acceptable to the Housing and Community Development at the State level.

Councilmember Wolfe doesn't see a reason to go beyond 1,200 square feet on the external unit.

Vice Mayor Pierce she would go with an internal not to go beyond 50% of the primary home living area, and maximum of 1,200 for an external unit.

Mayor Catalano agreed.

Councilmember Wan also agreed.

Policy Question 5 – Height; Should the height requirement be higher than one-story or 15 feet for detached ADUs? Should the height requirements of detached ADUs match the height requirements of accessory buildings at 16 feet? Should the previously adopted second dwelling unit height standards be utilized?

Vice Mayor Pierce would like to height limit at 16' for the detached ADU. If the attached unit were to be placed on an existing two story structure, she is okay with matching that.

Mayor Catalano added an external structure have a height limit of 16'.

Councilmember Wolfe agreed.

Councilmember Wan thought he read somewhere about a garage conversion that the setbacks are different.

Mr. Woltering added the State standard garage conversion if the setback is less than 5' from the existing setback, you could convert that garage without modifying the setback, however if you added a second story to the conversion that that needs to be set back 5'.

Policy Question 6 – Off-Street Parking; Should the parking requirements be further reduced beyond the requirements of State law or even be eliminated for ADUs?

Councilmember Wan does not want the parking requirements reduced beyond the requirements of State law.

Vice Mayor advised off street could be tandem or anywhere in the driveway.

Policy Question 7 – Owner Occupancy; Should the same owner occupancy restriction for second units be carried forward to ADUs? Should the owner occupancy requirement restriction be removed? Should there be a requirement the property be used for rentals of terms longer than 30 days?

Vice Mayor Pierce is in favor of owner occupancy and 30 day minimum rental term.

Councilmember Wan is also in favor of owner occupancy and 30 day minimum rental term.

Councilmember Wolfe is in favor of owner occupancy and 30 day minimum rental term.

Mayor Catalano is also in favor of owner occupancy and 30 day minimum rental term.

Policy Question 8 – Appeals; Should there be an appeal process established whereby an administrative decision can be appealed to the Planning Commission and then subsequently to the City Council?

Vice Mayor Pierce is in favor of establishing an appeal process.

Councilmember Wolfe is also in favor of establishing an appeal process.

Councilmember Wan is in favor of a formalized appeal process.

Mayor Catalano is also in favor of an appeal process.

Policy Question 9 – Junior ADUs; Should these types of units be allowed in Clayton? If so, should there be a requirement the rentals terms be longer than 30 days?

Councilmember Wolfe will rescind his former comments regarding Junior ADU.

Mayor Catalano advised by allowing Junior ADUs they do not count towards the cities RHNA numbers, if we do not allow Junior ADUs it may encourage more people to apply for ADU, which could benefit the cities RHNA numbers.

Mr. Woltering advised he will need to check if Junior ADUs count toward the RHNA requirements.

Vice Mayor Pierce advised the only advantage of a Junior ADU is there is not requirement for utility connection fees. Mr. Woltering advised Vice Mayor Pierce is correct however even with the repurposed units do not have a connection fee requirement. He requested to come back with more information to the Planning Commission and the City Council and the advantages of a Junior ADU.

Mayor Catalano if there is an existing structure, connection fees are not required. Mayor Catalano asked of the effective date of no requirements if that is the time of the application or adoption of the ordinance. Mr. Woltering advised the effective date depends on how the ordinance is drafted. In terms of the connection fees what we are learning from the State is if there is an existing structure and put in an internal ADU you can't then require separate connection fees for the internal ADU.

Vice Mayor Pierce added in her experience each utility wants to collect connection fees. She asked if an external ADU requires a separate meter and what that cost would be or if there is an option to come off the existing lines.

Mayor Catalano clarified if a stand-alone ADU has a different meaning to utilities like PG&E. Mr. Woltering advised that is a question that can be asked. The idea in terms of charges should not be that of the primary structure.

Vice Mayor Pierce commented San Mateo County has put together a Second Unit pamphlet and website; finding it very informational called SecondUnitCenterSMC.org providing an idea on the process.

Mayor Catalano reopened public comment.

Ann Stanaway, 1553 Haviland Place advised she is against back-door rezoning because taking a single family zone property making it into a multi-family zone. From a consumer standpoint she would never purchase in a community that allowed that to happen as there are no disclosure requirements if your neighbor is renting out an ADU unit.

Mayor Catalano closed public comment.

9. COUNCIL ITEMS

Councilmember Wan requested discussion around the pedestrian and traffic safety around Mt. Diablo Elementary School and Diablo View Middle School. He advised these concerns are the responsibility of the City.

Mayor Catalano requested more direction from the City Manager.

Mr. Napper advised the school district does not have jurisdiction over streets or determine the safe routes to school it does fall under the City. In speaking with the City Engineer he does not know if any additional signage would help; there might an opportunity for additional barriers, which can be open for discussion.

Mayor Catalano asked if Councilmember Wan would like to meet with staff first to come up with some ideas.

Councilmember Wan indicated it is important to him that everyone has a chance to comment and provide feedback and ideas in a public forum.

Mr. Napper requested to add a future agenda item, providing a background that many moons ago in the month of April that a young graduate student walked into the City Manager's office in the City of Orange and nailed an interview and got a paid administrative internship. Seven years later in the month of April that same individual became the City Manager of the City of Morro Bay and now here we are 35 years later in the month of April, informing the City Council his intent to retire at the end of this July. He tells you that to provide advance notice, as there will be some additional requirements on their part to decide in which those decisions have to be publicly made regarding if they wish to try an in-house recruitment or whether they wish to hire an executive search firm to assist in that process. His employment agreement only requires a 30 day notice and he will provide that in sufficient time, there are some requirements he is having to pursue right now for retirement purposes, he wanted to advance that to them so they can have the opportunity to begin to commence that, assuming Mayor Catalano would want to have that on the next City Council meeting to discuss. He realizes there are some in the community that are thrilled of that announcement, there is no one more thrilled then his wife. After 35 years of giving up Tuesday and Friday evenings as we are preparing agenda packets and having meetings. The timing is right as there is a Community Development Director position open that merits a new City Manager to select that individual.

Councilmember Wan congratulated Mr. Napper.

10. CLOSED SESSION – None.

11. ADJOURNMENT– on call by Mayor Catalano, the City Council adjourned its meeting at 10:11 p.m.

The next regularly scheduled meeting of the City Council will be April 16, 2019.

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Respectfully submitted,

Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Tuija Catalano, Mayor

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Agenda Date: 04/16/19

Agenda Item: 3b

Approved

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: KEVIN MIZUNO, FINANCE MANAGER, CPA

DATE: 04/16/19

SUBJECT: FINANCIAL DEMANDS AND OBLIGATIONS OF THE CITY

RECOMMENDATION:

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

<u>Report Title</u>	<u>Description</u>	<u>Amount</u>
Open Invoice Report	Obligations paid via check	47,582.27
ACH/EFT Activity	Non-check payments for 3/29/19-4/10/19	161,006.94
	Total Required	\$ 208,589.21

Attachments:

1. Open Invoice Report, dated 4/12/19 (4 pages)
2. ACH/EFT Activity Report (1 page)

City of Clayton Open Invoice Report Check Payments

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Ace Sierra Tow								
Ace Sierra Tow	4/16/2019	4/16/2019	55045	Tire change for PD car # 1735	\$25.00	\$0.00		\$25.00
				<i>Totals for Ace Sierra Tow:</i>	<u>\$25.00</u>	<u>\$0.00</u>		<u>\$25.00</u>
Advanced Elevator Solutions, Inc								
Advanced Elevator Solutions, Inc	4/16/2019	4/16/2019	35240	Elevator maintenance	\$119.00	\$0.00		\$119.00
				<i>Totals for Advanced Elevator Solutions, Inc:</i>	<u>\$119.00</u>	<u>\$0.00</u>		<u>\$119.00</u>
All City Management Services, Inc.								
All City Management Services, Inc.	4/16/2019	4/16/2019	60433	School crossing guard svcs 3/10-3/23/19	\$535.14	\$0.00		\$535.14
				<i>Totals for All City Management Services, Inc.:</i>	<u>\$535.14</u>	<u>\$0.00</u>		<u>\$535.14</u>
Bay Area News Group								
Bay Area News Group	4/16/2019	4/16/2019	1183150	Legal ad, Sign provisions	\$159.96	\$0.00		\$159.96
				<i>Totals for Bay Area News Group:</i>	<u>\$159.96</u>	<u>\$0.00</u>		<u>\$159.96</u>
BMI (Broadcast Music Inc)								
BMI (Broadcast Music Inc)	4/16/2019	4/16/2019	34479789	Music licensing 4/1/19-3/31/20	\$358.00	\$0.00		\$358.00
				<i>Totals for BMI (Broadcast Music Inc):</i>	<u>\$358.00</u>	<u>\$0.00</u>		<u>\$358.00</u>
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	4/16/2019	4/16/2019	2739872	Copier contract coverage 2/28/19-3/29/19	\$424.87	\$0.00		\$424.87
				<i>Totals for Caltronics Business Systems, Inc:</i>	<u>\$424.87</u>	<u>\$0.00</u>		<u>\$424.87</u>
Jullian Carlson								
Jullian Carlson	4/16/2019	4/16/2019	032419	CCP reservation partial refund	\$106.00	\$0.00		\$106.00
				<i>Totals for Jullian Carlson:</i>	<u>\$106.00</u>	<u>\$0.00</u>		<u>\$106.00</u>
CCWD								
CCWD	4/16/2019	4/16/2019	J Series	Irrigation 2/7/19-4/3/19	\$3,819.04	\$0.00		\$3,819.04
				<i>Totals for CCWD:</i>	<u>\$3,819.04</u>	<u>\$0.00</u>		<u>\$3,819.04</u>
Cintas Corporation								
Cintas Corporation	4/16/2019	4/16/2019	4019449681	PW uniforms through 4/4/19	\$53.52	\$0.00		\$53.52
Cintas Corporation	4/16/2019	4/16/2019	4019031320	PW uniforms through 3/28/19	\$48.79	\$0.00		\$48.79
Cintas Corporation	4/16/2019	4/16/2019	4019856120	PW uniforms through 4/11/19	\$48.57	\$0.00		\$48.57
				<i>Totals for Cintas Corporation:</i>	<u>\$150.88</u>	<u>\$0.00</u>		<u>\$150.88</u>
Clean Street								
Clean Street	4/16/2019	4/16/2019	93606	Street sweeping for March 2019	\$4,500.00	\$0.00		\$4,500.00
				<i>Totals for Clean Street:</i>	<u>\$4,500.00</u>	<u>\$0.00</u>		<u>\$4,500.00</u>
CME Lighting Supply, Inc								
CME Lighting Supply, Inc	4/16/2019	4/16/2019	232400	Metal halide lamps	\$144.33	\$0.00		\$144.33
				<i>Totals for CME Lighting Supply, Inc:</i>	<u>\$144.33</u>	<u>\$0.00</u>		<u>\$144.33</u>

City of Clayton Open Invoice Report Check Payments

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Cole Supply Company								
Cole Supply Company	4/16/2019	4/16/2019	312954	Trash can liners	\$970.03	\$0.00		\$970.03
				<i>Totals for Cole Supply Company:</i>	<u>\$970.03</u>	<u>\$0.00</u>		<u>\$970.03</u>
Comcast Business (PD)								
Comcast Business (PD)	4/16/2019	4/16/2019	79056342	PD internet for March 2019	\$892.92	\$0.00		\$892.92
				<i>Totals for Comcast Business (PD):</i>	<u>\$892.92</u>	<u>\$0.00</u>		<u>\$892.92</u>
Contra Costa County - Office of the Sheriff								
Contra Costa County - Office of the She	4/16/2019	4/16/2019	CLPD-1902	Toxicology for February 2019	\$1,600.00	\$0.00		\$1,600.00
				<i>Totals for Contra Costa County - Office of the Sheriff:</i>	<u>\$1,600.00</u>	<u>\$0.00</u>		<u>\$1,600.00</u>
Contra Costa County Department of Conservation & Development								
Contra Costa County Department of Co	3/31/2019	3/31/2019	2019Q3	CASp fees for Q3 FY 19	\$384.20	\$0.00		\$384.20
				<i>Totals for Contra Costa County Department of Conservation & Development:</i>	<u>\$384.20</u>	<u>\$0.00</u>		<u>\$384.20</u>
Contra Costa County Police Chiefs' Assoc.								
Contra Costa County Police Chiefs' Ass	4/16/2019	4/16/2019	Pitt-2019	CCC Police Chiefs' Assn Luncheon 2019	\$70.00	\$0.00		\$70.00
				<i>Totals for Contra Costa County Police Chiefs' Assoc.:</i>	<u>\$70.00</u>	<u>\$0.00</u>		<u>\$70.00</u>
Contra Costa County Public Works Dept								
Contra Costa County Public Works Dept	4/16/2019	4/16/2019	702307	Traffic signal maintenance for February 2019	\$1,885.92	\$0.00		\$1,885.92
				<i>Totals for Contra Costa County Public Works Dept:</i>	<u>\$1,885.92</u>	<u>\$0.00</u>		<u>\$1,885.92</u>
Dillon Electric Inc								
Dillon Electric Inc	4/16/2019	4/16/2019	3877	Repair stairwell light @ City Hall	\$260.00	\$0.00		\$260.00
				<i>Totals for Dillon Electric Inc:</i>	<u>\$260.00</u>	<u>\$0.00</u>		<u>\$260.00</u>
Division of the State Architect								
Division of the State Architect	3/31/2019	3/31/2019	2019-Q3	CASp fees for Q3 FY 19	\$45.20	\$0.00		\$45.20
				<i>Totals for Division of the State Architect:</i>	<u>\$45.20</u>	<u>\$0.00</u>		<u>\$45.20</u>
Dynasty Roofing								
Dynasty Roofing	4/16/2019	4/16/2019	BP28-19	Deposit refund for 1385 Yosemite Cir	\$1,838.00	\$0.00		\$1,838.00
				<i>Totals for Dynasty Roofing:</i>	<u>\$1,838.00</u>	<u>\$0.00</u>		<u>\$1,838.00</u>
Geoconsultants, Inc.								
Geoconsultants, Inc.	4/16/2019	4/16/2019	19002	Well monitoring for March 2019	\$1,546.50	\$0.00		\$1,546.50
				<i>Totals for Geoconsultants, Inc.:</i>	<u>\$1,546.50</u>	<u>\$0.00</u>		<u>\$1,546.50</u>
Humphrey Consulting								
Humphrey Consulting	4/16/2019	4/16/2019	CL0119	SSMP update & audit for March 2019	\$2,257.50	\$0.00		\$2,257.50
				<i>Totals for Humphrey Consulting:</i>	<u>\$2,257.50</u>	<u>\$0.00</u>		<u>\$2,257.50</u>

City of Clayton Open Invoice Report Check Payments

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
ICMA Retirement Corporation	4/16/2019	4/16/2019	42641	Annual plan fee Q4 FY 19	\$125.00	\$0.00		\$125.00
				<i>Totals for ICMA Retirement Corporation:</i>	<i>\$125.00</i>	<i>\$0.00</i>		<i>\$125.00</i>
Matrix Association Management								
Matrix Association Management	4/16/2019	4/16/2019	9743	Diablo Estates management for April 2019	\$4,532.50	\$0.00		\$4,532.50
				<i>Totals for Matrix Association Management:</i>	<i>\$4,532.50</i>	<i>\$0.00</i>		<i>\$4,532.50</i>
MPA								
MPA	4/16/2019	4/16/2019	Apr2019	Life/LTD for April 2019	\$2,158.69	\$0.00		\$2,158.69
				<i>Totals for MPA:</i>	<i>\$2,158.69</i>	<i>\$0.00</i>		<i>\$2,158.69</i>
MSR Mechanical, LLC								
MSR Mechanical, LLC	4/16/2019	4/16/2019	111146	Library HVAC maintenance for March 2019	\$527.17	\$0.00		\$527.17
MSR Mechanical, LLC	4/16/2019	4/16/2019	111149	CH HVAC maintenance for March 2019	\$350.00	\$0.00		\$350.00
				<i>Totals for MSR Mechanical, LLC:</i>	<i>\$877.17</i>	<i>\$0.00</i>		<i>\$877.17</i>
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	4/16/2019	4/16/2019	2015703	Courtyard payphone for April 2019	\$73.00	\$0.00		\$73.00
				<i>Totals for Pacific Telemanagement Svc:</i>	<i>\$73.00</i>	<i>\$0.00</i>		<i>\$73.00</i>
pmsigns								
pmsigns	4/16/2019	4/16/2019	18330	Update banners for Clayton Cleans Up	\$488.25	\$0.00		\$488.25
				<i>Totals for pmsigns:</i>	<i>\$488.25</i>	<i>\$0.00</i>		<i>\$488.25</i>
Quest Media & Supplies								
Quest Media & Supplies	4/16/2019	4/16/2019	483310	Labor/Materials for wireless access point, PD	\$4,461.68	\$0.00		\$4,461.68
				<i>Totals for Quest Media & Supplies:</i>	<i>\$4,461.68</i>	<i>\$0.00</i>		<i>\$4,461.68</i>
Rex Lock & Safe, Inc.								
Rex Lock & Safe, Inc.	4/16/2019	4/16/2019	123312	Replacement keys for utilities, other loc. PD	\$200.64	\$0.00		\$200.64
				<i>Totals for Rex Lock & Safe, Inc.:</i>	<i>\$200.64</i>	<i>\$0.00</i>		<i>\$200.64</i>
Riso Products of Sacramento								
Riso Products of Sacramento	4/16/2019	4/16/2019	194147	Copier lease pmt 25 of 60	\$106.09	\$0.00		\$106.09
				<i>Totals for Riso Products of Sacramento:</i>	<i>\$106.09</i>	<i>\$0.00</i>		<i>\$106.09</i>
Sprint Comm (PD)								
Sprint Comm (PD)	4/16/2019	4/16/2019	70335311-208	Cell phones 2/26/19-3/25/19	\$646.22	\$0.00		\$646.22
				<i>Totals for Sprint Comm (PD):</i>	<i>\$646.22</i>	<i>\$0.00</i>		<i>\$646.22</i>
Staples Business Credit								
Staples Business Credit	4/16/2019	4/16/2019	1623436971	Office supplies for February 2019	\$366.17	\$0.00		\$366.17
				<i>Totals for Staples Business Credit:</i>	<i>\$366.17</i>	<i>\$0.00</i>		<i>\$366.17</i>
Swenson's Mobile Fleet Repair								
Swenson's Mobile Fleet Repair	4/16/2019	4/16/2019	1001171	Maintenance to F-350, PW	\$115.00	\$0.00		\$115.00

City of Clayton Open Invoice Report Check Payments

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<i>Totals for Swenson's Mobile Fleet Repair:</i>					\$115.00	\$0.00		\$115.00
Wally's Rental Center, Inc.								
Wally's Rental Center, Inc.	4/16/2019	4/16/2019	197082-3	Scissorlift rental for Hoyer Hall	\$315.35	\$0.00		\$315.35
<i>Totals for Wally's Rental Center, Inc.:</i>					\$315.35	\$0.00		\$315.35
Warner Brothers Tree Service								
Warner Brothers Tree Service	4/16/2019	4/16/2019	14611	Tree work @ Lydia Ln & Clayton Rd	\$2,300.00	\$0.00		\$2,300.00
Warner Brothers Tree Service	4/16/2019	4/16/2019	14622	Tree work @ Library	\$1,950.00	\$0.00		\$1,950.00
Warner Brothers Tree Service	4/16/2019	4/16/2019	14623	Tree work @ Stranahan	\$1,650.00	\$0.00		\$1,650.00
Warner Brothers Tree Service	4/16/2019	4/16/2019	14624	Tree work @ Lydia Ln (Blue Oak trim)	\$750.00	\$0.00		\$750.00
Warner Brothers Tree Service	4/16/2019	4/16/2019	14625	Tree work @ Salazar Ct	\$2,775.00	\$0.00		\$2,775.00
<i>Totals for Warner Brothers Tree Service:</i>					\$9,425.00	\$0.00		\$9,425.00
Workers.com								
Workers.com	4/16/2019	4/16/2019	124425	Seasonal worker week end 3/24/19	\$676.51	\$0.00		\$676.51
Workers.com	4/16/2019	4/16/2019	124482	Seasonal worker week end 3/31/19	\$922.51	\$0.00		\$922.51
<i>Totals for Workers.com:</i>					\$1,599.02	\$0.00		\$1,599.02
GRAND TOTALS:					\$47,582.27	\$0.00		\$47,582.27

City of Clayton

ACH/EFT Activity (Non-City Check Payments)

Recurring ACH/EFT payments covering the following timeframe: 3/29/2019 - 4/11/2019

For the City Council meeting dated: **4/16/2019**

The following is a detailed listing of automatic recurring and other ACH/EFT payments other than checks for the period immediately preceding the City Council meeting dated above.

Payee	Description	Service Period	Payment Date	Amount
American Fidelity	FSA/dependent care contributions	PPE 4/7/19	4/9/2019	\$ 441.90
CalPERS	Pension plan contributions	PPE 4/7/19	4/10/2019	\$ 14,569.28
Nationwide	457b plan contributions	PPE 4/7/19	4/9/2019	\$ 500.00
Paychex	Payroll	PPE 4/7/19	4/9/2019	\$ 63,060.62
Paychex	Payroll taxes	PPE 4/7/19	4/10/2019	\$ 14,159.83
Paychex	Payroll processing fee, W-2 proc.	PPE 4/7/19, Q3	4/10/2019	\$ 209.99
Authorize.net	Online payment gateway	March 2019	4/2/2019	\$ 26.40
CalPERS	Employee health premiums	April 2019	4/9/2019	\$ 29,918.74
Comcast	Internet service	4/10/19-5/9/19	4/1/2019	\$ 386.08
Neopost	Postage meter	Added postage 3/29/19	4/1/2019	\$ 300.00
Paysafe	Merchant services OTC	March 2019	4/1/2019	\$ 110.39
Paysafe	Merchant services HdL	March 2019	4/1/2019	\$ 79.81
PG&E	Gas and electricity	2/14/19-3/17/19	4/10/2019	\$ 19,713.86
PG&E	Gas and electricity	2/16/19-3/19/19	4/10/2019	\$ 4,034.70
US Bank	Employee procurement cards	2/23/19-3/22/19	4/3/2019	\$ 13,483.34
Bank of America	Returned check fee	N/A	4/3/2019	\$ 12.00

Total ACH/EFT Activity (other than checks) \$161,006.94



Agenda Date: 4-16-2019

Agenda Item: 3C

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Laura Hoffmeister, Assist. to the City Manager *LHA*
DATE: April 16, 2019
SUBJECT: Establishing 2019-2020 ERU Assessment Rate for Federal and State Mandated National Pollution Discharge Elimination System (NPDES) Program (Storm Water Pollution Prevention)

RECOMMENDATION

Staff recommends the City Council adopt the attached Resolution, Establishing the Rate Per Equivalent Run off Unit (ERU) for FY 2019-20 and requesting the Contra Costa County Flood Control and Water Conservation District to adopt an Annual Parcel Assessment for Drainage and Maintenance and the National Pollutant Discharge Elimination System (NPDES) Program, maintaining the current ERU Rate at \$29.00 per single-family parcel.

BACKGROUND

The 1987 Reauthorization of the Federal Clean Water Act, as well as similar State legislation, required local agencies to obtain a NPDES Permit for discharging the contents of municipal storm drainage water conveyance systems. As implemented and enforced by the State through the Regional Water Quality Control Board (San Francisco Bay Area Region), this permitting effort is intended to improve water quality in the Delta and San Francisco Bay Estuary System, protect endangered species, and safeguard public waters and waterways for continued economic, recreation and health purposes. Stormwater runoff pollution has been identified as a significant impact on water quality and wildlife in the Bay Area by the State and Federal Governments. During wet weather, large amounts of pollutants, such as oil and grease from automobiles, heavy metals from vehicle exhaust and brake pads, such as copper and lead, pesticides, herbicides and fertilizers from lawns and gardens, soil erosion, and biological material enter the storm drain system and ultimately empty, untreated, into creeks, waterways, the Delta and the Bay.

The City participates and obtained its joint NPDES permit from the SF Regional Water Quality Control Board via the Contra Costa Clean Water Program whose participants include the cities within the County, the County and the Flood Control District. The City of Clayton has participated since its inception in September 1993. The SF Regional Water Quality Control Board issued the 4th five-year permit in November 18, 2015, covering FY 2015/16 – 2019/20. This permit, called the Municipal Regional Permit 2.0 (MRP 2.0), covers many counties and cities in the Bay Area. MRP 2.0 permit allows the City and other jurisdictions to utilize the storm water drainage system for the discharges into creeks that ultimately drain into the bay. This joint participation allows for the program management and permit process costs to be kept to a minimum through economies of scale and local and regional collaboration, at a fraction of the cost of doing it alone. The program provides for a regional approach to stormwater pollution control, regional monitoring, public education and outreach, technical support and training, special studies and NPDES permit administration requirements.

As part of its permit conditions, Clayton is required to implement a comprehensive Stormwater Management Plan (SWMP). The SWMP includes public participation and inter-governmental coordination designed to reduce the discharge of pollutants into the storm drainage system to the maximum extent practicable through the required implementation of 500 plus Best Management Practices and other requirements (about 350 pages long with an annual report checklist that is 100 pages in length), or BMPs as they are commonly referred. (For comparison: in 1993 first there were 12 BMPs, about 5 pages in length, all related to municipal maintenance activities such as drainage inlet cleaning and v-ditch cleaning. In 1997 there were 257 BMP's covering 40 pages. In FY 03-04 c3 amendments – an additional 75 pages were added to the permit by the Regional Board, requiring increased regulation and monitoring activities for development/construction controls, municipal maintenance, public education and outreach, illicit discharge and inspection, and documentation and reporting. In 2009 the document grew to 300 pages with 216 requirements). In 2016 the issuance of the new permit MRP 2.0 added more requirements emphasizing elimination of litter from waterways, retrofitting existing drainage inlets and systems to flow to bio planters or landscape areas, i.e.: "Green Infrastructure". (The next permit is planned for issuance in 2020-2021 and will likely contain even more unfunded mandates.)

The cost of meeting the obligations of the increased requirements contained in the MRP 2.0 have been and are expected to continue to exceed City revenues received from the ERU. The annual estimated shortfall for FY18-19 is expected to be \$14,237 which will be able to be covered by the Stormwater Reserve Fund balance. Although difficult to fully identify all future additional costs at this point, staff has identified the minimum estimated cost impacts by the new regulations to the City could further outpace revenues. Some new items required by MRP 2.0 include more elimination of litter going into storm drains; more monitoring and reporting on our storm drain inlets trash capture devices (which capture litter before going to the creek), and "green infrastructure" which sets forth standards for cities to redirect their existing storm drainage water into landscape areas. In addition reduction of PCB contained in caulk and joint compounds (structures built between 1950 and 1980) and having cities regulate certain demolition and tenant improvements similar to that now done for asbestos and lead paint for homes and businesses through the planning and building permit process is also required. These last two allowed and exemption process under certain verifiable criteria. City staff successfully applied and after a six month state evaluation process, including asking the City for additional detailed information, was able to receive this exemption. To date the City of Clayton is the only Bay Area city to have successfully received this exemption from the SF Regional Water Board.

An additional unfunded mandate in the permit is the creation of a citywide Green Infrastructure Plan to be submitted to the SF Regional Water Board. This is a plan that will identify opportunities within the City to have existing runoff flow to bio-planters instead of the existing storm drains. In January 2018 the City Council authorized \$50,000 from FY 16-17 General Fund excess monies to go toward the mandatory Green Infrastructure Plan that permittees must develop and submit in October 2019. City staff has identified a consultant for these services and City Council action is requested on this as a separate agenda item at this meeting.

AUGMENTED FUNDING DENIED

When the program was originally established in 1993, the rate cap for the current parcel fee in Clayton was set by the City Council at \$29/ERU. Because other members of the Clean Water Program also have the same issues (costs exceeding available revenue available from the ERU rate) a cost/revenue analysis was undertaken by the Contra Costa Clean Water Program to evaluate possible additional funding mechanisms for the added requirements of the MRP. The Clean Water Program attempted three times the pursuit of legislation to add stormwater to the definitions of other utilities such as sewer and water and was not successful in receiving needed legislative support, and there is no support by the governor and his staff. It was after these state wide attempts were fruitless, our straining local funding and the continuing increased requirements by state regulating agencies that led to the 2012 Prop 218 property owner vote for a new parcel fee. The new second revenue measure did not pass. Local revenues for stormwater quality protection have been level since 2000—while compliance costs continue to increase. Additional state

legislation is being pursued to establish a process to allow for future local voter consideration of new stormwater revenues. However, in order to continue to receive the City's existing current ERU rate of \$29 per single family parcel (the same amount levied since FY1999/2000) it must be levied. Failure to levy this fee would result in the City need to consider use of its General Fund, and/or a local city specific revenue measure since the regional Prop 218 measure did not receive sufficient voter support for passage.

DISCUSSION

Staff currently participates, as is required by the Program agreement and state permit, on the Clean Water Program's Development Construction Controls/Green Infrastructure Committee, Administration Committee, and Management Committee; and as needed in the Monitoring and Inspection Committee, and the GIS workgroup. City staff typically attends and participates in 4-5 meetings per month.

One of the largest components of the unfunded mandates was the trash load analysis and reduction program that cities had to undertake. This provision required cities to reduce their trash pollution load by 40% by 2014, and completely eliminate (100% reduction) by 2020. The City of Clayton installed 25 trash capture devices and has reduced its trash load to the 100% level at this time, about 5 years before the deadline. Clayton is one of only a few cities in Contra Costa County and the Bay Area that has met this goal ahead of the mandated deadline. The trash capture devices and their installation were covered through ABAG grants that the City Maintenance staff received. However there are not any new funds to address the mandated studies and documentation that cities must file as part of its Annual Report to the State. They include mandatory maintenance items such as clearing of trash along specific areas of creeks and drainage inlets; the quantification of the materials collected; enforcement action (issuance of citations) to individuals for pollution runoff; creeks and waterways testing, mapping, monitoring and of all creeks and all outfalls to creeks, and specific on-going litter removal down to the size of a cigarette butt of litter on certain distance of creek segments and the cleaning of drainage inlets (we currently do public inlets only). The reporting format requires cities to use computer data base for mapping, reporting and monitoring information and transmitting electronically to the SF Regional Water Board where they will post to a public accessible web site. The Clean Water Program is establishing a cloud based GIS mapping project where we will have access to GIS data base, therefore at this time there is not a need to undertake an individual city effort to comply with this permit requirement. MRP 2.0 permit also requires increased and/or enhanced inspections to commercial businesses. The City contracts with Central Contra Costa Sanitary District to perform these inspections, as it has the special training needed to undertake and most of the businesses are restaurant businesses which it already periodically inspects. The permit also requires all maintenance staff and city contractors that apply herbicides, pesticides or fertilizers to be certified in Integrated Pest Management Practices (IPM), and Bay Friendly Certified, and for cities to have local IMP management plans and/or ordinances. The City has in the past obtained compliance by ensuring that one of its Maintenance Supervisors is trained. Due to recent maintenance supervisor staffing changes another maintenance staff member will need to become IPM Bay Friendly Certified. The City's outside noxious weed abatement contractor (Envirotech) and building pesticide contractor (Western Exterminator) are all Bay Friendly Trained and Certified applicators.

Another on-going issue is litigation. Certain third-party interest groups have repeatedly brought legal action against the EPA, State and Regional Agencies, the cities, county, and our Clean Water Program. These court actions have in the past increased costs for legal defense and added to the program requirement standards issued by the State, or as a result of judicial decisions. The Environmental organizations did file two years ago an appeal with the State on the MRP 2.0. This appeal is currently working its way through the process. To minimize the potential future legal costs the group program costs have included encumbrances of some group Program funds for this appeal purpose. To date Save the Bay has been closely monitoring the Trash Load Analysis and Action Plans. They are concerned that cities' plans may not be aggressive enough to reduce trash pollution to meet the permit requirement time frames. However recent analysis and report by SF Regional Water Board Staff noted that most all cities are or will be in compliance with trash load reduction requirements. A more recent development is the Environmental Organizations interest in Green Infrastructure, as this area is more complicated, costly and takes longer to achieve than the trash

load reduction requirements. Recent changes at the Federal level in the EPA will not lessen permit requirements or actions mandated to the cities as state legislation and through the voter approved State Clean Water Act, directed by the SF Regional Water Quality Control Board, are the governing authorities.

Overall the City's total costs are comprised of two components, one consisting of the pro rata share of group costs based upon population. The other is the management and maintenance activities undertaken by the City and its contracts with others for required activity implementation and monitoring and reporting. All program staff and permittees (cities and county) have been and continue to make strong efforts to control costs at the program level. However, funds for the MRP 2.0 permit, technical and legal work, education and outreach, implementation of programs to address recent pollutants of concerns (PCB, Mercury, Lead, Nickel etc.), ongoing trash load reduction management, green infrastructure analysis/implementation, enforcement compliance enforcement for construction site practices, and commercial operations, have increased these State unfunded mandate costs on cities and counties.

ASSESSMENT AND PROGRAM BUDGET

Due to the implementation by the Program of unfunded mandate permit requirements by the SF Regional Board, the Group's Clean Water Program Budget will increase 15% (\$500,000) in FY 19-20. In FY 2019-20 the Group program costs are \$3.5 million. For the last few years and through 2021 increased costs are being addressed by Program reserve carry over or encumbrances of this year's funds to help reduce or smooth out increases; thus minimizing the impact (reduction) in return to source funds.

For FY 19-20 the City of Clayton's pro rata share of the Programs cost is .99% apx., (\$34,801) which is \$4,000 more than last year. Future costs increases and lack of Program carry over funding in the future years will continue to result in less return to source funds to undertake the added local city permit requirements. At this time it is expected the decrease in return to source funds is likely to continue into the future absent any other source of funding.

It is currently estimated that for FY 19-20 the gross revenues from Clayton's assessment will total approximately \$126,306. Of this \$34,801 is allocated to the Clean Water Program administration and group expenses; \$3,800 to the County Auditor for costs related to assessment collection; \$8,000 to the Sanitary District for commercial inspection, monitoring and municipal requested call out inspections; \$3,000 to the District for fiscal and assessment area management, \$3,000 for program reserve, and \$10,000 for our annual state discharge permit fee. Thus, the remaining funds available to the City, for all other activities in FY 19-20 are approximately \$63,705 an decrease of \$4,495 over FY 18-19 projected year end (note: since 2005 there will have been a decrease of \$39,272 in annual return to source funds due to increased state unfunded mandate permit requirements which have been undertaken by the Program). Approximately fifty-five percent of the City's funds are directly spent on labor costs of maintenance activities required by the program, such as storm drain inspection and cleaning, creek clearing; responding to spill calls; the remaining is divided between equipment and materials; monitoring and inspection; and management and reporting. For fiscal year 19-20 it is projected that \$49,165 may be needed from the Stormwater Reserve Fund. Any future FY shortfalls are anticipated to be covered by the City's Stormwater Fund reserves. Thereafter, if additional revenues are needed, the City must default to consider use of its General Fund, and/or a local city specific revenue measure since the regional Prop 218 measure did not receive enough support for passage.

To continue the local revenue source necessary to fund the unfunded mandates by federal and state government regulations, the City annually authorizes the Contra Costa Board of Supervisors to direct the Contra Costa Flood Control and Water Conservation District to establish a storm water utility area for the City and to impose benefit assessments on all applicable parcels within the City of Clayton. This item is the annual consideration to request the local assessment levy which provides funding to the Federal and State Clean Water program mandates which the City must undertake and participate in according to Federal and

Subject: Establishing 2019-2020 ERU Assessment Rate for Federal and State Mandated National Pollution Discharge Elimination System (NPDES) Program (Storm Water Pollution Prevention)

Date: April 16, 2019

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State law. Staff recommends no increase to the rate for FY 2019-20; it will be the same rate as the last nineteen fiscal years, which is \$29.00 per ERU.

Since the City is not exceeding the current rate cap and not increasing the levy rate, voter approval requirement of Prop. 218 process does not apply. A single family detached dwelling is typically one ERU; homes on lots 20,000 sq. ft. or larger are allocated 1.7 ERU's; attached homes (e.g., townhomes and duets) are 0.7 ERU. This formula is the same throughout all Contra Costa communities and all cities and the County funds their NPDES costs through the ERU assessments.

FISCAL IMPACT

Although a Federal and State Mandated program, cities do not receive any revenues from the Federal and State governments to offset or cover the mandated requirements. Consequently, the Stormwater Utility Rate and Assessment areas were established in 1993 by the County and the Cities to develop a funding source to cover the costs of the Federal and State mandates.

The recommended assessment for FY 2019-20 is the same rate that is currently in place. Should the City not authorize the Flood Control District to establish and collect the annual assessments, the City still has the financial and legal responsibility to perform the Permit requirements but would not receive the apx. \$126,306 generated by the annual assessment. Mandated activities would need funding from another source, such as the General Fund. Given the high level of commitment of the General Fund to other City programs and projects, prior state "takes" of local funds, loss of redevelopment funds, the recent economic downturn, and fixed cost impacts to the General Fund, these NPDES costs, if paid for by the General Fund, would adversely impact other services and operations the City currently provides to the community. It must be noted here the Regional Water Quality Control Board and several case laws consistently declare clean storm water are of the utmost state priority and public agencies have been given the tools (i.e.: local taxing authority) to generate additional revenues for these purposes by garnering local voter approval to tax themselves more for this mandate.

Additional implementation measures such as that needed for monitoring and maintenance of new Stormwater facilities required under our mandated permit and installed as part of new construction within Clayton (C-3), have been addressed by the City Council to provide for methods that are self supported by the new development such as Benefit Assessment Districts or Homeowners Associations or combination thereof, or other approach that would not financially impact the city and its general funds. This Council-directed policy minimizes potential impacts to the under-funded Stormwater fund or the City's General Fund for the permanent new development installed specific requirements to meet the new state regulations. However not covered by these are the general overall reporting, enforcement action and trash reduction action plans, commercial inspections, monitoring enhancements required by the regional board are reasons that the current assessment fee should be continued.

CONCLUSION

To continue the same revenue source required to fund the state mandated activities the City annually authorizes the Contra Costa Board of Supervisors to direct the Contra Costa Flood Control and Water Conservation District to impose annual benefit assessments on all applicable parcels within the City of Clayton. The attached Resolution would maintain the current Stormwater Utility Rate assessment of \$29.00 per ERU for FY 2019-20.

Attachments:

1. Proposed ERU Resolution for FY 2019-2020
2. Clean Water Program Budget costs and cost sharing formula FY 2019-20
3. Stormwater Fund 216 Budget Information
4. Stormwater Budget History and Forecast

RESOLUTION NO. __-2019

A RESOLUTION ESTABLISHING THE RATE PER EQUIVILANT RUN-OFF UNIT (ERU) FOR FY 2019-2020 AND REQUESTING THE CONTRA COSTA FLOOD CONTROL AND WATER CONSERVATION DISTRICT TO ADOPT AN ANNUAL PARCEL ASSESSMENT FOR DRAINAGE MAINTENANCE AND THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

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

WHEREAS, under the Federal Water Quality Act [33 U.S.C. Section 1342 (p)], certain municipal stormwater discharges require a permit from the appropriate federal or state authorities pursuant to the National Pollutant Discharge Elimination System (NPDES) program; and

WHEREAS, the City of Clayton, in conjunction with other affected jurisdictions within Contra Costa County, applied to the State Regional Water Quality Control Board and received a Joint NPDES Permit which requires the implementation of a Storm Water Management Plan and Best Management Practices to minimize or eliminate pollutants from entering stormwaters; and

WHEREAS, Assembly Bill 2768 (West's Water Code Appendix, Section 63-12 and 63-12.9) authorizes the Contra Costa County Flood Control and Water Conservation District (District) to establish Stormwater Utility Areas (SUA) and to levy annual benefit assessments for the purpose of carrying our activities required under the NPDES program; and

WHEREAS, it is the intent of the City to utilize funds received from its Stormwater Utility Area (SUA) for implementation of the NPDES program and local drainage maintenance activities; and

WHEREAS, at the request of the City, the Contra Costa County Flood Control District and Water Conservation District (District) has completed the process for the formation of a SUA, including the adoption of the Stormwater Utility Assessment Drainage Ordinance No. 93-47; and

WHEREAS, the SUA and Program Group Costs payment agreement between the City and the District requires that the City of Clayton annually, by May 1, determine its rate to be assigned to a single ERU for the forthcoming fiscal year; and

WHEREAS, the City Council adopted Resolution 9-93, which established the range of the annual assessment to be imposed by the District within the storm water utility area not to exceed \$29 per ERU; and

WHEREAS, the City of Clayton has operated at its maximum \$29 per ERU rate since FY 1999-2000 (the last eighteen fiscal years) and this same rate is proposed again for FY 2019-2020.

NOW, THEREFORE, BE IT RESOLVED the City Council of Clayton, California does hereby determine that its real property assessment rate to be assigned to a single ERU for FY 2019-2020 shall be set and assessed at \$29.00; and

BE IT FURTHER RESOLVED, the City Council of Clayton, California, does hereby request the Contra Costa Flood Control and Water Conservation District to adopt the SUA levies in Clayton based on the above established rate.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California at a regular public meeting of thereof held on April 16, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, CA

Tuija Catalano, Mayor

ATTEST:

Janet Calderon, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular public meeting held on April 16, 2019.

Janet Calderon, City Clerk

Reso erurate19-20

**CONTRA COSTA CLEAN WATER PROGRAM
GROUP COSTS METHODOLOGY & ALLOCATION
FOR FISCAL YEAR 2019/20 (FINAL DRAFT)**

City/County/State	January 1, 2017	January 1, 2018 ⁽¹⁾	Percent Change	Prorata % of Program ⁽²⁾	Budget ⁽³⁾ Allocation
CONTRA COSTA COUNTY	1,139,313	1,149,363	0.88%		\$ 3,499,213
ANTIOCH	112,230	113,065	0.74%	3.84%	\$ 319,212
BRENTWOOD	61,383	63,042	2.70%	5.48%	\$ 191,930
CLAYTON	111,322	111,531	0.19%	0.99%	\$ 34,301
CONCORD	128,282	129,159	0.68%	11.24%	\$ 393,222
DANVILLE	46,648	44,692	-4.21%	3.86%	\$ 135,163
EL CERRITO	24,674	24,939	1.07%	2.17%	\$ 75,926
HERCULES	26,165	26,317	0.58%	2.29%	\$ 80,122
LAFAYETTE	25,416	25,655	0.94%	2.23%	\$ 78,106
MARTINEZ	37,831	38,357	1.41%	3.31%	\$ 115,986
MORAGA	16,866	16,991	0.74%	1.48%	\$ 51,729
OAKLEY	41,716	41,742	0.06%	3.63%	\$ 127,083
ORINDA	19,012	19,199	0.98%	1.67%	\$ 58,451
PINOLE	19,101	19,236	0.71%	1.67%	\$ 58,564
PITTSBURG	71,342	72,647	1.83%	6.32%	\$ 221,172
PLEASANT HILL	35,068	35,068	0.35%	3.05%	\$ 106,764
RICHMOND	110,114	110,967	0.77%	9.65%	\$ 337,837
SAN PABLO	31,363	31,593	0.67%	2.75%	\$ 96,184
SAN RAMON	81,354	82,643	1.58%	7.19%	\$ 251,605
WALNUT CREEK	70,556	70,667	0.15%	6.15%	\$ 215,144
UNINCORP. COUNTY	172,082	172,513	0.25%	15.01%	\$ 525,212
				100.00%	\$ 3,499,213

- Population estimate based on State of California Department of Finance (E-1) City/County projections- January 1, 2019. Figures are updated in May of each year.
- Percentages based on prorata of population.
- Budget Allocation amount is the Stormwater Utility Assessment (SUA) budget, which includes contingency (net program budget).

ATTACHMENT 2

City of Clayton
 Stormwater Fund 216
 Proposed Budget 19-20

Account Number	Account Name	2017-18 Actual	2018-19 Adopted Budget	2018-19 Projected	2019-20 Draft Budget
7111	Salaries/Regular	18,331	24,700	23,800	22,000
7112	Temporary Help	16,864	5,800	500	-
7218	LTD/STD Insurance	216	290	210	250
7220	PERS Retirement - Normal Cost	2,234	3,000	2,000	2,300
7221	PERS Retirement - Unfunded Liability	2,419	3,400	2,400	3,200
7231	Workers Comp Insurance	1,527	1,400	1,440	1,100
7232	Unemployment Insurance	524	350	500	500
7233	FICA Taxes	545	810	400	400
7246	Benefit Insurance	3,954	5,100	3,700	4,400
7311	General Supplies	2,930	4,000	2,500	4,000
7341	Building/Grounds Maintenance	7,911	15,500	5,100	15,200
7343	Vehicle Maintenance	1,842	2,500	1,500	2,000
7344	Vehicle Gas, Oil, and Supplies	1,404	2,000	1,600	2,000
7373	Education and Training	-	500	500	500
7389	Misc. Expenses	457	-	-	-
7409	Street Sweeping Services	54,000	54,000	54,000	55,900
7411	Professional Services Retainer (Legal)	-	-	-	-
7412	Engineering Services	-	2,000	1,000	2,000
7419	Other Prof. Services	1,500	1,750	1,500	1,720
7435	Contract Seasonal Labor	-	14,000	5,000	15,000
7481	State Regional Annual Discharge Fee	8,539	10,000	8,980	10,000
7486	CERF Charges/Depreciation	3,200	2,360	2,360	4,700
7520	Project/Program Costs - Outreach	166	1,000	500	500
8101	Fund Admin - Transfer to GF	37,247	38,447	38,447	39,800

moved to 7345

See breakdown below

See breakdown below

Includes Bay friendly certification est.

See breakdown below

Total Expenditures	165,810	192,907	157,937	187,470
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Stormwater Assessment ERU Gross	126,279	126,299	126,299	126,306
NPDES Group Program costs	(29,429)	(30,299)	(30,299)	(34,801)
Commercial Insp by Central San	(4,546)	(8,000)	(8,000)	(8,000)
Flood Control Dist Fiscal Mgmt Cost	(705)	(3,000)	(3,000)	(3,000)
County Auditor/Controller Costs	(3,721)	(3,800)	(3,800)	(3,800)
Mandatory Min. Reserve Withdrawl/(Deposit)	2,997	-	(3,000)	(3,000)
Adjustment (Third Installment Timing)	10,626	5,427	-	-
4602 Net Assessment Revenue	101,501	86,627	78,200	73,705
4603 Stormwater O & M Annual Fee	4,137	4,360	5,960	5,020
5324 Street Sweeping Fees	57,593	54,000	57,500	57,500
5601 Interest	673	1,000	1,000	1,000
5606 Unrealized Inv. Gain/Loss	(423)	-	-	-
6007 Transfer from Landscape Maintenance Fund	1,008	1,040	1,040	1,080

City owned bioswales

Total Revenue	164,489	147,027	143,700	138,305
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(Decrease) in Fund Balance	(1,321)	(45,880)	(14,237)	(49,165)
Beginning Fund Balance	91,231	56,700	89,910	75,673
Ending Fund Balance	89,910	10,820	75,673	26,508

7311 General Supplies

Absorbent kits	-	500	-	500
Bay Area Barricade	-	500	750	500
Mt Diablo Landscape - Sand	-	500	750	500
CalOSHA -Confined space safety equipment	-	-	-	-
Grainger (jackets, safety equip., etc.)	290	600	500	600
Innovative Impressions (T shirts - Clayton clea	-	100	-	100
PM Signs - Clayton Cleans Up Banners	60	250	-	250
Straw Waddle	-	250	-	250
Flint Trading Inc. ("No dumping" signs, etc.)	2,580	300	-	300
Miscellaneous Supplies (Calcard)	-	1,000	500	1,000
	2,930	4,000	2,500	4,000

Another fund will need to cover

7341 Building / Grounds Maintenance

Roto Rooter (Drainage Insert Cleaning)	3,560	5,000	5,000	5,000
Spraytec (Equipment Wash rack)	81	500	100	200
Steve Cox Excavating (Pond & creek)	-	5,000	-	5,000
Warner Bros (Emergency tree removal)	4,270	5,000	-	5,000
	7,911	15,500	5,100	15,200

7419 Other Professional Services

EBRCSA-Radio Mtn PW radio's	200	250	200	220
Richard W Spencer (LID Bioswale Inspections)	1,300	1,500	1,300	1,500
	1,500	1,750	1,500	1,720

FY 18-19

Stormwater Fund - No. 216

This account manages the special parcel tax (labeled "ERUs" for Equivalent Runoff Units) levied locally to assist the City in compliance with unfunded State-mandated regulations through our National Pollution Discharge Elimination System (NPDES) Permit. It has been confirmed by case law (previously challenged and lost by southern California cities) that Regional Water Quality Control Boards do indeed have authority to levy unfunded mandates against pollution discharges (cities and counties) by virtue of the federal Clean Water Act and the California Porter-Cologne Water Quality Control Act.

By previous Council action long ago, this real property tax levy was maximized at its allowable cap in year 2000 currently netting the City \$86,627 for local use in FY 2018-19. In reality, the assessment generates higher gross revenues (\$126,299). However, the following purposes snag portions of the City's local levy before ever touching our local coffers:

Contra Costa [Cities] Clean Water Program	\$	30,299	
Commercial Building Inspections by Sanitary District		8,000	
County Auditor-Controller Administrative Fee		3,800	
Reserve Fund for the Clean Water Program		3,000	
Flood Control District Management Expense		3,800	
Total Revenue Offsets:	\$	48,899	38.72%

In addition the City must pay an annual NPDES Regional Discharger Fee to the State projected to be approximately \$10,000, further dipping into the local assessment levied for the City.

The City's 5-year Stormwater Permit (MRP) is issued by the San Francisco Regional Water Quality Control Board. Public agencies, including Clayton, are now under requirements to elevate enforcement, monitoring measures, and treatment projects each year to ensure cleaner stormwaters. This permit, called MRP 2.0, was reissued last November. The permit contains additional and enhanced requirements for cities such as: managing litter that can get into its drainage and creeks from private commercial properties; PCB and Mercury pollutant testing/monitoring; maintenance and enforcement activities; "green infrastructure" which would set forth standards for cities to redirect existing storm drainage water from streets, sidewalks and parking lots and buildings into landscape areas; and enhanced IPM policies, practices and mandatory training and certifications. These additional permit terms will continue to impact the Stormwater fund's reserves. As other cities in the state are experiencing similar funding constraints, although recent State legislation (SB 231) would allow for consideration by the voters through a Prop 218 process to address some Stormwater improvements the legislation did not fully rectify the needs of local cities as it related to the permit mandates.

MRP 2.0 requires information to be disclosed by June 30, 2017 an ongoing, to elected officials and the public, of the Green Infrastructure (GI) requirements. MRP 2.0 defines GI as *"Infrastructure that uses vegetation, soils, and natural processes to manage water and create healthier urban environments..., green infrastructure refers to stormwater management systems that mimic nature by soaking up and storing water."* GI is designed to capture and reduce existing PCB including background levels, and Mercury. The second objective of GI is to recharge runoff into the ground creating more filtering and more natural infiltration into creeks and waterways. The permit mandates that retrofitting existing impervious surfaces with Green Infrastructure be evaluated, analyzed, planned for costed and reported upon.

The GI has two main elements to be implemented:

- Preparation of a Green Infrastructure Plan for the inclusion of bioswale/landscape planter (LID) drainage design into existing storm drain infrastructure, including streets, roads, storm drains, etc.
- Early implementation of Green Infrastructure Projects Green Infrastructure Plan

The Green Infrastructure Plan requirements and deadlines are:

- Prepare a framework or workplan to be approved by the Permittee's City Manager or governing body by June 30, 2017, and submit it to the SF Regional Water Board with its FY 16-17 Annual Report. This was completed in October 2018.
- Prepare and show estimated costs/budget for a Green Infrastructure Plan and submit it to the SF Regional Water Board with the 2019 Annual Report.

The permit requires that beginning with the 2016 Annual Report each Permittee review current infrastructure (capital improvement) projects, prepare a list of infrastructure projects planned for implementation that have potential for green infrastructure measures, annually review update and submit the list with each Annual Report, including: *"a summary of how each public infrastructure project with green infrastructure potential will include green infrastructure measures to the maximum extent practical during the permit term. For any public infrastructure project where implementation of green infrastructure measures is not practicable, submit a brief description for the project and the reasons green infrastructure measures were impracticable to implement."*

The Green Infrastructure Plans are intended to describe how each jurisdiction will, in the coming decades, shift their impervious surfaces and storm drain infrastructure from gray, or conventional, storm drain infrastructure where runoff flows directly in to the storm drain and then to creeks and the Bay, to a more resilient, sustainable system that slows runoff by dispersing it to vegetated areas, harvests and uses runoff, promotes infiltration and evapotranspiration, and uses bioretention to detain, retain, and treat stormwater.

City staff reviewed and compiled an initial list of its Council approved CIP budget projects and submitted it with its FY 2015-16 Annual Report. During 2019 City staff working group consisting of the Stormwater Manager/Assistant to the City Manager, City Engineer, and Community Development Director, along with outside consultants will prepare its draft Green Infrastructure Plan. This work effort has been funded by a City Council approved earmark of \$50,000 of FY 2016-17 General Fund annual excess monies.

Cities will also be tasked to review and update as necessary their standard engineering designs and planning policies/ordinances to incorporate Green Infrastructure. The Contra Costa Clean Water Program (CCCWP) is currently working on guidance to the cities for reviewing capital improvement programs and projects, identifying green infrastructure potential, advancing planning and design of potential green infrastructure features, and documenting decisions regarding implementation of green infrastructure.

As noted previously, the current permit contains mandated trash reduction requirements which are met through the implementation of the full trash capture devices. The City has installed and maintains twenty-five (25) devices in its four Trash Management Areas. Through this effort we have been able to achieve 100% reduction in trash load baseline, and permit compliance. The City of Clayton is one of only a few cities to have already achieved this goal. However, recent refinements by the SF Regional Water Board to this requirement may mandate the installation and maintenance of additional full trash capture devices to remain in compliance.

The new permit also requires the use of GIS for database mapping and public viewing availability. The Clean Water Program has begun the establishment of a cloud-based GIS mapping program as a group funded effort for all cities. Each city will have its own section for stormwater mapping with the ability to have additional data layers as it desires. Therefore no additional City funds are needed at this time for GIS program.

Such permit conditions necessitate ever-increasing expenditures which will eventually consume current levy revenues. Initial staff analyses reveal an additional \$225,000 to \$515,000 in annual costs could someday impact the City's fiscal operations for this state-mandated purpose alone. Only a Proposition 218 voter approval process can increase the levied rates. The failure of the Clean Water Coalition's Proposition 218 ballot in FY 2012-13 to raise levy revenues turned aside a potential \$93,700 for use in meeting state unfunded mandates for cleaner stormwaters. Since the City reached its parcel levy cap 17 years ago there have been an astounding 512 additional permit requirements mandated by the SF Regional Water Board with no increase in revenue to offset the associated costs, thus resulting in an erosion of the City's Stormwater fund's reserves.

In the FY 2018-19 budget, the City's stormwater costs under the permit regulations exceed available revenues by approximately \$45,880, although the close of FY 2017-18 is expected to incur a lesser annual deficit of \$34,531. Fortunately at the moment there is projected to be a reserve balance of approximately \$56,700 at the beginning of FY 2018-19 in this restricted-use special revenue fund, which is sufficient to cover the fund's projected FY 2018-19 operating deficit. The depletion of the Stormwater fund's reserve balance over past several years a direct result of added permit requirements imposed by the Regional Board in 1996 (referred to as "C-3 amendments"), MRP 1.0 (issued in 2010), and the current MRP 2.0 (issued in November 2015). All of these were statutory "unfunded mandates."

Total projected FY 2018-19 labor-related expenditures of \$58,850, including contracted seasonal labor, are necessary cover public works' labor for the City's municipal storm drain system, annual debris clearance of creeks and V-ditches, and proactive measures for the prevention of pollutants into these waters, which ultimately emerge into the San Francisco - Oakland Bay. Educational materials and supplies are also part of the Stormwater fund's budget, along with our membership in the Contra Costa County Clean Water Program. Recoverable expenses include that portion of staff time when working on clean water issues, programs, while Regional Water Quality Control Board directives target specific programs (e.g. "diaper" inserts in storm drain inlets) and local enforcement (e.g. fines). City administrative staff (Assistant to the City Manager) expends an inordinate portion of time (approximately one-third or more) engaged in the management, administration and implementation of this federal and state mandated program for cleaner runoff waters. As such, the proposed budgeted transfer of \$38,447 to the City's General Fund to partially offset this incurred staff time is reasonable and essential.

The monthly street sweeping contract totaling an estimated \$54,000 in FY 2018-19 is paid through this fund as a program component of cleaner stormwater from street gutters. To clarify a common misconception, public streets and gutters are swept monthly to mitigate roadway pollutants from entering the storm drain system, not for street aesthetics or as the substitute broom for an abutting property owner's sweeping/clearance of leaves and debris from the front and/or side yard curbs of one's property. Offsetting revenue is tendered by real property owners through their trash bills which is projected to be an equal and offsetting \$54,000. This offsetting revenue estimate could potentially be lower due to the revolving number of vacant homes in Clayton (closed accounts) as well as various delinquent and non-paying accounts slicing away at the revenue stream.

Required annual expenditures are absorbed into this fund for engineering services (\$2,000) and other professional services (\$1,750). Necessary engineering services will assist in providing the City's response to the state-mandate to perform additional drainage/green infrastructure analysis, evaluation and annual reporting of our mapped "trash management areas", and PCB analysis. The other professional services line item

captures costs associated with state-mandated programs involving drainage inlet insert cleanings (\$5,000), box culvert cleaning (\$5,000), emergency tree removal creek/drainage areas (\$5,000), and bio-swale inspections and reports for City properties (\$1,500). New private construction activities and newer private developments with storm water treatment have been addressed by the City Council to provide methods that are self-supported or cost recovery through the City charges for fees and services, homeowners association and/or benefit assessment districts, and therefore do not impact the Stormwater fund or the City's General Fund.

As noted previously, the fund is projected to open FY 2018-19 with approximately \$56,700 in reserves, and projects a year-end fund balance of \$10,820 on June 30, 2019, an astounding (but not surprising) 81.9% loss in reserves. At this rate, the Stormwater fund will become depleted during or immediately following FY 2018-19 as long feared, with the only sources of discretionary funds to patch the mandated gap being General Fund operational monies or use of General Fund reserves. Absent a new or increased funding source, the first course of action would likely result in either a reduction of permit compliance potentially resulting in non-compliance and triggering SF Regional Board action of fines of up to \$10,000 per day, reduction in other non-mandated city services, or use of city general fund reserves.

City NPDES Budget History and Forecast

FY 1998-1999 Budget (Total Group Program Budget \$1,525,451): (ERU: \$24.50) (final yr of 5yr permit):

ERU gross revenue est.	\$ 104,851
NPDES Group Program costs:	\$ 17,243
County Auditor/Controller Costs:	\$ 3,334
City Return To Source Funds:	\$ 84,274
Commercial Inspection by Central Sanitary Dist:	\$ 4,205
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
Amount available to Clayton for City NPDES costs:	\$ 73,735

FY 1999-2000 Budget (Total Group Program Budget \$1,491,054): (ERU \$29) *New 5-yr permit and added req.

ERU gross revenue est.	\$125,196
NPDES Group Program costs:	\$ 18,995
County Auditor/Controller Costs:	\$ 3,500
City Return to Source Funds:	\$102,753
Commercial Inspection by Central Sanitary Dist:	\$ 2,100
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
Amount available to Clayton for City NPDES costs:	\$ 94,153

FY 2000-2001 Budget (Total Group Program Budget \$1,773,242): (ERU \$29) * lawsuits filed

ERU gross revenue est.	\$129,522
NPDES Group Program costs:	\$ 18,875
County Auditor/Controller Costs:	\$ 3,500
City Return to Source Funds:	\$107,140
Commercial Inspection by Central Sanitary Dist:	\$ 2,172
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
State Regional Annual Discharge Permit Fee	\$ 1,500
Amount available to Clayton for City NPDES costs:	\$ 96,968

FY 2001-2002 Budget (Total Group Program Budget \$1,648,735): (ERU \$29) *legal costs and technical costs for permit amendment hearings

ERU gross revenue est.	\$129,737
NPDES Group Program costs:	\$ 23,940
County Auditor/Controller Costs:	\$ 3,540
City Return to Source Funds:	\$102,266
Commercial Inspection by Central Sanitary Dist:	\$ 2,240
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
State Regional Annual Discharge Permit Fee	\$ 2,000
Amount available to Clayton for City NPDES costs:	\$ 95,026

FY 2002-2003 Budget (Total Group Program Budget \$2,258,541): (ERU \$29) *legal costs and technical costs for permit amendment hearings

ERU gross revenue est.	\$131,915
NPDES Group Program costs:	\$ 26,238
County Auditor/Controller Costs:	\$ 3,550
City Return to Source Funds:	\$102,127
Commercial Inspection by Central Sanitary Dist:	\$ 2,600
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
State Regional Annual Discharge Permit Fee	\$ 4,000
Amount available to Clayton for City NPDES costs:	\$ 92,527

FY 2003-2004 (Total Group Program Budget \$2,670,929): (ERU \$29) *C-3 permit amendments/legal costs

ERU gross revenue est.	\$128,492	related to lawsuits
NPDES Group Program costs:	\$ 33,843	
County Auditor/Controller Costs:	\$ 3,550	
City Return to Source Funds:	\$ 91,099	
Commercial Inspection by Central Sanitary Dist:	\$ 3,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 4,000	
Amount available to Clayton for City NPDES costs:	\$ 81,099	

FY 2004-2005 (Total Group Program Budget \$2,320,572): (ERU \$29) *amended 5-year permit by SFRWQCB

ERU gross revenue est.	\$129,420	
NPDES Group Program costs:	\$ 11,843	
County Auditor/Controller Costs:	\$ 3,600	
City Return to Source Funds:	\$ 113,977	
Commercial Inspection by Central Sanitary Dist:	\$ 3,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 5,000	
Amount available to Clayton for City NPDES costs:	\$ 102,977	

FY 2005-2006 (Total Group Program Budget \$2,320,572): (ERU \$29) * implementation of new C-3 permit 1 ac amendments

ERU gross revenue est.	\$126,362	
NPDES Group Program costs:	\$ 11,749	
County Auditor/Controller Costs:	\$ 3,680	
City Return to Source Funds:	\$ 110,933	
Commercial Inspection by Central Sanitary Dist:	\$ 5,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 5,400	
Amount available to Clayton for City NPDES costs:	\$ 97,533	

FY 2006-2007 (Total Group Program Budget \$2,867,625): (ERU \$29) * implementation of new C-3 permit 10K sq ft. amendments; new permit issuance and future revenue study.

ERU gross revenue est.	\$126,313	
NPDES Group Program costs:	\$ 26,204	
County Auditor/Controller Costs:	\$ 3,800	
City Return to Source Funds:	\$ 96,309	
Commercial Inspection by Central Sanitary Dist:	\$ 5,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 5,400	
Amount available to Clayton for City NPDES costs:	\$ 82,909	

FY 2007-2008 (Total Group Program Budget \$3,200,422): (ERU \$29) * on-going implementation of new C-3 permit 10K sq ft. amendments; draft new permit issuance and future revenue study

ERU gross revenue est.	\$126,843	
NPDES Group Program costs:	\$ 31,800	
County Auditor/Controller Costs:	\$ 3,800	
City Return to Source Funds:	\$ 91,243	
Commercial Inspection by Central Sanitary Dist:	\$ 2,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 5,400	
Amount available to Clayton for City NPDES costs:	\$ 80,843	

FY 2008-2009 (Total Group Program Budget \$4,200,422): (ERU \$29) * on-going implementation of C-3 ; rev draft new permit regs, hearings on new MRP – cost impact and revenue study

ERU gross revenue est.	\$127,055
NPDES Group Program costs:	\$ 44,520
County Auditor/Controller Costs:	\$ 3,800
City Return to Source Funds:	\$ 78,735
Commercial Inspection by Central Sanitary Dist:	\$ 3,915
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
State Regional Annual Discharge Permit Fee	\$ 5,400
Amount available to Clayton for City NPDES costs:	\$ 66,420

FY 2009-2010 (Total Group Program Budget \$4,000,000): (ERU \$29) * new permit issued Dec 2009 (MRP 1.0) new permit regs, hearings on new MRP – cost impact and revenue study

ERU gross revenue est.	\$127,013
NPDES Group Program costs:	\$ 41,017
County Auditor/Controller Costs:	\$ 3,800
City Return to Source Funds:	\$ 82,196
Commercial Inspection by Central Sanitary Dist:	\$ 3,402
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
State Regional Annual Discharge Permit Fee	\$ 5,400
Amount available to Clayton for City NPDES costs:	\$ 70,396

FY 2010-2011 (Total Group Program Budget \$2,250,079): (ERU \$29) * MRP 1.0 fist year; cost impact and revenue study

ERU gross revenue est.	\$127,034
NPDES Group Program costs:	\$ 23,052
County Auditor/Controller Costs:	\$ 3,800
City Return to Source Funds:	\$ 100,182
Commercial Inspection by Central Sanitary Dist:	\$ 4,165
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
State Regional Annual Discharge Permit Fee	\$ 5,400
Amount available to Clayton for City NPDES costs:	\$ 87,617

FY 2011-2012 (Total Group Program Budget \$2,497,856): (ERU \$29) * MRP 1.0 second year costs trash baseline loading and reduction plans

ERU gross revenue est.	\$126,626
NPDES Group Program costs:	\$ 25,517
County Auditor/Controller Costs:	\$ 3,800
City Return to Source Funds:	\$ 97,309
Commercial Inspection by Central Sanitary Dist:	\$ 4,500
Flood Control Dist. Fiscal Management Costs:	\$ 3,000
State Regional Annual Discharge Permit Fee	\$ 7,279
Amount available to Clayton for City NPDES costs:	\$ 82,530

FY 2012-2013 (Total Group Program Budget \$2,528,966): (ERU \$29) * MRP 1.0 reqs third year costs – trash reduction plan; plans for install of drain inlet screens; enhanced commercial business inspection

ERU gross revenue est.	\$126,615	
NPDES Group Program costs:	\$ 26,203	
County Auditor/Controller Costs:	\$ 3,800	
City Return to Source Funds:		\$ 96,612
Commercial Inspection by Central Sanitary Dist:	\$ 8,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 7,279	
Amount available to Clayton for City NPDES costs:		\$ 78,333

FY 2013-2014 (Total Group Program Budget \$2,447,293): (ERU \$29) * MRP 1.0 reqs fourth year costs – trash reduction collection; installation of all draining inlet screens; begin collection of material at drainage inlets screens; enhanced commercial -business inspection

ERU gross revenue est.	\$126,308	
NPDES Group Program costs:	\$ 25,265	
County Auditor/Controller Costs:	\$ 3,800	
City min req. Reserve to Program	\$ 3,000	
City Return to Source Funds:		\$ 94,949
Commercial Inspection by Central Sanitary Dist:	\$ 8,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 7,279	
Amount available to Clayton for City NPDES costs:		\$ 75,974

FY 2014-2015 (Total Group Program Budget \$2,447,293): (ERU \$29) * MRP 1.0 reqs fifth year costs – trash reduction collection from drainage inlets; quantification of materials collected; enhanced commercial -business inspection

ERU gross revenue est.	\$124,144	
NPDES Group Program costs:	\$ 25,842	
County Auditor/Controller Costs:	\$ 3,800	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 91,502
Commercial Inspection by Central Sanitary Dist:	\$ 8,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 8,740	
Amount available to Clayton for City NPDES costs:		\$ 71,762

FY 2015-2016 (Total Group Program Budget \$ 2,579,223): (ERU \$29) * new MRP issued (MRP 2.0)

ERU gross revenue est.	\$ 124,184	
NPDES Group Program costs:	\$ 26,575	
County Auditor/Controller Costs:	\$ 3,800	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 90,809
Commercial Inspection by Central Sanitary Dist:	\$ 8,000	
Flood Control Dist. Fiscal Management Costs:	\$ 3,000	
State Regional Annual Discharge Permit Fee	\$ 6,869	
Amount available to Clayton for City NPDES costs:		\$ 72,940

FY 2016-2017 (Total Group Program Budget \$3,649,621- program reserve \$1,024,105 = \$ 2,625,516): (ERU \$29)

* MRP 2.0 reqs first year costs-
initial work mercury reduction & GIS

ERU gross revenue est.	\$ 126,328	
NPDES Group Program costs:	\$ 26,872	
County Auditor/Controller Costs:	\$ 3,800	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 92,656
Commercial Inspection by Central Sanitary Dist:		\$ 8,000
Flood Control Dist. Fiscal Management Costs:		\$ 3,000
State Regional Annual Discharge Permit Fee		\$ 8,980
Amount available to Clayton for City NPDES costs:		\$ 72,676

FY 2017-2018 (Total Group Program Budget \$4,281,987 – program reserve \$1,288,555 = \$3,053,432): (ERU \$29)

* MRP 2.0 reqs. second year costs-
PCB reductions, GIS, trash load
reduction, green infrastructure

ERU gross revenue est.	\$ 126,279	
NPDES Group Program costs:	\$ 30,466	
County Auditor/Controller Costs:	\$ 3,800	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 89,013
Commercial Inspection by Central Sanitary Dist:		\$ 8,000
Flood Control Dist. Fiscal Management Costs:		\$ 3,000
State Regional Annual Discharge Permit Fee		\$ 8,539
Amount available to Clayton for City NPDES costs:		\$ 69,474

Projected:

FY 2018-2019 (Total Group Program Budget \$4,311,512 – program reserve \$1,228,469 = \$3,083,043): (ERU \$29)

* MRP 2.0 reqs. third year costs-
PCB reductions, GIS, trash load
reduction, green infrastructure

ERU gross revenue est.	\$126,299	
NPDES Group Program costs:	\$ 30,299	
County Auditor/Controller Costs:	\$ 3,800	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 89,200
Commercial Inspection by Central Sanitary Dist:		\$ 8,000
Flood Control Dist. Fiscal Management Costs:		\$ 3,000
State Regional Annual Discharge Permit Fee		\$ 8,980
Amount available to Clayton for City NPDES costs:		\$ 69,220

Adopted:

FY 2019-2020 (Total Group Program Budget \$3,728,997 – program reserve \$299,000 = \$3,499,997): (ERU \$29)

* MRP 2.0 reqs. fourth year costs -
PCB reductions, GIS, trash load
reduction, green infrastructure

ERU gross revenue est.	\$126,306	
NPDES Group Program costs:	\$ 34,801	
County Auditor/Controller Costs:	\$ 3,800	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 84,705
Commercial Inspection by Central Sanitary Dist:		\$ 8,000
Flood Control Dist. Fiscal Management Costs:		\$ 3,000
State Regional Annual Discharge Permit Fee		\$ 10,000
Amount available to Clayton for City NPDES costs:		\$ 63,705

Forecast:

FY 2020-2021 (Total Group Program Budget \$3,915,447- program reserve \$250,000 = \$3,665,447): (ERU \$29) * MF^{2.0} reqs. Fifth year costs - PCB reductions, GIS, trash load reduction, green infrastructure [last year of program reserve use to offset program annual program costs]

ERU gross revenue est.	\$126,306	
NPDES Group Program costs:	\$ 39,150	
County Auditor/Controller Costs:	\$ 3,900	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 80,256
Commercial Inspection by Central Sanitary Dist:		\$ 8,000
Flood Control Dist. Fiscal Management Costs:		\$ 3,000
State Regional Annual Discharge Permit Fee		\$ 10,000
Amount available to Clayton for City NPDES costs:		\$ 59,256

[program reserves use completed in FY 20-21]

FY 2021-2022 (Total Group Program Budget \$4,110,000): (ERU \$29) * MRP 3.0 Unknown added or modified permit requirements assuming all prior permit reqs. continue and no new additional permit reqs added that increase program or costs [no program reserves available for offset]

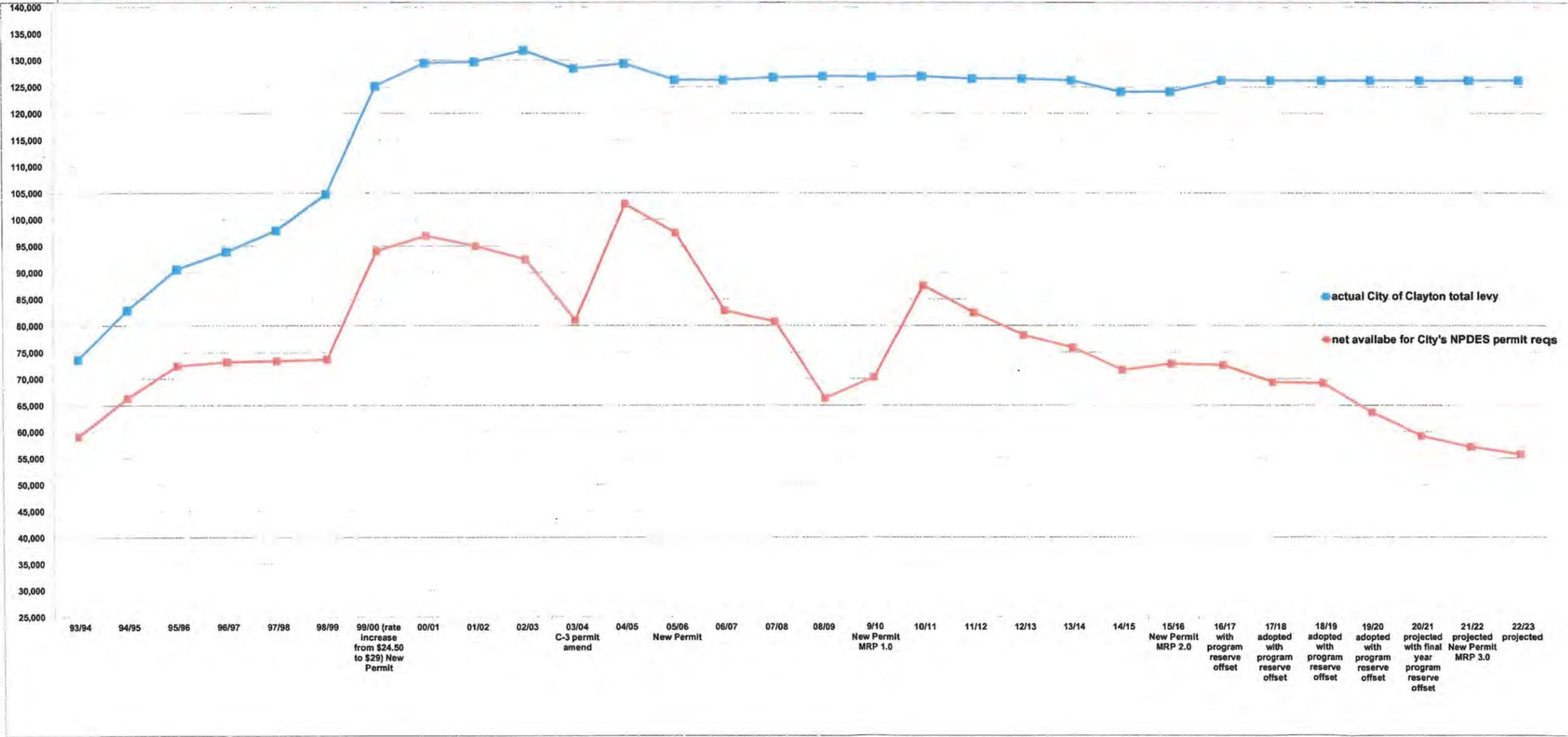
ERU gross revenue est.	\$126,306	
NPDES Group Program costs:	\$ 41,100	
County Auditor/Controller Costs:	\$ 4,000	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 78,206
Commercial Inspection by Central Sanitary Dist:		\$ 8,000
Flood Control Dist. Fiscal Management Costs:		\$ 3,000
State Regional Annual Discharge Permit Fee		\$ 10,000
Amount available to Clayton for City NPDES costs:		\$ 57,206

FY 2022-2023 (Total Group Program Budget \$4,250,000): (ERU \$29) * MRP 3.0 year 2 Unknown added or modified permit requirements assuming all prior permit reqs. continue and no new additional permit reqs added that increase program or costs [no program reserves available for offset]

ERU gross revenue est.	\$126,306	
NPDES Group Program costs:	\$ 42,500	
County Auditor/Controller Costs:	\$ 4,000	
City share program reserve:	\$ 3,000	
City Return to Source Funds:		\$ 76,806
Commercial Inspection by Central Sanitary Dist:		\$ 8,000
Flood Control Dist. Fiscal Management Costs:		\$ 3,000
State Regional Annual Discharge Permit Fee		\$ 10,000
Amount available to Clayton for City NPDES costs:		\$ 55,806

**Contra Costa Clean Water Program
City of Clayton ERU levy history**

Fiscal Year	93/94	94/95	95/96	96/97	97/98	98/99	99/00 (rate increase from \$24.50 to \$29) New Permit	00/01	01/02	02/03	03/04 C-3 permit amend	04/05	05/06 New Permit	06/07	07/08	08/09	9/10 New Permit MRP 1.0	10/11	11/12	12/13	13/14	14/15	15/16 New Permit MRP 2.0	16/17 with program reserve offset	17/18 adopted with program reserve offset	18/19 adopted with program reserve offset	19/20 adopted with program reserve offset	20/21 projected with final year program reserve offset	21/22 projected New Permit MRP 3.0	22/23 projected
actual City of Clayton total levy	73,716	82,956	90,644	93,993	97,994	104,851	125,196	129,522	129,737	131,915	128,492	129,420	126,362	126,313	126,843	127,055	127,013	127,034	126,626	126,615	126,308	124,144	124,184	126,328	126,279	126,299	126,306	126,306	126,306	126,306
net available for City's NPDES permit reqs	59,158	66,407	72,465	73,265	73,470	73,735	94,135	96,968	95,026	92,527	81,099	102,977	97,533	82,909	80,843	66,420	70,396	87,617	82,530	78,333	75,974	71,762	72,940	72,676	69,474	69,220	63,705	59,256	57,206	55,806





Agenda Date: 4-16-2019

Agenda Item: 3d

Approved:



Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT ALMAN, CITY ENGINEER

DATE: APRIL 16, 2019

SUBJECT: APPROVE AND AUTHORIZE CITY MANAGER EXECUTION OF THE FIRST AMENDMENT TO COOPERATIVE AGREEMENT BETWEEN THE CITY OF CLAYTON AND THE CITY OF CONCORD REGARDING THE EL MOLINO SANITARY SEWER IMPROVEMENT PROJECT – CIP #10422

RECOMMENDATION

It is recommended the City Council approve and authorize its City Manager to execute the First Amendment to the existing Cooperative Agreement between the City of Clayton and the City of Concord regarding funding of the El Molino Sanitary Sewer Improvement Project – CIP #10422.

BACKGROUND

The El Molino Sanitary Sewer Improvements Project prevents potential sewage overflows along Donner Creek between Bloching Circle and El Molino Drive at Meredith Court. The project accomplishes this by constructing an intertie between the existing sanitary sewer main running from Barcelona Way in an easement between the back yards of homes at 26 Weatherly Drive and 70 El Molino and the existing sanitary sewer main in El Molino Drive.

This project is funded through an existing project-specific Cooperative Agreement entered into between Clayton and Concord on September 7, 2017. Section 4.1 of the Agreement established an original project budget of \$560,000.00 as well as a methodology for revising that amount if the need arose due to actual construction bids and project management costs.

On February 28, 2019 the City Clerk received and opened five sealed bids for this sanitary sewer improvement project. The apparent low bidder at \$453,810.00 was Cratus, Inc. Based on the bids received and the project funds currently available, City Council duly awarded a construction contract to Cratus, Inc. on March 19, 2019.

DISCUSSION

As noted above, Section 4.1 of the existing Cooperative Agreement established an original project budget of \$560,000.00 and contained a methodology to increase the project budget if

that became necessary. The City Engineer prepared an updated project budget taking into account past expenditures for design and project management, current redesign effort based on value engineering, various previous bids with no submittals, contract award, construction inspection, compaction testing, project management & close-out, and project contingency.

This updated project budget reveals the capital project needs an additional \$225,000.00. Based on this knowledge, the City Engineer notified City of Concord staff that a budget increase is necessary. After conferring, Clayton and Concord staff concur an additional \$250,000.00 in project budget is necessary to successfully complete the project as bid and budgeted and to provide City of Concord with \$25,000.00 in additional staff time to process reimbursements and generally move the project forward at its end. Concord staff prepared the First Amendment to Cooperative Agreement between the City of Clayton and the City of Concord regarding the El Molino Sanitary Sewer Improvement Project which reflects the increased project budget. That amendment is scheduled for approval by Concord City Council at its April 23rd meeting. The City Engineer is seeking approval by Clayton City Council at this meeting so the official Notice to Proceed for the construction contract can be immediately issued upon approval of the amendment by Concord and these capital infrastructure improvements can commence.

FISCAL IMPACT

There are adequate funds available in the City's Capital Improvement Budget (CIP No. 10422 – El Molino Sanitary Sewer Improvements Project Account) to fund the cost of the construction contract awarded to Cratus, Inc. on March 29. Source of funds comes entirely from the annual sewer assessment levied on all real properties in Clayton. In order to successfully complete the entire project, additional project funds are necessary. Approving this Cooperative Agreement amendment provides the additional project gap funds. The total proposed project budget is now as follows:

El Molino Sanitary Sewer Improvement Project – CIP #10422
Project Budget

Planning & Design	\$94,500.00
Construction Contract	\$454,000.00
Construction Inspection	\$62,800.00
Project Management	\$30,400.00
Compaction Testing	\$25,000.00
Project Close-out	\$15,910.00
Project Contingency (15%)	\$102,390.00
Total:	\$785,000.00
Previous Project Budget	<\$560,000.00>
Required Balance	\$225,000.00

Attachments: First Amendment to Cooperative Agreement [2 pp.]

FIRST AMENDMENT TO COOPERATIVE AGREEMENT BETWEEN THE CITY OF CLAYTON AND THE CITY OF CONCORD (EL MOLINO SEWER PROJECT)

1 This First Amendment to the Cooperative Agreement between the City of Clayton and the City
2 of Concord for the El Molino Sewer Project ("First Amendment") is made and entered into this ____
3 day of _____, 2019, and hereby amends the Cooperative Agreement between the City
4 of Clayton ("Clayton") and the City of Concord ("Concord") for the El Molino Sewer Project
5 ("Project"), dated September 7, 2017 ("Cooperative Agreement").

6 **WHEREAS**, the Clayton City Council approved the Cooperative Agreement at its July 18,
7 2017 meeting, and the Concord City Council approved the Cooperative Agreement at its July 25, 2017
8 meeting; and

9 **WHEREAS**, the Cooperative Agreement was subsequently signed and entered into by the
10 parties on September 7, 2017; and

11 **WHEREAS**, under Section 4.1 of the Cooperative Agreement, Concord agreed to reimburse
12 Clayton for the design, construction and administration of the El Molino Sewer Project for the
13 estimated amount of \$560,000 ("Estimated Project Cost"). Section 4.1 also provided that "(i)n the
14 event the actual cost of the Project is expected to exceed the Estimated Project Cost, Clayton shall
15 notify Concord before authorizing work. Clayton and Concord staff will work cooperatively to
16 amend this Cooperative Agreement to reflect the actual cost of the Project;" and

17 **WHEREAS**, Clayton staff has advised Concord staff that the estimated cost of the Project has
18 been increased by the amount of \$225,000 for a new Estimated Project Cost of \$785,000; and

19 **WHEREAS**, the parties desire to amend the Cooperative Agreement to increase the Estimated
20 Project Cost, as set forth in Section 4.1, to the amount of \$785,000.

21 **NOW THEREFORE**, in consideration of the promises and conditions set forth in this First
22 Amendment and the Cooperative Agreement, the parties mutually desire to amend the Cooperative
23 Agreement as follows:

- 24 1. Section 4.1 of the Cooperative Agreement is hereby amended to read as follows:
25 "Concord shall reimburse Clayton for the design, construction, and administration of
26 the Project in the following estimated amount, which amount includes a contingency,
27 Seven Hundred and Eighty Five Thousand Dollars (\$785,000) ("Estimated Project
28 Cost").

1 2. Except as expressly amended herein, all other terms and conditions of the Cooperative
2 Agreement shall remain in full force and effect.

3 **IN WITNESS WHEREOF**, the parties have executed this First Amendment on the date
4 indicated above.

5
6 **CITY OF CLAYTON**

CITY OF CONCORD

7 By: _____

By: _____

8 Name: _____

Name: _____

9 Title: _____

Title: _____

10
11
12 **ATTEST:**

ATTEST:

13 By: _____

By: _____

14 City Clerk

City Clerk

15
16 **APPROVED AS TO FORM:**

APPROVED AS TO FORM:

17
18
19 _____
20 City Attorney

City Attorney



Agenda Date: 4-16-2019

Agenda Item: 3e

Approved:


Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT ALMAN, CITY ENGINEER

DATE: April 16, 2019

SUBJECT: A RESOLUTION APPROVING THE CITY'S LOCAL TRANSPORTATION IMPROVEMENT PROJECT FOR FISCAL YEAR 2019-20 INVOLVING ROAD MAINTENANCE AND REHABILITATION ACCOUNT – LOCAL STREETS AND ROADS FUNDS (RMRA-LSR; SB1)

RECOMMENDATIONS

It is recommended the City Council adopt the proposed Resolution approving the City's local transportation improvement project for Fiscal Year 2019-20 involving Road Maintenance and Rehabilitation Account – Local Streets and Roads Funds (RMRA-LSR; SB1)

BACKGROUND

The Road Repair and Accountability Act of 2017 (SB1-Beall) continues as a significant \$5.2 billion per year statewide investment in California's transportation systems. The Act increased per gallon fuel excise taxes, diesel fuel sales taxes and vehicle registration taxes, stabilized the price-based fuel tax rates and provides for inflationary adjustments to rates in future years. This legislation more than doubles local streets and road funds allocated through the Highway Users Tax Account (HUTA), distributing funds from new taxes through the new RMRA account.

DISCUSSION

The Road Repair and Accountability Act stipulates that, prior to receiving RMRA funds in any fiscal year, a city or county must submit to the California Transportation Commission (CTC) a governing-body approved list of the City's local transportation improvement project or projects upon which the RMRA funds will be spent. That submittal is now made through a new on-line reporting system named CalSMART. A city does not need to spend its RMRA funds in the fiscal year collected and may roll the monies into future fiscal years to accumulate the funds for use on a larger more expensive improvement project.

The 2018-19 RMRA funds were designated to the future and expanded Pine Hollow Road improvement and rehabilitation project. The larger project will be undertaken in conjunction with our approved capital improvement project (CIP #10379) Pine Hollow Road Upgrade in 2019-20, thereby treating the entirety of Pine Hollow Road from the City limit line to Pine Hollow Court at one time and create a signed entryway into Clayton. It is the City Engineer's intent to designate Clayton's 2019-20 RMRA funds to this same project to collect adequate funds to construct the overall project without losing economies of scale to phasing of the project.

FISCAL IMPACT

There is no fiscal impact from adopting the attached Resolution. The only impact would come from not adopting the proposed Resolution and therefore not meeting the requirements of SB1 and losing the City's allocation of RMRA funds for the year.

Clayton's projected RMRA funding for 2019-20 is \$189,202.00.

Attachments: 1. Resolution [2 pp.]

RESOLUTION NUMBER XX- 2019

**A RESOLUTION APPROVING THE CITY'S LOCAL TRANSPORTATION
IMPROVEMENT PROJECT FOR FISCAL YEAR 2019-20 INVOLVING ROAD
MAINTENANCE AND REHABILITATION ACCOUNT – LOCALSTREETS AND
ROADS FUNDS (RMRA-LSR; SB1)**

**THE CITY COUNCIL
CITY OF CLAYTON, CALIFORNIA**

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the State Legislature and signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of Clayton are aware of the projects proposed for funding in its community and which projects have been completed each fiscal year; and

WHEREAS, Clayton staff has determined the Pine Hollow Road Improvement and Rehabilitation project is the project that should receive street treatment utilizing 2019-20 funds from the Road Maintenance and Rehabilitation Account (RMRA) created by SB 1; and

WHEREAS, it has been calculated the City of Clayton is projected to receive of \$189,202.00 in RMRA funds in Fiscal Year 2019-20 from SB 1; and

WHEREAS, Clayton staff used the StreetSaver® Pavement Management System to determine its SB 1 Project to ensure revenues are used on the most cost-effective projects that also meet the community's priorities for continual transportation investment; and

WHEREAS, Clayton staff has recommended it is most cost effective to roll the 2019-20 RMRA funds into a future year and construct the Pine Hollow Road Improvement and Rehabilitation project with additional accumulated funds in order to obtain economies of scale of construction costs to match the magnitude of necessary street improvement and rehabilitation; and

WHEREAS, the 2016 California Statewide Local Streets and Roads Needs Assessment found that Clayton's streets are in a "Very Good" condition with an average network Pavement Condition Index (PCI) greater than 80, and this ongoing RMRA revenue will assist the City to maintain the overall quality of Clayton's street system; and

RESOLUTION NUMBER XX- 2019

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Clayton, California does hereby approve the following:

Section 1. The foregoing Recitals are true and correct statements of fact and in part, along with the accompany staff report, constitute the basis for necessity in authorizing this Resolution.

Section 2. The City Council does herein authorize the assignment of its expectant \$189,202.00 in RMRA funds to be used for its Pine Hollow Road Improvement and Rehabilitation Project, which street project constitutes the City of Clayton's local transportation improvement project to be constructed using its FY 2019-20 RMRA monies.

Section 3. The City Council further herein approves and authorizes the use of its Fiscal Year 2019-20 RMRA monies for construction of its assigned street improvement and rehabilitation project in a subsequent year.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 16th day of April 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Tuija Catalano, Mayor

ATTEST:

Janet Calderon, City Clerk



Agenda Date: 4-16-2019

Agenda Item: 3F

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MAINTENANCE SUPERVISOR 

DATE: April 16, 2019

**SUBJECT: AWARD OF MULTI-YEAR CONTRACT FOR WEED ABATEMENT
ANNUAL CITYWIDE WEED ABATEMENT SERVICES ON PUBLIC PROPERTIES**

RECOMMENDATION

Approve a three-year contract, with options for three (3) one-year extensions for a total of six years for annual weed abatement services on City-owned public properties to Apex Grading as the lowest responsible bidder for a three year contract with each year at \$42,300 , with an option of one three-year extension by mutual agreement. The City Landscape Maintenance District (LMD) funds this work pursuant to voter approved Measure H, for weed cutting one time a year for fire safety pursuant to the Fire District Standards. For FY 18-19 the LMD had budgeted \$63,000 for this work.

BACKGROUND

The Clayton Maintenance Department contracts out the majority of its annual weed abatement work within the Citywide Landscape Maintenance Assessment District (CFD 2007-1). The contract work includes all hand work and discing within the Landscape District while the City Maintenance Department flail-mows with its tractor the large areas of the City's open space (Note: the City looked at adding the latter work to this contract as a supplemental bid item but City personnel can still get this work done using the City's tractor more cost efficiently than can the contractor). The standard of work, per Contra Costa Fire Protection District, is a thirty-foot wide firebreak from fence lines made around homes that border on the City's open space. This weed abatement work is separate and distinct from the annual noxious weed abatement services performed on various Oakhurst hill slopes by a different contractor (also paid by the Citywide Landscape Maintenance District).

The Maintenance Department has determined the vast majority of weed abatement work is done more cost efficiently using an outside contractor. This work has always been performed once a year. During the past years this work usually started in the middle of May with the work completed by mid-June or earlier. Measure H Landscape District standards,

Annual Weed Abatement Services Contract Award

Date: April 16, 2019

Page 2 of 2

approved by public vote in June 2016, continued this once-per-year weed abatement/firebreak service in the large open areas but did augment weed abatement services to twice a year for a single-pass mow strip immediately abutting certain public trails.

This year, staff solicited yet received only 2 bids for a three year weed abatement contract. The lowest responsible bidder is Apex Grading Inc. The Maintenance Department staff has previously worked with Apex Grading, as they were formally known as Ed Richard Disking, and has previously done work in the City of Clayton as well as other surrounding cities.

FISCAL IMPACT

Funds for this contract are budgeted in the approved Landscape Maintenance Assessment District budget for Fiscal Year 2018-19 (restricted-use monies). This year's budget allocated \$63,000.00 for the weed abatement contract, which is the same amount spent on weed abatement in the previous year. With the Apex Grading bid the next three years are fixed at \$42,300, which is \$20,700 lower than the approved budget amount. Over the three year term of the contract, the total savings by using Apex Grading Inc. will be \$51,518 over the other bidder, Warner Brothers Tree Service.

Company	2019	2020	2021	3-Year Total	notes
APEX Grading Inc.	\$42,300	\$42,300	\$42,300	\$126,900	Optional 3 year extension by mutual agreement
JPA Landscape					Declined to submit bid
Terra Care Landscape					Declined to submit bid
Warner Brothers Tree Service	\$60,000	\$61,854	\$63,564	\$185,481	No optional extension included

- Attachments: 2 pgs. bids
- 1 pg map
- 1 pg scope of work

Apex Grading, Inc.

P.O. Box 5367
 Concord, CA 94524

Estimate

Date	Estimate #
4/10/2019	272

Name / Address
City of Clayton Attn: Jim Warburton 6000 Heritage Trail Clayton, CA 94517

Project

Description	Qty	Rate	Total
This estimate is for hand weed cutting, tractor mowing and tractor discing per provided map/bid specs. No supplemental areas included in this proposal			
Hand weed cutting	1,300	31.00	40,300.00
Tractor Discing	1	2,000.00	2,000.00
NOTE: This proposal is for one annual cutting. Price valid through 7/2021 with the option of extending through 7/2024 by mutual agreement. Please call Jason Fifield at (925) 818-7075 if you have any questions or would like to schedule this work.			
		Total	\$42,300.00



PO BOX 142
 Clayton, CA. 94517
 Phone: 925-250-0335

Estimate

DATE: **ESTIMATE**

3/13/2019	4447
-----------	------

Name / Address

CITY OF CLAYTON
 6000 Heritage Trail
 Clayton, Ca 94517

PROJECT:

[Empty Project Description Box]

ED WARANER (925) 250-0335
 ARBORIST LICENSE #WC3386A
 CONTRACTORS LICENSE #642272
 BONDED, LICENSED AND FULLY INSURED

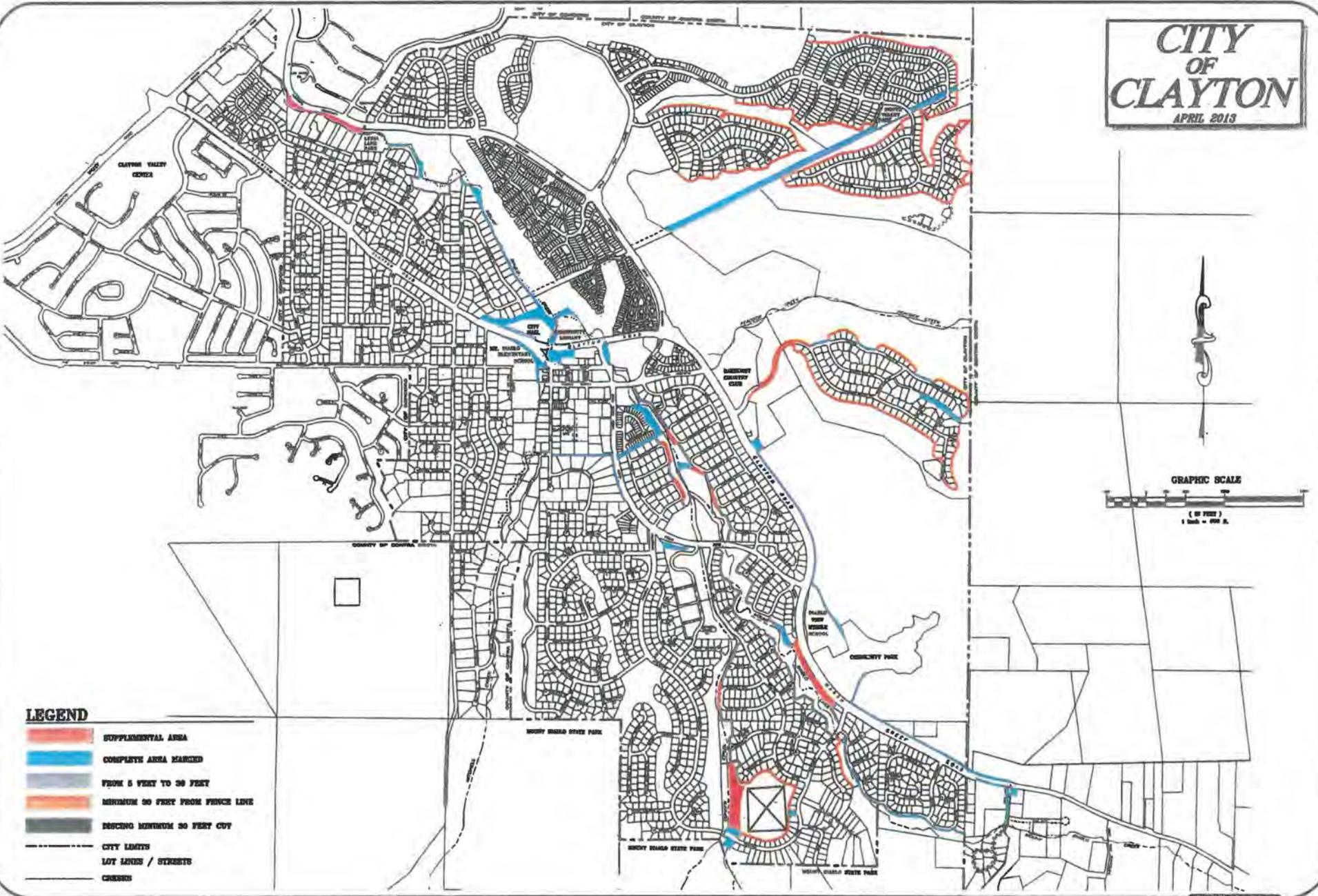
BILL TO:

FIRE ABATEMENT

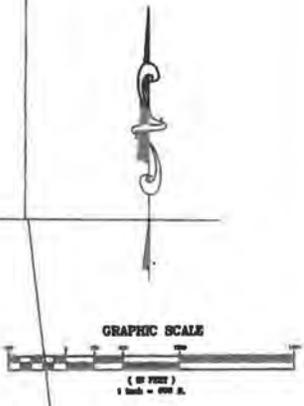
Line Item	Description	Qty	Cost	Total
	THIS ESTIMATE WOULD BE IN ACCORDANCE WITH CONTRA COSTA STANDARDS AND SPECIFICATIONS FOR FIRE SAFETY IN CREATING DEFENSIBLE SPACE AROUND AND THROUGHOUT THE CITY OF CLAYTON. WEED ABATEMENT WOULD INCLUDE LABOR, BOBCAT AND DISCING. LOCATION: CITY OF CLAYTON			
FIRE ABATEM...	FIRE ABATEMENT 2019		60000.00	60,000.00
FIRE ABATEM...	FIRE ABATEMENT 2020 WITH COST OF LIVING INCREASE = \$1,854.00 TOTAL \$61,854.00			
FIRE ABATEM...	FIRE ABATEMENT 2021 WITH COST OF LIVING INCREASE = \$1909.00 TOTAL \$63,564.00			
	ALL WORK SHALL BE DONE AS IN ACCORDANCE WITH THE CONTRA COSTA FIRE STANDARDS AND SPECIFICATIONS FOR FIRE SAFETY			
ALL WORK SHALL BE DONE IN ACCORDANCE WITH I.S.A. STANDARDS. INFO@WARANERBROSTREE.COM		Total		\$60,000.00

CITY OF CLAYTON

APRIL 2013



- LEGEND**
- SUPPLEMENTAL AREA
 - COMPLETE AREA MARKED
 - FROM 5 FEET TO 30 FEET
 - MINIMUM 30 FEET FROM FINCH LINE
 - DESIGNING MINIMUM 30 FEET CUT
 - CITY LIMITS
 - LOT LINES / STREETS
 - CANALS



MINIMUM WEED ABATEMENT STANDARDS

- A. **Parcels five acres or less in size:**
Maintain **ALL** weeds at a height of no more than 3 inches. Weeds and grasses must be disced, (see "Discing Quality" below), mowed, with material mulched, or raked and bagged, and removed from the property. Parcels may require additional abatement during the season due to the regrowth of weeds and other flammable vegetation
- B. **Parcels greater than five acres in size:**
Shall be provided with **30-foot fuelbreaks and 15-foot crossbreaks**, (see "H" and "I" below). Crossbreaks should divide the parcel into approximately 5-acre sections. **Fencelines may require handmowing/weedeating to ensure completion of fuelbreak.** When terrain is too steep or rugged for a tractor, a handmowed fuelbreak may be required. All cut material should be mulched and scattered or raked, bagged and removed from parcel.
- C. **Fuelbreaks along roadways** are required as part of the property line. Road right-of-ways shall be cleared to a minimum of **10 feet horizontally** from the edge of black top and **13'6" vertically**.
- D. **Active pastureland** shall be provided with **15-foot wide fuelbreaks and crossbreaks** if a sufficient number of animals are present to steadily reduce height of grasses during the summer months to 3 inches or less by the end of September. **If this requirement cannot be met, 30-foot fuelbreaks and crossbreaks shall be required.**
- E. **Active cropland** shall be provided with **15-foot fuelbreaks** or crossbreaks if the crop is to be harvested by mid-June. If there is to be a later harvest, **30-foot fuelbreaks shall be required.**
- F. **Orchards** are to be maintained by complete abatement, including grasses under tree branches. This may require pruning of lower branches to allow equipment access.
- G. **Tree litter** (eucalyptus leaves and bark, coniferous needles, leaves, fallen branches, etc.) shall be removed from the base of trees, tree stems, and limbs within 10 feet of the ground and maintained throughout the fire season.
- H. **30-foot fuelbreaks shall be provided** around all structures, combustible storage, trees, shrubs and brush, **along ridgelines, fencelines, ditches, and along the sides of, but not in, creeks.** Fuelbreaks and crossbreaks are a continuous strip of disced or dozed ground following as closely as possible to the property line, and **along one side of all fencelines, ditches, and on top of all ridgelines.** Remove from the property all debris, rubble, junk, piles of dirt, etc., which would obstruct or impede vehicles and/or equipment used for abatement work or fire suppression operations.
- I. **Mowed fuelbreaks shall be 40 feet wide and mowed crossbreaks 20 feet wide** due to ability of the remaining surface material to support a fire growth.

DISCING QUALITY:

All discing work, including fuelbreaks, shall be completed so that all weeds, grasses, crops and other vegetation or organic material, which could be expected to burn, shall be completely turned under to the point that there is not sufficient exposed fuel to maintain or allow the spread of fire.

NOTE: Certain properties may require additional or more stringent abatement due to site-specific issues with terrain, regrowth, location, land use, or fire related history.

Scope of Work For Weed Abatement

1. To perform weed abatement throughout the City of Clayton for fire protection using any type of mechanical equipment to perform this work including but not limited to weed eaters and flail mowers
2. All weeds are to be cut to a maximum of 2 1/2 inches from grade and meet the Contra Costa County Fire Protection District minimum weed abatement standards. (standards attached)
3. All areas that abut streets, sidewalks, and drainage ditches will be clean of all debris that is produced by the abatement.
4. This work will not start any later than May 14 of each year (unless agree upon by the City for a later start date) and will not start any earlier than May 1 of each year. Start date is approved yearly by the City of Clayton Maintenance Supervisor.
5. This work will be completed and pass the Cities inspection no later than 21 working days from the start dated in any given year.
6. Work crews will be on site everyday once work has started (by May 14 unless agreement is made by the City for a later start date)
7. Contractor must have work crews consisting of a minimum of 5 workers on site once work starts.
8. Work will be performed Monday through Friday during normal business hours (7am-5pm) excluding City Holidays unless given prior permission by the City of Clayton.
9. All work will be performed in areas marked on City map and work will be consisted to the map legend (please read map carefully)
10. This contract is for one year (2017) with 3 more yearly extensions in 2018, 2019, and 2020 for a total of 4 years.
11. Any question on the work to be performed can be sent to Mark Janney with the City of Clayton Maintenance Department call at 925-673-7327 or e-mail at mjannney@ci.clayton.ca.us

"UNSUNG HEROES" PROGRAM SUB-COMMITTEE REPORT

TO: Clayton City Councilmembers

FROM: "Unsung Heroes" Program Sub-Committee
(Mayor Catalano and Councilmember Wolfe)

DATE: April 10, 2019

SUBJECT: Expansion of the DTRT Program to Adults "Making A Difference"

BACKGROUND

With the support of prior Councilmembers and city staff, approximately 8-9 years ago former Councilmember and two-time Mayor Hank Stratford proposed creation of the Do the Right Thing ("DTRT") program in conjunction with school administrators and CBCA. The program provides an opportunity for the City Council to recognize MDES, DVMS and CVCHS students for living six different character traits (Responsibility, Respect, Kindness, Self-Discipline, Integrity and Courage) throughout the year. The Council's current Sub-Committee for a possible adult "unsung heroes" program has discussed potential expansion of the current recognition program and submits this report for the full Council's review and endorsement.

PILOT PROPOSAL

The Sub-Committee would like to expand the Do the Right Thing program by creating a pilot program with recognizing adults "MAKING A DIFFERENCE" in our community who are in certain ways outstanding, exemplary or inspiring, and who make our community a better place. The pilot program would have no impact on or detract the existing DTRT program, which would continue as is. Instead, the purpose of the expanded program would recognize and honor adults in our community who are making a difference and inspire the rest of us to do better.

Instead of utilizing the six character traits, the pilot program would recognize adults based on different themes. The first theme proposed to recognize is an OUTSTANDING TEACHER, MENTOR OR COACH. Subsequent themes would be decided by the Sub-Committee but could include without limitation: outstanding volunteer or community contributor, and outstanding public servant (including local government, police or fire personnel).

For each theme and recognition the Sub-Committee would broadcast and request nominations from the public. The Sub-Committee would announce each theme at the Council meetings and in social media, and would request nominations to be made by emailing the name of the nominee, a brief description of the reasons why the nominated person should be recognized, and the nominator's name to:

ClaytonMakingADifference@gmail.com



Agenda Date: 4-16-2019

Agenda Item: 3h

Approved


Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT ALMAN, CITY ENGINEER

DATE: APRIL 16, 2019

SUBJECT: A RESOLUTION AWARDING A LOW-BID 3-YEAR CONTRACT (WITH OPTIONS FOR THREE ONE-YEAR EXTENSIONS) TO ENVIRONTECH ENTERPRISES, INC., IN THE 3-YEAR AMOUNT OF \$199,101.00 FOR THE MANAGEMENT OF THE CITY OWNED OAK/GRASSLAND SAVANNA OPEN SPACE PARCELS NORTH AND SOUTH OF PEACOCK CREEK IN THE OAKHURST DEVELOPMENT AREAS FOR CALENDAR YEARS 2019-2021

RECOMMENDATION

It is recommended the City Council adopt a Resolution awarding a low-bid 3-year contract (with options for three one-year extensions) to Environtech Enterprises, Inc. in the 3-year amount of \$199,101.00 for the management of the City owned Oak/Grassland Savanna open space parcels north and south of Peacock Creek in the Oakhurst Development areas for calendar years 2019-2021.

BACKGROUND

The third annual extension of the previous contract with Environtech Enterprises, Inc. for noxious weed and invasive plant abatement expired on December 31, 2018.

As a condition of approval for the Oakhurst Development Project, the City through its Landscape Assessment District must continue this annual maintenance work so the City's open space parcels remain as oak/grassland savanna environments free of noxious weeds and invasive plants (Yellow Star Thistle, Mustard, Artichoke Thistle, Milk Thistle, Italian Thistle & Prickly Clot Burr) that would overtake the grassland and negatively impact that native environment.

The City desires to maintain and even enhance these oak/grassland savanna environments free of noxious weeds and invasive plants because these grassland savannas are far lower in fuel load than an overgrown natural open space parcel might be, and it provides a more easily defensible buffer between Oakhurst homes and a potential wildfire. At a recent community safety meeting, the local CalFire Deputy Chief stated he does not worry about the city of Clayton burning partially due to the management and abatement of noxious weeds and invasive plants in the grassland savannas surrounding the city and the

defensible space the savannas provide. That said, these open space savannas require long-term maintenance to prevent invasive plants with higher fuel loading from taking over the grasslands.

By appropriately noting this annual work and the importance in preventing potential wildland fire devastation and by documentation in the appropriate City guidance documents (General Plan & Capital Improvement Program), this work and potential enhancements to the work could become eligible for FEMA mitigation grant funds.

DISCUSSION

The City Engineer issued a Request for Quotation (RFQ) for this work on March 25, 2019. The RFQ was posted on the ebidboard website the City routinely utilizes to advertise public works projects. A two-week advertisement period was provided to comply with City contracting requirements. On the submittal date of April 11, 2019 at 2:00 pm the City Engineer received and publicly opened one sealed submittal. The only responsive submittal with the apparent low price quote of \$199,101.00 for the 3-year expense is from Environtech Enterprises. Environtech Enterprises meets all of the contract requirements, possesses the required licenses and certifications as well as the specialty equipment, education, personal knowledge and experience required to perform the contracted work. Environtech Enterprises has been in business as a licensed contractor for 29 years since its California incorporation in 1990.

Environtech Enterprises just completed a three year (3) weed abatement for open space management projects last fiscal year. The company owner, John Squadroni, is also the Project Manager/Foreman, John Squadroni has over 29 years in the open space management industry and has been the noxious weed and invasive plant abatement contractor for City of Clayton for the past 28 years since 1991.

This contract work does not utilize the "RoundUp" (glyphosate) product. Proposed herbicides shall be approved for use at water line in riparian zones.

FISCAL IMPACT

Funding for this work is budgeted through real property owner assessments into the Citywide Landscape Maintenance District (CFD 2007-1). Adequate funds are currently available in the CFD 2007-1 account to fund the \$65,000 contract work in Fiscal Year 2018-19.

The contract cost for this work performed in FY 2017-18 was \$64,088.

Attachments: Resolution [2 pp.]

RESOLUTION NO. - 2019

A RESOLUTION AWARDING A LOW-BID 3-YEAR CONTRACT (WITH OPTIONS FOR THREE ONE-YEAR EXTENSIONS) TO ENVIRONTECH ENTERPRISES, INC., IN THE 3-YEAR AMOUNT OF \$199,101.00 FOR THE MANAGEMENT OF THE CITY OWNED OAK/GRASSLAND SAVANNA OPEN SPACE PARCELS NORTH AND SOUTH OF PEACOCK CREEK IN THE OAKHURST DEVELOPMENT AREAS FOR CALENDAR YEARS 2019-2021

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

WHEREAS, through the Citywide Landscape Maintenance District (CFD 2007-1) approved by Clayton voters, the City is the responsible steward for long-term maintenance and management of City-owned Oak/Grassland Savanna open space parcels in the Oakhurst area, including abatement of noxious weeds and invasive plants; and

WHEREAS, the current contract for abatement of noxious weeds and invasive plants expired on December 31, 2018; and

WHEREAS, the City desires to enter into a new multi-year contract for all of the open space parcels for the three-year period of calendar years 2019 through 2021, to be funded by CFD 2007-1; and

WHEREAS, the City Engineer recently issued a Request for Quotations (RFQ) and received one sealed response from Environtech Enterprises, Inc. in the amount of \$199,101.00; and

WHEREAS, the City Engineer has reviewed the Environtech Enterprises, Inc. quotation, found that it is responsive to the RFQ in all aspects, determined that Environtech Enterprises is a responsible service provider based on submitted documents and previous experience with the City of Clayton, and has recommended awarding this multi-year contract to Environtech Enterprises; and

WHEREAS, there are sufficient monies collected annually in the Citywide Landscape Maintenance District (CFD 2007-1) Account, to fully fund this annual project; and

WHEREAS, in its accompanying report City staff has recommended the City Council adopt this Resolution approving the award of a contract to Environtech Enterprises, Inc. in the amount of \$199,101.00 for calendar years 2019-2021;

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Clayton, California does hereby adopt this Resolution awarding a low-bid 3-year contract (with options for three one-year extensions) to Environtech Enterprises, Inc., in the 3-year amount of \$199,101.00 for the management of the City owned Oak/Grassland Savanna open space parcels north and south of Peacock Creek in the Oakhurst Development areas for calendar years 2019-2021, does hereby authorize the City Manager to execute the contract on behalf of the City, herein authorizes the

annual allocation of required funds from the Citywide Landscape Maintenance District (CFD 2007-1) to fund the annual project.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 16th day of April 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Tujia Catalano, Mayor

ATTEST:

Janet Calderon, City Clerk



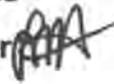
Agenda Date: 4-16-2019

Agenda Item: 3i

Approved:

Gary A. Napper, City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: Laura Hoffmeister, Asst. to the City Manager 
MEETING DATE: April 16, 2019
SUBJECT: Authorize the City Manager to execute a consultant services agreement with Kennedy Associates in the amount of \$42,317, for preparation of the City's Green Infrastructure (GI) Plan, pursuant to the SF Regional Water Quality Control Board requirements as stipulated in the City of Clayton's Municipal Regional Permit (MRP) 2.0.

REQUEST

Authorize the City Manager to execute a consultant services agreement with Kennedy Associates in the amount of \$42,317, for preparation of the City's Green Infrastructure (GI) Plan, pursuant to the SF Regional Water Quality Control Board requirements as stipulated in the City of Clayton's Municipal Regional Permit (MRP) 2.0. The City Council previously authorized \$50,000 for this work from the general fund excess in June 2017.

BACKGROUND

To implement the federal Clean Water Act, the California Regional Water Quality Control Board for the San Francisco Bay Region issued 5-year permits for discharges to creeks and waterways with the purpose of reducing existing pollutants and preventing new pollutants to enter (National Pollution Discharge Elimination System – NPDES). This permit is called the Municipal Regional Permit (MRP) 2.0 and was issued in January 2016. The City of Clayton is one of 76 Bay Area municipalities covered by the MRP 2.0. Provision C.3.j.i. in the MRP 2.0 requires that each Permittee prepare and submit a Green Infrastructure Plan. Required elements of the Plan are specified by the Board issued permit. The Plan is to be submitted with the Annual Report due October 2019. The City Council previously authorized \$50,000 for this work from the year-end general fund excess in June 2017.

The purpose of the Green Infrastructure Plan is to identify opportunities and projects, and include and incorporate them into its planned Capital Improvement Plan (CIP) and future private developments, projects that can shift existing impervious surfaces and storm drain infrastructure from gray, or traditional, storm drain infrastructure where runoff flows directly into the storm drain and then to the receiving water, to green—that is, to a more resilient, sustainable system that slows runoff by dispersing it to vegetated areas, promotes infiltration and evapotranspiration, and uses bioretention and other green infrastructure practices to clean stormwater runoff before it reaches our creeks and Bay. Each public agency's Plan is intended to serve as an implementation and reporting tool, to set goals for reducing over the long term, the adverse water quality impacts of existing and new urban runoff on receiving waters.

The Plan for the City of Clayton is required by the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP)¹, and must be submitted to the California Regional Water Quality Control Board for the San Francisco Bay Region in October 2019.

The following are some of the items that will be undertaken to complete the GI Plan:

- Review planned capital projects to identify the potential to incorporate green infrastructure and low impact development drainage design.
- Identify and prioritize potential new green infrastructure projects, including those for consideration into the City's CIP.
- Map and prioritize areas for potential and planned projects.
- Develop targets for the amount of impervious surface to be retrofit over time.
- Coordinate within and between the City of Clayton's departments to develop concepts for green infrastructure projects.
- Review of City General Plan, Specific Plan polices and identify areas needing modifications to existing plans and documents to incorporate Green Infrastructure
- Document a funding strategy and funding option for future projects, including a process to pursue funding, place funding into future CIP and align project funding sources and schedules to successfully complete required GI projects.
- Document resources and a process for completing conceptual designs.
- Develop and implement a system to track and map planned and completed green infrastructure projects.
- Develop guidelines for project design, and standard designs and specifications.
- Develop requirements for sizing green infrastructure projects.
- Develop methods and results for estimating the targeted pollutant load reductions to be achieved.
- Evaluate and predict the resulting reductions in the quantity of pollutants—including PCBs, mercury, and trash—transported to creeks and the Bay/Delta.

In order to complete the state mandated plan the City will need to use the services of a consultant that has expertise in this area. Staff contacted five companies that specialize in this type of work; two companies cannot take on new clients for GI plans and one is not doing Contra Costa area. Of the two quotes received, Kennedy Associates is the lowest at \$42,317. Additionally Kennedy Associates is located in Contra Costa County and is very familiar with Clayton as they successfully assisted staff in completing the state mandated Trash Reduction Plan. In that plan we were able to achieve 100% compliance 4 years earlier than the state deadline, and have achieved a 99% trash reduction with the 25 full trash capture devices installed along with private development bio-planters, and monthly street sweeping.

RECOMMENDATION

Approve the authorization of the City Manager to execute a consultant services agreement with Kennedy Associates in the amount of \$42,317, for preparation of the City's Green Infrastructure (GI) Plan, pursuant to the SF Regional Water Quality Control Board requirements as stipulated in the City of Clayton's Municipal Regional Permit (MRP) 2.0. The City Council previously authorized \$50,000 for this work from the year-end general fund excess in June 2017.

Attachments:

Green Infrastructure Plan Preparation Consultants Quotes

**GI Plan Document as Required pursuant to MRP 2.0
to be completed and filed with SF Regional Water Board October 2019**

<u>Consultant</u>	<u>Response</u>
Geosyntech	\$45,000
LWA (Larry Walker Assoc.)	Can not take on new clients GI plans
EOA Inc.	only focused on Alameda County cities
Kennedy Associates	\$42,317
NCE Inc.	Can not take on new clients GI plans



Kennedy & Associates
CONSULTING CIVIL ENGINEERS

*Project Management
Construction Management
Program Management
Engineering Services*

February 12, 2018

City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Attention: Laura Hoffmeister
Assistant to the City Manager

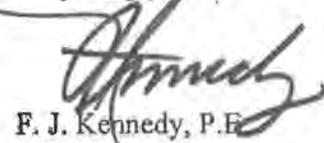
Subject: Proposal for GI Plan Preparation Services

Laura:

Based on your phone call and the information we recently received at the Development Committee we are providing the attached proposal to assist with the preparation of the Green Infrastructure Plan. We have included items that will overlap from the PCB and Mercury load reduction sections as they reach into GI as well.

We have arrived at a budget of \$42,317.00. As always this is a not to exceed amount and will be billed against at actual hourly rates. The table of anticipated tasks as well as our current rate table are attached.

Very truly yours,



F. J. Kennedy, P.E.

Provision	New MRP Task	Task		Estimated			Extension	City-Specific Comments
				Hours	Staff	Rate		
C.3.j.(1) - (5)	Y	Prepare GI Framework	Group	0	P	216.75	0	Complete
	Y	Mechanism to map and criteria to prioritize	Group	20	P	216.75	4335	
	Y	Targets for amount of surface retrofitted (greened), public and private	Clayton	40	P	216.75	8670	
	Y	Guidelines for Streetscape	Group	20	P	216.75	4335	
	Y	Standard Design Details	Group	10	P	216.75	2167.5	
	Y	Facility Sizing requirements and approach for non-regulated projects unable to meet C.3.d	Group	16	P	216.75	3468	
	Y	Update/modify applicable planning documents	Clayton	8	P	216.75	1734	
	Y	Evaluate prioritized funding options	Group	0	-	216.75	0	Program Task
	Y	Ensure legal authorities	Clayton	8	P	216.75	1734	
	Y	Outreach and education to decision makers	Clayton	20	P	216.75	4335	
C.3.j.ii	Y	List and report (AR) planned and potential GI implementation projects. For public where GI not feasible submit description and reason for no GI	Clayton	20	P	216.75	4335	
	Y	Load reduction report update	Clayton	10	ST	105.5	1055	
C.3	Y	Assist City staff with identifying opportunities along City-owned creek properties to meet C.10 and GI requirements	Clayton	0	P	216.75	0	TBD
	Y	Assist as needed at Program Development Cmmt. Mtg on Green Infrastructure support items	Clayton	12	ST	105.5	1266	General Assistance if requested
C.11/12.a.iii. (1)	Y	Progress report on creating list of watersheds where controls are being implemented and areas where control WILL be implemented during permit as well as monitoring data	Group/ watersheds/ Clayton input	10	ST/SE	162.75	1627.5	
C.11/12.a.iii. (2)	Y	Submit list of watersheds and management areas currently implemented and those that WILL be implemented during permit. Include details of controls	Group/ watersheds/ Clayton input	10	ST/SE	162.75	1627.5	
C.11/12.b	Y	Develop and submit assessment methodology and data collection program to quantify Mercury/PCB loads reduced	Group/ watersheds/ Clayton input	10	ST/SE	162.75	1627.5	

Total \$42,317

F. J. Kennedy and Associates, Inc.
Consulting Civil Engineers

*Project Management
Construction Management
Program Management
Engineering Services*

Billing Rates

Effective October 1, 2017

Principle Engineer	Design and Consulting Services	\$216.75/hr
Sr Engineer	Design and Consulting Services	\$162.75/hr
Engineering Technician	Design and Consulting Services	\$ 105.50/hr
Sr Engineering Inspector	ST Field Inspection Services	\$123.30/hr
	OT Field Inspection Services	\$169.00/hr
	DT Field Inspection Services	\$205.00/hr
Administration	Office Support	\$71.50/hr
Reproduction other than incidental prints or electronic media copies		Actual Cost
Travel Expenses – Local (Greater Bay Area/Driving Distance) – Included in Billing Rate		
Dedicated project vehicle		\$865.00/month
Travel Expenses – Commercial Carriers		Actual Cost

Rates are subject to annual review.

March 22, 2019

Laura Hoffmeister
Assistant to the City Manager
City of Clayton
lhoffmeister@ci.clayton.ca.us

Subject: Proposal to Prepare a Green Infrastructure Plan for City of Clayton

Dear Ms. Hoffmeister:

Geosyntec Consultants, Inc. (Geosyntec) is pleased to submit for your consideration this proposal to prepare a Green Infrastructure (GI) Plan for the City of Clayton (City). Geosyntec will use our experience with GI Plans; San Francisco Bay mercury and PCBs total maximum daily load (TMDL) requirements and reasonable assurance analyses (RAA); Geographic Information System (GIS) methods for GI facility siting and feasibility evaluation; Contra Costa County Stormwater Resource Plan (SWRP) development; Contra Costa Clean Water Program (CCCWP) technical support; and state and national experience in GI design and implementation to assist the City with developing a technically sound and compliant GI Plan.

The GI Plan will be developed with the City to comply with the San Francisco Bay Municipal Regional Permit (MRP) provision C.3.j, required GI Plan components. The MRP requirements for the GI Plan, including GI project mapping, calculating impervious retrofit targets, a tracking process, guidelines and specifications, funding options, and other components, will be developed from previous work completed by Geosyntec, saving project resources.

The Geosyntec Team is eager to assist the City with the development of a GI Plan that addresses the water quality and GI goals of the City and meets the requirements of the MRP. We have attached the proposed scope of work to this letter as Attachment A, and our rate schedules are provided as Attachment B. Please contact Lisa at (510) 285-2757 or Kelly at (510) 285-2720 at your convenience should you have any questions.

Sincerely,



Lisa Austin, P.E.
Principal



Kelly Havens, P.E.
Senior Engineer

Enclosures: Attachment A: Scope of Work; Attachment B: Rate Schedules



GI Plan Proposal Cost for City of Clayton

BUDGET

The project will be conducted on a time and materials basis. The estimated budget per task is as follows: **Task**

Total Budget

Task 1: Green Infrastructure Project Identification and Prioritization	\$15,000
Task 2: Review Planning Documents	\$5,000
Task 3: GI Funding Strategy Matrix	\$5,000
Task 4: GI Plan Development	\$15,000
Task 5: Project Management and Meetings	\$5,000
Total	\$45,000

**GEOSYNTEC CONSULTANTS
2019 RATE SCHEDULE**

Staff Professional	\$128
Senior Staff Professional	\$148
Professional	\$169
Project Professional	\$192
Senior Professional	\$215
Principal	\$236
Senior Principal	\$256
Technician I	\$ 65
Technician II	\$ 71
Senior Technician I	\$ 78
Senior Technician II	\$ 85
Site Manager I	\$ 90
Site Manager II	\$100
Construction Manager I	\$114
Construction Manager II	\$124
Designer	\$138
Senior Drafter/Senior CADD Operator	\$ 125
Drafter/CADD Operator/Artist	\$ 114
Project Administrator	\$ 70
Clerical	\$ 56
Direct Expenses	Cost plus 12%
Subcontract Services	Cost plus 12%
Technology/Communications Fee	3% of Professional Fees
Specialized Computer Applications (per hour)	\$ 15
Personal Automobile (per mile)	Current Gov't Rate
Photocopies (per page)	\$.09

Rates are provided on a confidential basis and are client and project specific.
Unless otherwise agreed, rates will be adjusted annually based on a minimum of the Produce Price Index for Engineering Services.

Rates for field equipment, health and safety equipment, and graphical supplies presented upon request.
Construction management fee presented upon request.

Laura Hoffmeister

From: Donna Bodine <DBodine@ncenet.com>
Sent: Tuesday, March 19, 2019 10:37 AM
To: Laura Hoffmeister
Subject: RE: Proposal for GI Plan for City of Clayton

Good morning Laura, thank you for considering NCE for your GI Plan preparation. Unfortunately we don't have the capacity to assist you with this task. I hope you are able to find a consultant that can help you meet your deadline.

Regards,
Donna Bodine



Donna Bodine
Senior Scientist

p (510) 215-3620 x313 **c** (510) 325-9727
f (510) 215-2898 **e** dbodine@ncenet.com

NCE
501 Canal Blvd., Suite I, Pt. Richmond, CA 94804
www.ncenet.com

Collaboration. Commitment. Confidence.SM

From: Laura Hoffmeister <lhoffmeister@ci.clayton.ca.us>
Sent: Monday, March 18, 2019 4:11 PM
To: Donna Bodine <DBodine@ncenet.com>
Subject: Proposal for GI Plan for City of Clayton

Hi Donna:

Thanks for taking the time to talk to me at the CCC stormwater meeting. As a follow up I said I would email you to see if your firm could provide a scope/cost proposal for undertaking a GI Plan in accordance with the MRP 2.0 requirements for the City of Clayton.

Could you please advise me if this is something that NCE could do.

Laura Hoffmeister
Assistant to the City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Email: LHoffmeister@ci.clayton.ca.us
Ph. desk/vm: (925) 673-7308
Ph. cell/vm/txt: (925) 250-8532
Fax: (925) 672-4917

Laura Hoffmeister

Subject: FW: GI Plan question

From: Chris Sommers [mailto:csommers@eoainc.com]
Sent: Saturday, March 23, 2019 7:28 AM
To: Laura Hoffmeister
Subject: Re: GI Plan question

Laura -

Its good to hear from you. Hope this email finds you well.

We very much appreciate your offer to submit a proposal. You are correct that we are assisting a fair number of cities in other counties on Green (Stormwater) infrastructure planning, but none in Contra Costa County (CCC). Given that we are less familiar with the countywide products and approaches being taken in CCC, were probably not the best positioned firm to assist Clayton on this specific project. Our understanding is that Dan Cloak, Geosyntec, LWA and other firms are currently helping other CCC communities with the development of their plans. My suggestion is that you contact one (or more) of them for assistance.

We'd very much like you work with Clayton in the future, so in the future please let me know if there are any other projects that you may need assistance with.

Thanks,

Chris
Vice President
EOA, Inc.



Sent from my iPhone

On Mar 22, 2019, at 3:56 PM, Laura Hoffmeister <lhoffmeister@ci.clayton.ca.us> wrote:

Hi Chris – hope you are doing well

The City of Clayton is looking to get quote for doing the GI plan as stipulated in MRP 2.0

I understand EOA is doing this work for some of the Alameda county cities – not sure if any CC cites are clients of EOA for this

If I want to have EOA give me a quote who do I contact?

Laura Hoffmeister
Assistant to the City Manager
City of Clayton

Laura Hoffmeister

Subject: FW: Follow-up on request for quote on GI Plan development

From: Sandy Mathews [<mailto:sandym@lwa.com>]
Sent: Thursday, April 4, 2019 11:50 AM
To: Laura Hoffmeister
Subject: Follow-up on request for quote on GI Plan development for City of Clayton

Laura,

I have been coordinating with my team and unfortunately we cannot respond to your request for a scope and budget for the GI Plan Development. We are not able to respond to your request in the time frame desired, and are not taking on additional work in this area at this time. Hopefully there will be other opportunities that we can assist Clayton on in the future.

Sandy

Sandy Mathews, CPESC
Larry Walker Associates
2397 Shattuck Ave, Suite 204
Berkeley, CA 94704
510-883-9873 ext. 412
SandyM@LWA.com

LARRY WALKER ASSOCIATES

Agenda Date: 4-16-2019

Agenda Item: 3j

2019 WEDNESDAY NIGHT CLASSIC CAR SHOW SCHEDULE

The Wednesday Night Classic Car Show is a series of six (6) Classic Car Shows from the immediate Clayton Valley Area. Each Car Show will begin at 6:00 PM and end at 8:00 PM. Entertainment will be provided by DJ.

These Classic Car Shows will be held in the City of Clayton Parking Lot at 6095 Main Street. In addition, it is planned to use a portion of the undeveloped land behind the Clayton Community Church property, adjacent to the KinderCare Parking Lot, for Vintage Car parking in excess of the twenty (20) Vintage Cars parked in the City of Clayton Parking Lot at 6095 Main Street.

2019 CLASSIC CAR SHOW DATES:

- June 12
- June 26
- July 10
- July 24
- August 7
- August 21

ENTERTAINMENT:

Classic Car Show & DJ Don Vogel
Classic Car Show & DJ Don Vogel

April 11, 2019

June 2019

◀ May 2019

Jul 2019 ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4 City Council Meeting	5	6 CCC Mayors' Conference	7	8 Saturday Concert in The Grove
9	10	11 Planning Commission Meeting	12 Classic Car Show & DJ	13	14	15
16 Father's Day	17	18 City Council Meeting	19	20	21	22 Saturday Concert in The Grove
23	24	25 Planning Commission Meeting	26 Classic Car Show & DJ	27	28	29
30						

July 2019

◀ Jun 2019

Aug 2019 ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2 City Council Meeting	3	4 Indep. Day CITY HALL CLOSED	5	6 Saturday Concert in The Grove
7	8	9 Planning Commission Meeting	10 Classic Car Show & DJ	11 CCC Mayors' Conference	12	13
14	15	16 City Council Meeting	17	18	19	20 Saturday Concert in The Grove
21	22	23 Planning Commission Meeting	24 Classic Car Show & DJ	25	26	27
28	29	30	31			

◀ Jul 2019

August 2019

Sep 2019 ▶

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

September 2019

◀ Aug 2019

Oct 2019 ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2 Labor Day CITY HALL CLOSED	3 City Council Meeting	4	5 CCC Mayors' Conference	6	7
8	9	10 Planning Commission Meeting	11 Patriot Day	12	13	14 Saturday Concert in The Grove
15	16	17 City Council Meeting	18	19	20	21
22	23 Fall begins	24 Planning Commission Meeting	25	26	27	28
29	30					

MDSA STORM BOYS SOCCER TEAM
for a
Remarkably Successful 2018-19 Season
And
2nd Place Finish in the U-10 Division of the
AYSO Western Championship Tournament
Clayton, CA 2019

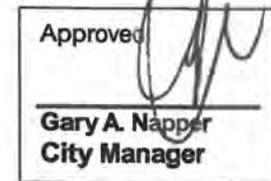
Agenda Date: 4-16-2019

Agenda Item: 4a



Agenda Date: 4-16-2019

Agenda Item: 8a



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, INTERIM COMMUNITY DEVELOPMENT DIRECTOR *JW*

DATE: APRIL 16, 2019

SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE TO AMEND THE MUNICIPAL CODE SIGN PROVISIONS FOR TEMPORARY NONCOMMERCIAL SIGNAGE (ZOA-01-19)

RECOMMENDATION

Following the staff report and opportunity for public comments, it is recommended the City Council move to have Ordinance No. 485 be read by title and number only; and, then, by separate motion approve the Second Reading and Adoption of Ordinance No. 485 to amend Clayton Municipal Code (CMC) Chapter 15.08 - Sign Provisions that restricts temporary noncommercial signs to a maximum size up to sixteen (16) square feet in area, with no limit on the aggregate signage displayed at one time (**Attachment A**).

BACKGROUND

At its meeting on February 5, 2019, the City Council discussed policies regarding temporary noncommercial signage pertaining to individual sign size as well as aggregate sign size limitations. As a consequence of this discussion, the Council directed staff to provide for formal consideration an amendment to the City's Municipal Code Sign Provisions for temporary noncommercial signage to include the following provisions: 1) limit individual sign size to sixteen (16) square feet in area, and 2) no aggregate size limit.

Thereafter, at the Planning Commission's March 12, 2019 meeting, staff brought forward this matter to the Commission for its consideration. Commissioners discussed the proposed amendments at length, wanting to balance the fundamental rights and interests of assuring freedom of speech as guaranteed under the First Amendment of the Constitution of the United States, while, at the same time, assuring acceptable community aesthetics and avoiding blight. There was clear support by Commissioners to guarantee First Amendment

rights for freedom of speech, but uncertainty and concerns were raised by Commissioners about the absence of an aggregate size limit on signage, the issue being the only limit would be on individual sign size at a maximum of sixteen (16) square feet. Not being able to reach a consensus to balance the interests of assuring the described First Amendment rights, while assuring an acceptable level of community aesthetics and avoiding blight, the Planning Commission adopted a Resolution of "no recommendation".

At its meeting of April 2, 2019, the City Council received the Planning Commission's Resolution of "no recommendation". The Council discussed the matter, including the Commission's concerns about assuring acceptable Community aesthetics. The Council majority believed the single limitation of a maximum size of sixteen (16) square feet for an individual temporary noncommercial sign should be sufficient to address possible concerns about community aesthetics, while allowing for and supporting rights to freedom of speech as guaranteed under the First Amendment of the Constitution of the United States. Accordingly, the Council majority, by a 4-1 vote, approved Introduction and First Reading of Ordinance No. 485 to amend Chapter 15.08 - Sign Provisions that restricts temporary noncommercial signs to a maximum size up to sixteen (16) square feet in area, with no limit on the aggregate signage displayed at one time.

DISCUSSION

A primary objective for updating CMC Section 15.08 - Sign Provisions was to incorporate best practices and comply with the judicial determinations in the United States Supreme Court Case *Reed vs. Gilbert, Arizona*. A fundamental message from this court decision is that jurisdictions' sign codes must be content-neutral and that a jurisdiction's sign code may be deemed content-based on its face if it defines categories of signs based on the message (e.g., political, ideological, etc.), with different restrictions based on individual categories. The City of Clayton addressed this issue previously by modifying the City's Municipal Code Sign Provisions from referring to individual categories, like "political" signs, to bringing these signs together under the term of temporary noncommercial signs, with consistent restrictions for these signs. This action by the City of Clayton is consistent with the *Reed vs. Town of Gilbert* decision that jurisdictions are to avoid restrictions based on topic, idea, or message. In proposed Ordinance No. 485, all temporary noncommercial signs would be treated equally in terms of restrictions, which is also a directive from the *Reed vs. Town of Gilbert* decision.

FISCAL IMPACTS

Staff anticipates the enforcement of this proposed amendment to the Municipal Code Sign Provisions to be addressed as part of the City's regular Code Enforcement efforts and not require additional staff resources.

ATTACHMENTS

- A. Ordinance No. 485
- B. Staff Report from April 2, 2019 City Council Meeting

ORDINANCE NO. 485

AN ORDINANCE AMENDING CHAPTER 15.08 OF THE CLAYTON MUNICIPAL CODE REGARDING SIGN PROVISIONS

THE CITY COUNCIL

City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, the City Council wishes to amend its temporary noncommercial signage regulations to allow individual signs up to sixteen (16) square feet in area and to not limit the aggregate sign area displayed at one time; and

WHEREAS, the Planning Commission on March 12, 2019 held a duly-noticed public hearing on the matter and, as a result of being unable to reach a consensus on the matter after a lengthy discussion, adopted and forwarded a resolution of "no recommendation" to the City Council; and

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

WHEREAS, this Ordinance will ensure that City residents and others are able to exercise one's constitutional right to free speech subject to the City's substantial interests in aesthetics and otherwise ensuring the general health, safety and welfare; and

WHEREAS, the City Council has reviewed all written evidence and oral testimony presented to date on this matter; and

WHEREAS, the City Council has determined that the proposed amendments to the Clayton Municipal Code do not conflict with and are in general conformance with the City of Clayton General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Amendment to Clayton Municipal Code Section 15.08.040.G. Clayton Municipal Code Section 15.08.040.G is hereby amended to read in its entirety as follows:

G. Temporary noncommercial signs on private real property, provided each individual sign displayed does not exceed sixteen (16) square feet in area, with no limit on the aggregate signage displayed at one time.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. CEQA. The City Council hereby determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

Section 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a noticed public hearing during a regular public meeting of the City Council of the City of Clayton, California held on April 2, 2019.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on April 16, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

TUIJA CATALANO, Mayor

ATTEST

JANET CALDERON, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton held on April 2, 2019, and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on April 16, 2019.

Janet Calderon, City Clerk

COPY

EXHIBIT B

Agenda Date: 4-02-2019

Agenda Item: 7a



Approved: 
Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS
FROM: DAVID WOLTERING, INTERIM COMMUNITY DEVELOPMENT DIRECTOR 
DATE: APRIL 2, 2019
SUBJECT: ORDINANCE TO AMEND THE MUNICIPAL CODE SIGN PROVISIONS FOR TEMPORARY NONCOMMERCIAL SIGNAGE (ZOA-01-19)

RECOMMENDATION

Following the Public Hearing it is recommended the City Council approve Ordinance No. 485 for Introduction/First Reading to amend Chapter 15.08 - Sign Provisions that restricts temporary noncommercial signs to a maximum size up to sixteen (16) square feet in area (Attachment A).

BACKGROUND

At its meeting on February 5, 2019, the City Council discussed policies regarding temporary noncommercial signage pertaining to individual sign size as well as aggregate sign size limitations (Attachment B). As a consequence of this discussion, the Council directed staff to provide for formal consideration an amendment to the City's Municipal Code Sign Provisions for temporary noncommercial signage to include the following provisions: 1) limit individual sign size to sixteen (16) square feet in area, and 2) no aggregate size limit.

The February 5, 2019 action of the City Council continues the community's discussion of this matter. On May 16, 2017, the City Council introduced Ordinance No. 475 updating Clayton Municipal Code (CMC) Section 15.08 - Sign Provisions to incorporate best practices and to comply with the recent (2015) United States Supreme Court Case *Reed vs. Town of Gilbert, Arizona*. This court case provided that a jurisdiction's sign code must be content-neutral. Therefore, one of the revisions to the Clayton Municipal Code Sign Provisions was to amend Section 15.08.040.G, which allowed political signs to be a maximum of three (3) square feet in area, with one (1) sign per property for each candidate, party, or issue. The staff-proposed draft amended Code removed reference to political signs as well as allowed

"temporary noncommercial signs" to have an aggregate limit of thirty (30) square feet of signage area per parcel, with no limitation on the number of individual signs. At this May 16, 2017 City Council meeting, the Council expressed its concern regarding the proposed change for temporary noncommercial signage from a maximum aggregate of three (3) square feet of area per parcel to a maximum aggregate of thirty (30) square feet of area per parcel (**Attachment C**). While the thirty (30) square-foot aggregate limit was a staff policy recommendation, staff had referenced an eighty (80) square-foot aggregate maximum sign area having been upheld by the courts for temporary noncommercial signage. The Council ultimately decided to keep the aggregate size for temporary noncommercial signs of three (3) square feet. The Ordinance was eventually adopted with this provision by the Council on July 18, 2017 (**Attachment D**).

During the 2018 municipal election, the allowed maximum size and aggregate area of signage related to temporary noncommercial signs on private property was raised as a constitutional issue when a property owner received a courtesy notice of violation based on the adopted Ordinance. At that time, the City Manager determined to suspend the enforcement of Section 15.08.040.G of the Municipal Code Sign Provisions until the matter could be revisited by the City Council. The City Council revisited the matter at its February 5, 2019 regular City Council meeting, directing staff at that meeting to prepare for consideration amendments to the City's Municipal Code Sign Provisions related to temporary noncommercial signs: 1) limit individual sign size to sixteen (16) square feet in area, and 2) no aggregate size limit.

Thereafter, at the Planning Commission's March 12, 2019 meeting, staff brought forward this matter to the Commission for its consideration. Commissioners discussed the proposed amendments at length, wanting to balance the fundamental rights and interests of assuring freedom of speech as guaranteed under the First Amendment of the Constitution of the United States, while, at the same time, assuring acceptable community aesthetics and avoiding blight. There was clear support by Commissioners to guarantee First Amendment rights for freedom of speech, but uncertainty and concerns were raised by Commissioners about the absence of an aggregate size limit on signage, the issue being the only limit would be on individual sign size at a maximum of 16 square feet, with a 42 inch separation between individual signs. Otherwise, there would be no limit on the number of signs, the location of the signs (e.g., window, exterior elevation, ground, or rooftop), the duration of how long the signs could be displayed, or, the aggregate size of all the signs placed on the property. It was understood by Commissioners that individual signs could be various dimensions up to a maximum of sixteen (16) square feet in area.

Not being able to reach a consensus to balance the interests of assuring the described First Amendment rights, while assuring an acceptable level of community aesthetics and avoiding blight, the Planning Commission adopted a Resolution of "no recommendation". A copy of the adopted Resolution and an excerpt of the March 12, 2019 Planning Commission minutes are attached (**Attachments E & F**).

DISCUSSION

A primary objective for updating Clayton Municipal Code (CMC) Section 15.08 - Sign Provisions was to incorporate best practices and comply with the judicial determinations in the United States Supreme Court Case *Reed vs. Gilbert, Arizona*. A fundamental message from this court decision is that jurisdictions' sign codes must be content-neutral and that a jurisdiction's sign code may be deemed content-based on its face if it defines categories of signs based on the message (e.g., political, ideological, etc.), with different restrictions based on individual categories. The City of Clayton addressed this issue previously by modifying the City's Municipal Code Sign Provisions from referring to individual categories, like "political" signs, to bringing these signs together under the term of temporary noncommercial signs, with consistent restrictions for these signs. This action by the City of Clayton seems consistent with the *Reed vs. Town of Gilbert* decision that jurisdictions are to avoid restrictions based on topic, idea, or message. In the proposed Ordinance, all temporary noncommercial signs would be treated equally in terms of restrictions.

It should be noted, however, the *Reed vs. Town of Gilbert* case does indicate jurisdictions can control aspects of these temporary noncommercial signs that do not affect the message. Examples given in the decision include size, building materials, lighting, moving parts, and portability. And, as previously indicated by the City Attorney, the courts have upheld jurisdictions' restrictions related to sign size and the aggregate size of the total number of signs on a property. A maximum aggregate of 80 square feet has been indicated by staff as a size that the courts upheld in the past. Given the Planning Commission's struggle with the matter of not having an aggregate size limit, the Council may want to revisit establishing an aggregate signage area maximum number to address balancing the concern of avoiding blight and better assuring acceptable community aesthetics, while at the same time, assuring First Amendment rights to freedom of speech. The current proposal to amend the City's Sign Provisions would establish only a maximum individual sign size limit of sixteen (16) square feet and, otherwise, no limit on the number, location, duration of display, or aggregate signage area of temporary noncommercial signs on private property.

FISCAL IMPACTS

Staff anticipates the enforcement of this proposed amendment to the Municipal Code Sign Provisions to be addressed as part of the City's regular Code Enforcement efforts and not require additional staff resources. Likewise, if the City Council would include a limitation on the aggregate size of temporary noncommercial signage area on an individual private property, while this could increase the demand for Code Enforcement work, it is anticipated this demand would be addressed as part of regular Code Enforcement efforts.

ATTACHMENTS

- A. Ordinance No. 485
- B. Excerpt of the Staff Report and Minutes from the February 5, 2019 City Council Meeting
- C. Excerpt of the Minutes from the May 16, 2017 City Council Meeting
- D. Ordinance No. 475
- E. Planning Commission Resolution No. 01-19 of "No Recommendation"
- F. Excerpt of the Minutes from March 12, 2019 Planning Commission Meeting



Agenda Date: 4-16-2019

Agenda Item: 8b

Approved:


Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 16 APRIL 2019

SUBJECT: COUNCIL MEMBER REQUEST TO DISCUSS THE "CASA COMPACT" AND REQUEST TO TAKE AN OFFICIAL CITY POSITION ON THE PLAN

RECOMMENDATION

Following City Council discussion and opportunity for public comment, it is recommended the City Council provide policy direction or action on this request.

BACKGROUND

At the close of the City Council public meeting held on 05 March 2019, under "Council Items" for future meetings Council Member Wan requested a future agenda item for discussion of the recent CASA Compact [Committee to House the Bay Area] and consider the City Council taking an official position on the Plan. In consultation with Mayor Catalano and Council Member Wan, and after review of future agenda tracking items by the City Manager, this public meeting was selected for placement of the request on the agenda.

RESOURCE MATERIALS AND INFORMATION

Consistent with Council policy on individual council member requests for agenda items, no independent staff work has been performed on this matter. However, to facilitate public information and Council discussion, the following CASA Compact related materials have been attached:

Exhibit A:	PowerPoint Presentation on CASA Compact – March 2019	[28 pp.]
Exhibit B:	Table of State legislation introduced from CASA Compact – April 2019	[9 pp.]
Exhibit C:	Contra Costa County Jurisdictions' Housing and Policy Framework Proposal	[37 pp.]
Exhibit D:	ABAG-MTC Housing Legislative Working Group Bill Tracker – April 2019	[25 pp.]
Exhibit E:	More HOMES Act of 2019 Fact Sheet (Senator Scott Wiener, 11 th District)	[4 pp.]
Exhibit F:	Position Paper on Housing – Cities Association of Santa Clara County	[2 pp.]



Overview of the CASA Compact



March 2019

WHAT IS CASA?



COMMITTEE TO HOUSE
THE BAY AREA

CASA is a panel of Bay Area leaders across various sectors convened by MTC and ABAG in 2017 to address the region's housing affordability crisis by identifying and unifying behind bold, game-changing ideas.



CASA PREAMBLE – 3 P'S

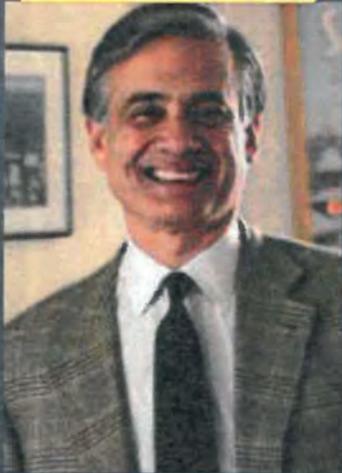
The Bay Area faces a housing crisis because we have failed at three tasks:

- Failed to **produce** enough housing for residents of all income levels
- Failed to **preserve** existing affordable housing
- Failed to **protect** current residents from displacement



CASA LEADERSHIP TEAM

Developer



Mike Covarrubias
TMG Partners

*Affordable
Housing Co.*



Leslye Corsiglia
Silicon Valley @
Home CEO

Philanthropy



Fred Blackwell
San Francisco
Foundation CEO

*Regional
Government*



Steve Heminger
MTC/ABAG
Executive Director



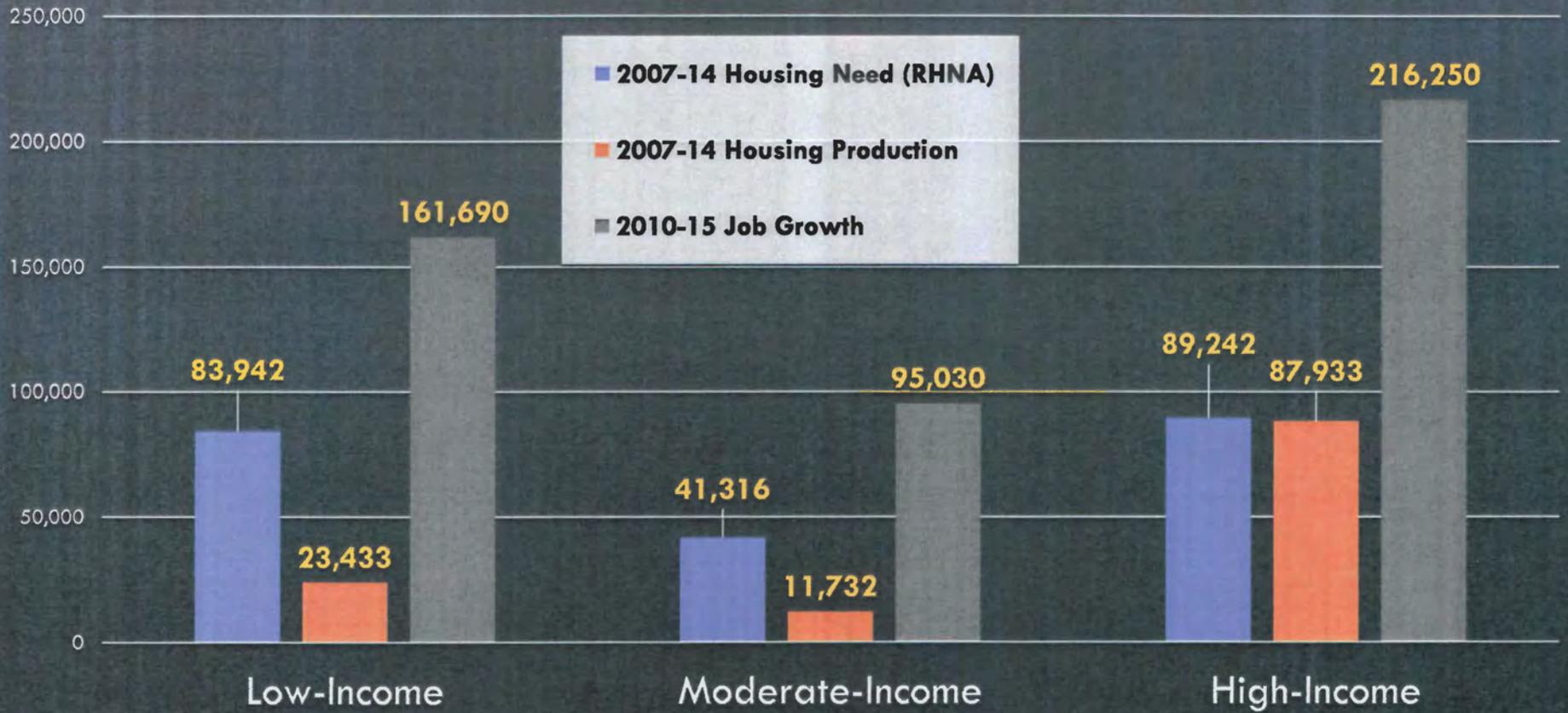
ASSOCIATION OF BAY AREA GOVERNMENTS
METROPOLITAN TRANSPORTATION COMMISSION

Job Growth Far Surpassed New Housing Between 2010 to 2016



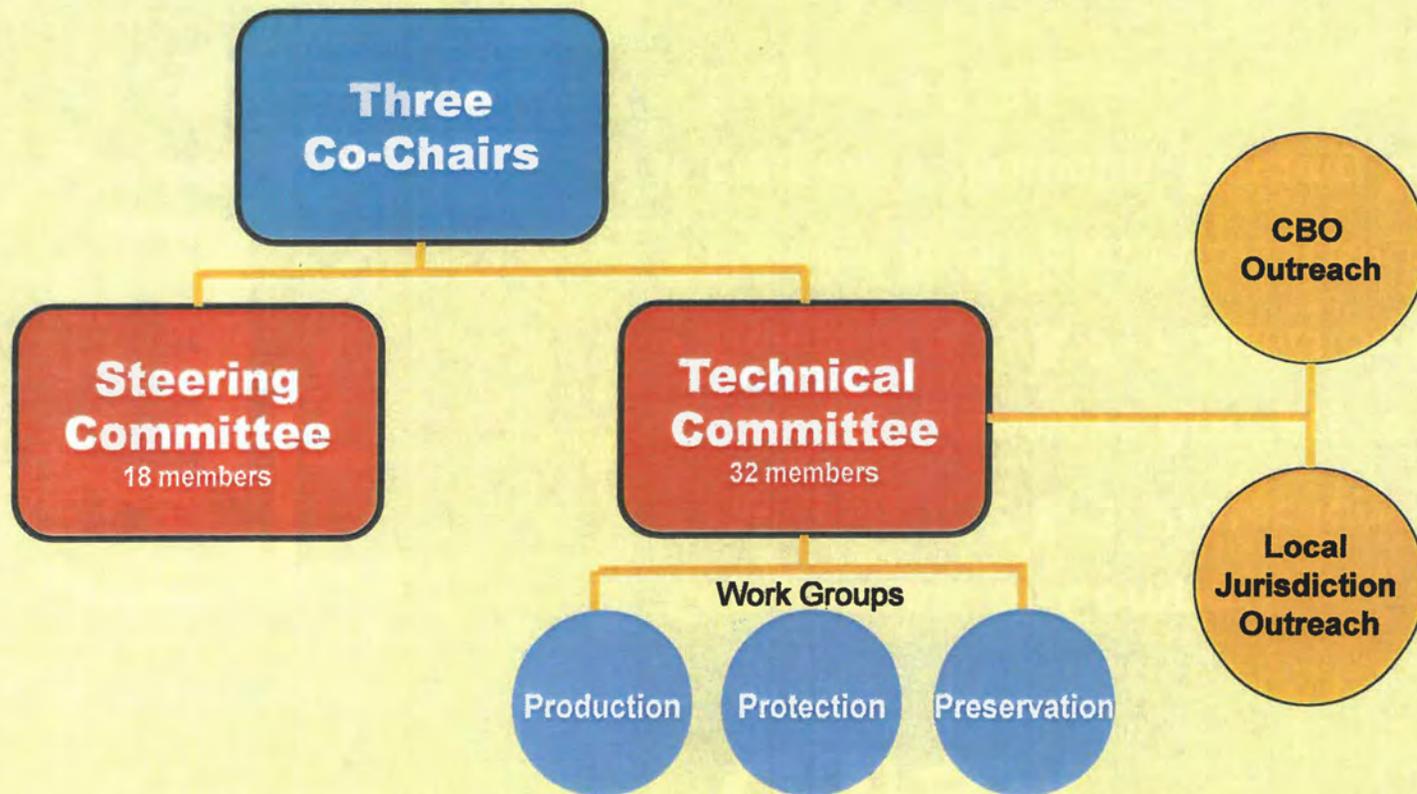
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The Region Has Not Built Enough Housing to Meet Demand



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METROPOLITAN TRANSPORTATION COMMISSION

CASA COMMITTEE STRUCTURE



CASA COMPACT

An Emergency Policy Package
to Confront the Housing Crisis
in the San Francisco Bay Area

December 2018



CASA
The Committee to
House the Bay Area

CASA

Components of Compact

- Elements 1, 2 & 3: Protection
- Element 4: Remove Barriers to ADUs
- Elements 5, 6 & 7: Production Initiatives
- Element 8: Surplus Public Land
- Element 9: Potential Funding Sources
- Element 10: Regional Housing Enterprise



ASSOCIATION OF BAY AREA GOVERNMENTS
METROPOLITAN TRANSPORTATION COMMISSION

ELEMENT #1: JUST CAUSE EVICTION POLICY

- Ensure Bay Area tenants are protected from arbitrary evictions by adopting region-wide requirement landlords cite specific "just causes" (fault and no-fault) for evictions, e.g. failure to pay rent, violating lease.



ELEMENT #2: RENT CAP

- Establish Bay Area-wide emergency rent cap that limits annual rent increases to reasonable amount in order to decrease number of households at risk of displacement and to prevent homelessness.
- For emergency period (15 years), CPI+5% in any one year with certain exemptions and banking provision.



ELEMENT #3: RENT ASSISTANCE AND ACCESS TO LEGAL COUNSEL

- For low-income tenants facing eviction: access to free legal counsel and emergency rent assistance for tenants with an urgent, temporary financial gap.
- Regional Housing Enterprise (Element #10) would establish policy guidelines and provide funding for programs.



ELEMENT #4: REMOVE REGULATORY BARRIERS TO ACCESSORY DWELLING UNITS (ADUs)

- Extend current Bay Area best practices on Accessory Dwelling Units (ADUs) and Junior ADUs to all jurisdictions in the region.
- Allow an ADU and a Junior ADU on single family lots and multiple ADUs in existing multi-family buildings with ministerial approval.
- Require impact fees for ADUs and tiny homes be charged on a per-square foot basis and only on net new living area above 500 sq. ft.



ELEMENT #5: MINIMUM ZONING NEAR TRANSIT

- Establish minimum zoning for housing in neighborhoods with:
 - High quality bus service* – within 1/2 mile of stop, allow up to 36 ft.
 - Major transit stop* (rail and ferry stations) – within 1/4 mile, allow up to 55 ft.
- Make housing an eligible use on large, **commercially-zoned parcels near job centers and in areas served by high quality transit.**
- Retain local development standards such as setbacks, unit sizes and lot coverage if feasible with heights allowances above.
- For “sensitive communities” in or adjacent to a **major transit stop**, defer height increases above 36 ft. until jurisdiction develops community plan.

TRANSIT ACCESS AREAS

- Upzoning in Sensitive Community Areas (outlined in red) within 1/4-mile of Major Transit Stop (rail/ferry) is limited to 36' for up to five years.
- High quality bus service areas are shown in orange and limited to East Bay, San Jose and S.F.

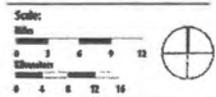


Transit Access Areas

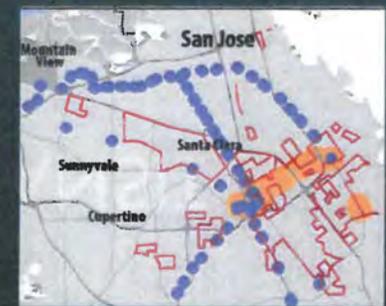
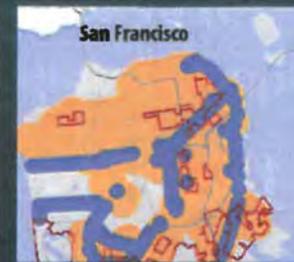
Transit Access Areas are currently defined as areas within 1/4 mile of a rail station or ferry terminal served by transit and areas within a 1/2-mile radius of a bus stop served by a bus with headways of 15 minutes or less during both the morning and evening peak periods (6 AM to 10 AM and 3 PM to 7 PM) and average weekend headways of no more than 30 minutes from 8 AM to 10 PM, inclusive, on Saturday and Sunday.

- Major Transit Stops - Rail and Ferry
- High-Quality Bus Service Areas
- Urban - Built Up Area
- Sensitive Community Areas

	Population
Oakland	Over 350,000
Sunnyvale	50,000 to 125,000
Albany	Below 25,000



Source: MTC
Map Update: January 2019



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METROPOLITAN TRANSPORTATION COMMISSION

ELEMENT #6: GOOD GOVERNMENT REFORMS TO HOUSING APPROVAL PROCESS

- Establish 'good government' standards for entitlement and permitting of zoning-compliant residential projects, including but not limited to:
 - Require local jurisdictions to create and maintain in publicly accessible format all rules, codes and standards that apply residential applications, including how an application is deemed complete.
 - Rules, fees and historic designation are set at the date of a an application's completeness.
 - For zoning-compliant residential projects, no more than three de novo public hearings should be required.



ELEMENT #7: EXPEDITED APPROVALS AND FINANCIAL INCENTIVES FOR “MISSING MIDDLE”

- Accelerate approval of **zoning-compliant projects** that provide **on-site affordability for “missing middle”** (restrict $\geq 20\%$ units to 80-150% AMI), pay **prevailing wage** and use **apprentice labor**.
- Incentives offered to offset higher costs to developer:
 - 15 years of property tax increment abatement, modeled on NYC program, aimed at missing middle housing
 - Impact fees capped at a reasonable level
 - Density bonus of 35%
 - Parking minimums reduced to 50% of local requirement
 - Relief from strict liability standards for ownership



ELEMENT #8: UNLOCK PUBLIC LAND FOR HOUSING

- Promote increased utilization of public land for affordable housing through variety of legislative and regulatory changes, as well as the creation of new regional coordination and planning functions.



ELEMENT #9: FUNDING TO FINANCE THE COMPACT

- CASA identified **\$2.5 billion** in annual funding gap needed to adequately address the 3Ps including:
 - **\$375 million** for preservation (3,750 units/year)
 - **\$50 million** for protection (24,000 households/year)
 - **\$2.1 billion** for production (14,000 units/year)
- Set target of **\$1.5 billion/year** in new revenue from a broad range of sources, including property owners, developers, employers, local governments, taxpayers and philanthropy to fund implementation of the CASA Compact.



Annual Funding Gap Estimate for CASA Initiatives: \$2.5 billion

Protection – Access to Legal Counsel, Emergency Rental Assistance

Avg. number of households protected/year	24,000
Annual Funding Gap for Protection	\$50 million



Production – Lower-Income Subsidized Housing

Avg. funding gap	\$150,000 / unit
Annual CASA target	14,000 units
Annual Funding Gap for Production	\$2.1 billion

Preservation – Market-Rate and Subsidized Affordable Housing

Avg. funding gap	\$100,000 / unit
Annual CASA target (over 8 years)	3,750 units
Annual Funding Gap for Preservation	\$375 million



ASSOCIATION OF BAY AREA GOVERNMENTS
METROPOLITAN TRANSPORTATION COMMISSION

Menu of Funding Sources to Implement the Compact

Potential New Sources of Revenue Target: \$1.5 billion per year

Property Owners

\$100 million
1 percent
Vacant Homes Tax
on the assessed value
of vacant home

\$100 million
\$48 per year
Regionwide Parcel Tax

Philanthropy

Chan-Zuckerberg-
SF Foundation Initiative
Policy and
Infrastructure Funds

Developers

\$200 million
Variable Commercial
Linkage Fee
(\$5-\$20 per sq. ft.)
on new construction
with rate varied
depending on location
to incentivize infill
development

\$200 million
Flat Commercial
Linkage Fee
(\$10 per sq. ft.)
on new construction

Employers

\$200 million
0.1%-0.75%
Gross Receipts Tax
variable rates based on
sector and firm size

\$200 million
\$40-120 per job
Head Tax
variable rates based on
number of employees,
jobs-housing ratio and
transit access

Local Governments

\$200 million
25 percent
Redevelopment
Revenue Set-Aside
for affordable housing
in TPAs (including
portion for schools and
special districts)

\$100 million
20 percent
Revenue Sharing
Contribution
from future property tax
growth

Taxpayers

\$400 million
1/4-cent
Regionwide Sales Tax

\$100 million
5-Yr. Term
General Obligation
Bonds
issued by a regional
housing enterprise,
renewed every five
years



Distribution of New Sources of Funding to Implement the Compact

Proposed Allocation of New Revenue Raised by CASA



Local Jurisdiction Incentives up to 10 percent

Partial payments to local jurisdictions to make up for lost revenue due to proposed cap on impact fees. Other incentives.

Tenant Protection Services up to 10 percent

Administered by a non-profit entity. Short-term rental assistance and access to legal counsel for low- and moderate-income households.

Affordable Housing Preservation up to 20 percent

Grants and financing for acquisition and rehab and "expiring" units. Priority to projects in low-income neighborhoods facing displacement.

Affordable Housing Production min. 60 percent

Grants and financing. Priority to projects in Transit-Priority Areas (TPAs) and High-Opportunity Areas (HOAs). Construction training programs. Land lease/acquisition/disposition program.

Distribution of New Sources of Funding to Implement the Compact

Return to Source Proposal

- **75 percent spent w/in county of origin**
- **25 percent to regional program for revenue-sharing**
- **Subject to performance/policy outcomes**

Local Jurisdiction Incentives	10%
Tenant Protection Services	10%
Affordable Housing Preservation	20%
Affordable Housing Production	60%

Regional
Revenue-Sharing
25 percent

County of Origin
75 percent



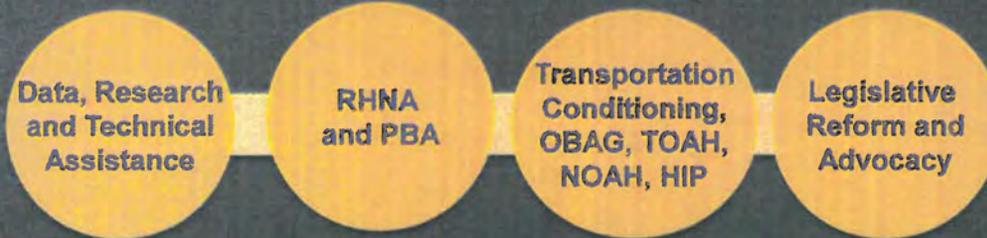
ELEMENT #10: REGIONAL HOUSING ENTERPRISE

- Establish a regional leadership entity to fund affordable housing and all elements of the CASA Compact, track and report progress, and provide incentives and technical assistance to local government.
- It would not have direct land use/zoning authority or play a regulatory/enforcement role.



Regional Housing Enterprise

MTC/ABAG Current Roles and Responsibilities



Regional Housing Enterprise Roles



Regional Housing Enterprise Governance

- Independent board w/ representation from MTC, ABAG and key stakeholders
- Supported by MTC/ABAG consolidated staff (with additions in specialized areas such as debt issuance, land leasing, etc.)



CASA Work Windows

2018

2019

2020

2021

2022

**CASA
Development**

**Legislative
Package**

**Election #1
Presidential**

**PBA/RHNA
Adoption**

**Election #2
Gubernatorial**



ASSOCIATION OF BAY AREA GOVERNMENTS
METROPOLITAN TRANSPORTATION COMMISSION

MTC/ABAG LEGISLATIVE TASK FORCE

- Consistent with ABAG/MTC governing board direction, we are convening a legislative task force to review housing legislation related to CASA comprised of two city representatives from each county and one county representative
- Purpose: provide input/feedback to share with ABAG/MTC
- Letter sent on February 28th; nominations requested by March 14th but will accept late nominations
- Targeting early April to hold first meeting



ASSOCIATION OF BAY AREA GOVERNMENTS
METROPOLITAN TRANSPORTATION COMMISSION

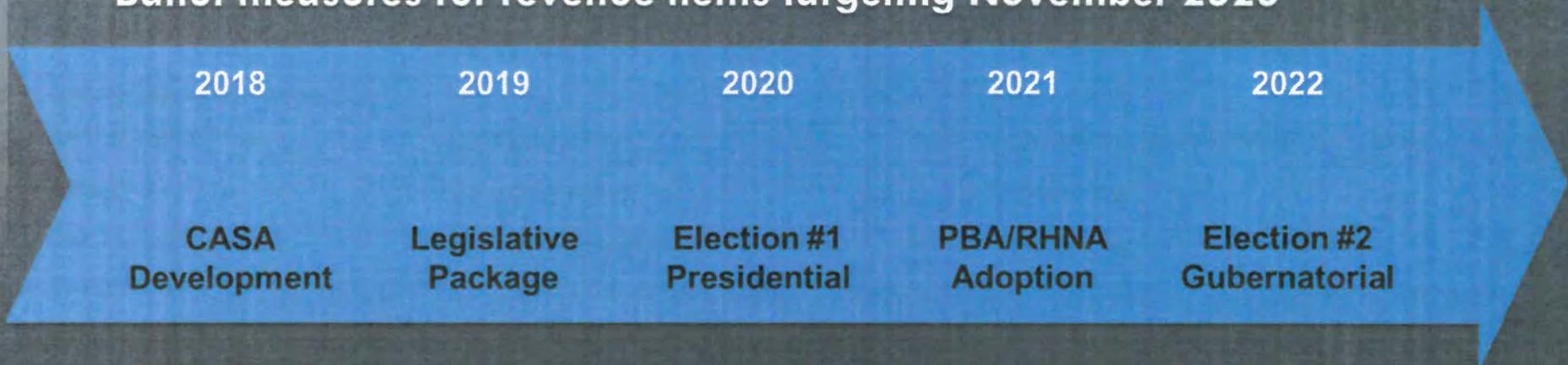
LEGISLATIVE UPDATE

CASA Item	Related Bill (s) in Print	Comments
1. Just Cause Eviction	AB 1481 (Bonta)	Spot bill
2. Rent Cap	AB 36 (Bloom)	Spot bill
3. Rent Assistance & Access to Legal Counsel	SB 18 (Skinner)	Substantive; statewide
4. ADUs	AB 68 (Ting)/AB 69 (Ting)	Substantive; statewide
5. Minimum Zoning Near Transit	SB 50 (Wiener)	Substantive; statewide
6. Good Government	AB 1483 (Grayson), AB 1484 (Grayson), SB 330 (Skinner)	Substantive; statewide
7. Streamlining	AB 1485 (Wicks)/AB 1706 (Quirk)	Spot bills
8. Public Lands	AB 1486 (Ting)	Substantive; statewide
9. Funding	AB 1497 (Chiu)	Spot bill
10. Regional Housing Enterprise		



Next Steps

- Outreach and education to local elected officials and public
- State legislation to implement **CASA Compact**
- Ballot measures for revenue items targeting **November 2020**



2019 California Housing Bill Matrix

Last Updated: April 2, 2019

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PROTECTION				
Rent Cap	AB 36 (Bloom)	Loosens, but does not repeal, Costa Hawkins to allow rent control to be imposed on single family homes and multifamily buildings 10 years or older, with the exception of buildings owned by landlords who own just one or two units.		
	AB 1482 (Chiu)	Caps annual rent increases by an unspecified amount above the percent change in the cost of living. Exempts housing subject to a local ordinance that is more restrictive than the bill. Prohibits termination of tenancy to avoid the bill's provisions.	√	
Just Cause Eviction	AB 1481 (Bonta)	Prohibits eviction of a tenant without just cause stated in writing. Requires tenant be provided a notice of violation of lease and opportunity to cure violation prior to issuance of notice of termination.	√	
	AB 1697 (Grayson)	For a lease in which the tenant has occupied the property for 12 months or more, prohibits eviction of a tenant without just cause stated in writing.	√	
Tenant Organizing Rights	SB 529 (Durazo)	Declares that tenants have the right to form, join, and participate in the activities of a tenant association, subject to any restrictions as may be imposed by law, or to refuse to join or participate in the activities of a tenant association.		
Rent Assistance & Access to Legal Counsel	SB 18 (Skinner)	<ul style="list-style-type: none"> • Authorizes grant program to be administered by Department of Housing and Community Development (HCD) to provide emergency rental assistance and grants for local governments to provide access to legal counsel for tenants facing eviction. • Requires HCD to post all state laws applicable to the tenant-landlord relationship on its web site. 	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION				
Accessory Dwelling Units (ADUs)	AB 68 (Ting)	<ul style="list-style-type: none"> • Prohibits local ADU standards from including certain requirements related to minimum lot size, floor area ratio or lot coverage, and parking spaces. • Requires an ADU (attached or detached) of at least 800 square feet and 16 feet in height to be allowed. • Reduces the allowable time to issue a permit from 120 days to 60 days. 	√	
	AB 69 (Ting)	<ul style="list-style-type: none"> • Requires HCD to propose small home building standards to the California Building Standards Commission governing accessory dwelling units and homes smaller than 800 square feet. • Authorizes HCD to notify the Attorney General if they find that an ADU ordinance violates state law. 	√	
	AB 587 (Friedman)	Authorizes an ADU that was ministerially approved to be sold separately from the primary residence to a qualified buyer if the property was built or developed by a qualified nonprofit corporation and a deed restriction exists that ensures the property will be preserved for affordable housing.		
	AB 671 (Friedman)	Requires local agencies to include a plan that incentivizes and promotes the creation of ADUs that can be offered for rent for very low-, low- and moderate-income households in their housing elements.		
	AB 881 (Bloom)	Eliminates ability of local jurisdiction to mandate that an applicant for an ADU permit be an owner-occupant.		

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
ADUs (cont'd)	SB 13 (Wieckowski)	<ul style="list-style-type: none"> • Maintains local jurisdictions' ability to define height, setback, lot coverage, parking and size of an ADU related to a specified amount of total floor area. • Prohibits local agency from requiring the replacement of parking if a space is demolished to construct an accessory dwelling unit. • Allows a local agency to count an ADU for purposes of identifying adequate sites for housing. 	√	
Zoning/ Housing Approvals	AB 1279 (Bloom)	<ul style="list-style-type: none"> • Requires HCD to designate areas in the state as high-resource areas, by January 1, 2021, and every 5 years thereafter. • Makes housing development in such areas "by right" if the project is no more than four units in an area zoned for single family homes or up to 40 units and 30 feet in areas generally zoned for residential, subject to certain affordability requirements. 		
	SB 4 (McGuire)	<ul style="list-style-type: none"> • Allows an eligible transit-oriented development (TOD) project that is located within ½ mile of an existing or planned transit station and meets various height, parking, zoning and affordability requirements a height increase up to 15 feet above the existing highest allowable height for mixed use or residential use. • Exempts a TOD project within ¼ mile of a planned or existing station from minimum parking requirements in jurisdictions > 100,000 in population. • Establishes a new category of residential project – a "neighborhood multifamily project" as a project that on vacant land that is allowed to be a duplex in a nonurban community or a four-plex in an urban community and grants such projects ministerial approval. 	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Zoning/ Housing Approvals (cont'd)	SB 50 (Wiener)	<ul style="list-style-type: none"> • Allows upzoning within ½-mile of transit and in high-opportunity areas. Provides for a five-year deferral of bill's provisions in "sensitive communities" that would be defined by HCD in conjunction with community groups. • Defers applicability of bill in "sensitive communities"—to be defined by HCD in conjunction with local community-based organizations—until January 1, 2025. • Excludes sites that contain housing occupied by tenants or that was previously occupied by tenants within the preceding seven years or the owner has withdrawn the property from rent or lease within 15 years prior to the date of application. 	√	
	SB 330 (Skinner)	<ul style="list-style-type: none"> • Restricts a local jurisdiction or ballot measure from downzoning or imposing building moratoria on land where housing is an allowable use within an affected county or city identified by HCD as having fair market rate __ percent higher than statewide average fair market rent for the year and a vacancy rate below __ percent. • Prohibits a city or county from conducting more than three de novo hearings on an application for a housing development project. • Ten year emergency statute. 	√	
Fees/ Transparency	AB 724 (Wicks)	<ul style="list-style-type: none"> • Requires HCD to create a rental registry online portal, which would be designed to receive specified information from landlords regarding their residential tenancies and to disseminate this information to the general public. • Requires HCD complete the rental registry online portal by January 1, 2021, and would require landlords to register within 90 days and annually thereafter. 	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Fees/ Transparency (cont'd)	AB 847 (Grayson)	<ul style="list-style-type: none"> • Requires HCD to establish a competitive grant program, subject to appropriation by the Legislature, to offset the cost of housing-related transportation impact fees. Qualifying recipients would be cities and counties, which may apply jointly with a developer. • Projects must be at least 20 percent affordable (specific area median income (AMI) level unspecified) and be consistent with sustainable communities strategy (SCS). • Preference for transit-oriented development. 	√	
	AB 1483 (Grayson)	<ul style="list-style-type: none"> • Requires a city or county to compile of zoning and planning standards, fees, special taxes, and assessments in the jurisdiction. • Requires each local agency to post the list on its website and provide the list to the HCD and any applicable metropolitan planning organization (MPO). • Requires each city and county to annually submit specified information concerning pending housing development projects with completed applications within the city or county to HCD and any applicable MPO. 	√	
	AB 1484 (Grayson)	<ul style="list-style-type: none"> • Prohibits a local agency from imposing a fee on a housing development project unless the type and amount of the exaction is specifically identified on the local agency's internet website at the time the development project application is submitted. • Prohibits a local agency from imposing, increasing, or extending any fee on a housing development project at an amount that is in excess of information made available on its web site. • Applicable to all cities statewide, including charter cities. 	√	
Streamlining	AB 1485 (Wicks)	For a 15-year period, provides specified financial incentives to a residential development project in the San Francisco Bay Area that dedicates at least 20 percent of housing units to households making no more than 150 percent AMI. Incentives include exemption from CEQA, a cap on fees, a density bonus of 35 percent, parking reductions and a waiver of other local requirements.	√	√

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Streamlining (cont'd)	AB 1706 (Quirk)	<ul style="list-style-type: none"> • Provides specified financial incentives to a residential development project in the San Francisco Bay Area that dedicates at least 20 percent of the housing units to households making no more than 150 percent AMI. ▪ Incentives include exemption from CEQA, a cap on fees, a density bonus of 35 percent, parking reductions and a waiver of physical building requirements imposed on development, such as green building standards. 	√	√
	SB 621 (Glazer)	<ul style="list-style-type: none"> ▪ Requires the Judicial Council to adopt a rule of court applicable to an action to challenge an environmental impact report for an affordable housing project, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceeding with the court. • Prohibits a court from staying or enjoining the construction or operation of an affordable housing project unless it makes certain findings. 	√	
Public Lands	SB 6 (Beall)	<ul style="list-style-type: none"> • Requires HCD to provide the Department of General Services (DGS) with a list of local lands suitable and available for residential development as identified by a local government as part of the housing element of its general plan. • Requires DGS to create a database of that information and information regarding state lands determined or declared excess and to make this database available and searchable by the public by means of a link on its internet website. 	√	
	AB 1255 (Rivas)	Requires the housing element to contain an inventory of land owned by the city or county that is in excess of its foreseeable needs and requires the city or county to identify those sites that qualify as infill or high density.	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Public Lands (cont'd)	AB 1486 (Ting)	<ul style="list-style-type: none"> • Revises the definitions of “local agency” and “surplus land” applicable to the current law requirement that local agencies provide notice that the land is available for housing development. • Permits residential uses on all non-exempt surplus land, if 100 percent of the residential units are sold or rented at an affordable housing cost. • Requires that HCD create and maintain a downloadable inventory of public lands in the state. The inventory would be developed from information submitted by local agencies. • Expands HCD’s enforcement mandate to include the Surplus Lands Act. 	√	
Funding <i>(Note: Funding is the most relevant category for affordable housing preservation)</i>	AB 10 (Chiu)	Expands the state’s Low Income Housing Tax Credit program by \$500 million per year, up from \$94 million, leveraging an estimated \$1 billion in additional federal funds annually.	√	
	AB 11 (Chiu)	<ul style="list-style-type: none"> • Authorizes a city or county or two or more cities acting jointly to form an affordable housing and infrastructure agency that could use tax increment financing to fund affordable housing and infrastructure projects. • Requires establishment of new agencies be approved by the Strategic Growth Council and that expenditure plans for such agencies be aligned with the state’s greenhouse gas reduction goals. • A minimum of 30 percent of funds would be required to be invested in affordable housing. 	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Funding (cont'd)	AB 1487 (Chiu)	<ul style="list-style-type: none"> • Establishes the Housing Alliance for the Bay Area (HABA), a new regional entity serving the nine Bay Area counties to fund affordable housing production, preservation and tenant protection programs. • Authorizes HABA to place unspecified revenue measures on the ballot, issue bonds, allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction to finance affordable housing development, preserve and enhance existing affordable housing, and fund tenant protection programs, • Provides that HABA will governed by a board composed of an unspecified number of voting members from MTC, ABAG and gubernatorial appointees and be staffed by the Metropolitan Transportation Commission (MTC). 	√	√
	AB 1568 (McCarty)	Conditions eligibility for SB 1 local street and road fund on an HCD determination that a jurisdiction's housing element is in compliance with state law.		
	SB 5 (Beall)	<ul style="list-style-type: none"> • Authorizes local agencies to apply to the state to reinvest their share of ERAF (Educational Revenue Augmentation Fund) funds in affordable housing or other community improvement purposes. Sets an initial limit of \$200 million per year for the first five years, growing to \$250 million in 2029. • Establishes the Local-State Sustainable Investment Incentive Program which would be administered by a new Sustainable Investment Incentive Committee comprised of state agency representatives and legislative and gubernatorial appointees. • Requires at least 50 percent of funds to be allocated for affordable housing and workforce housing and for 50 percent of the units to be affordable. • MTC and ABAG support in concept 	√	

Topic	Bill	Summary	Bay Area Legislator	Bay Area Specific Bill
PRODUCTION & PRESERVATION (cont'd)				
Funding (cont'd)	ACA 1 (Aguiar-Curry)	<ul style="list-style-type: none"> Reduces vote threshold for local bonds or special taxes for affordable housing production, preservation or public infrastructure. MTC and ABAG support 	√	
	SB 128 (Beall)	<ul style="list-style-type: none"> Eliminates the voter approval requirement for Enhanced Infrastructure Financing Districts (EIFDs), which can be used to finance affordable housing production and preservation, among other purposes. MTC and ABAG support 	√	
Planning	AB 725 (Wicks)	Prohibits more than 20% of a jurisdiction's share of regional housing need for above moderate-income housing from being allocated to sites with zoning restricted to single-family development.	√	
	SB 235 (Dodd)	Allows the City and the County of Napa to reach an agreement under which the county would be allowed to count certain housing units built within the city toward the county's regional housing needs assessment (RHNA) requirement.	√	√
	SB 744 (Caballero)	Requires a lead agency to prepare the record of proceeding for a No Place Like Home project with the environmental review of the project if it is not eligible for approval as a use by right.		

Contra Costa County Jurisdictions' HOUSING AND POLICY FRAMEWORK PROPOSAL



APRIL 2019

PREAMBLE

The jurisdictions taking part in this effort value regional leadership and collaboration to maintain and improve the quality of life for Contra Costa County residents and to create a positive environment for employers. These Contra Costa County jurisdictions recognize the challenges inherent in providing adequate and affordable housing opportunities in the region. Recent efforts at the regional level, namely through the Committee to House the Bay Area (CASA), and by State legislators have brought these challenges and the resultant policy implications for the Contra Costa County into sharper focus. There is a unique opportunity for the Contra Costa County Cities to work together, to develop a collaborative response to influence legislative efforts at the State towards outcomes that address housing needs, while respecting community character and desire for local decision making.

Knowing that scores of new housing bills are likely to be introduced by State legislators in 2019 and beyond, the Contra Costa County jurisdictions taking part in this effort recommend a proactive and nuanced approach to advocacy and engagement, with the cities working together. In addition to educating our stakeholders on these issues, our goal is to influence the legislative process and create a shared position on key topics, where possible. While this approach identifies common areas of concern, each city may continue to pursue their own individual areas of concern that are context sensitive to their community.

INTRODUCTION

Contra Costa represents one of the most diverse areas in the State, and each jurisdiction has its own perspective on how to best meet the needs of its resident and business communities. However, many of our interests overlap, which allows for collaboration and advocacy that will strengthen the voice of the Contra Costa County. The Contra Costa County jurisdictions taking part in this effort are committed to open and honest communication with a goal of building consensus and a united approach to address housing legislation as it is developed by State legislators.

The housing challenges in California are real and the current and upcoming legislative cycles will include notable and impactful housing legislation that will be felt statewide, including in Contra Costa County. Recent history has demonstrated that simply opposing legislation has limited effectiveness (and in fact, may be counter-productive) and that jurisdictions will need to collaborate to influence legislative efforts, such as proposing revisions to draft legislation, to address new housing law as it is developed.

BACKGROUND

California's Affordable Housing Crisis & The State's Response

In 2017, the State of California published a report titled, "[California's Housing Future: Challenges and Opportunities](#)." The report identifies the severity of the housing shortage across the State and became a backdrop to the State's adoption of a suite of 15 housing-related bills known as the 2017 "Housing Package". The 15 bills focused on:

- Providing funding for affordable housing;
- Streamlining the review and approval process for housing;
- Increasing accountability and reporting requirements for local governments; and
- Preserving existing affordable housing.

During the 2017 legislative cycle many communities (including multiple Contra Costa County jurisdictions) responded to the proposed legislation with an outright rejection of the entire Housing Package. Nonetheless, the 15 bills were signed into law, and in 2018, most local jurisdictions began implementation of these measures in various ways. Key pieces of that recent legislation are outlined later in this Housing Framework.

HOUSING ELEMENT

Purpose

The Housing Element is one of nine mandated elements in a city's General Plan and implements the declaration of State law that, "the availability of housing is a matter of vital statewide importance and the attainment of decent housing and a suitable living environment for all Californians is a priority of the highest order." (Gov. Code § 65580)

At the local level, the Housing Element allows the local jurisdiction to approve a community-specific (local) approach to "how" and "where" housing needs will be addressed to meet the needs of their community. A jurisdiction's Housing Element must be updated every eight years.

For the Bay Area, the current planning period started in 2015 and ends in 2023. The next planning period will run from 2023 to 2031, meaning that local jurisdictions will be updating their Housing Elements in the 2021/2022 timeframe.

Regional Housing Need Allocation (RHNA)

All California cities and counties are required to accommodate their fair share of regional housing need. This fair share assignment is determined through a Regional Housing Needs Allocation (RHNA) process. The California Department of Housing and Community Development (HCD) determines the share of the state's housing need for each region. In turn, the council of governments (COG) for the region allocates to each local jurisdiction its share of the regional housing need. In the nine-county Bay Area, the region's COG is the Association of Bay Area Governments (ABAG). After the RHNA is determined, local jurisdictions must update their Housing Element (and typically identify housing opportunity sites and rezone property) to demonstrate that there is an adequate amount of land zoned, at appropriate density, to achieve its RHNA for the current planning period.

Planning vs. Building; No Net Loss

Under current state law, a jurisdiction is not required to *build* the housing units assigned to it by the RHNA. Rather, it is required to adopt a land use program – appropriate General Plan and Zoning, including identification of specific sites with available infrastructure and suitable physical conditions – to accommodate these housing units under market-driven conditions. The "No Net Loss" laws (adopted in 2017 by Senate Bill [SB] 166) ensure that local governments do not approve projects with less units per income category or downzone these opportunity sites after their Housing Element has been certified. This means that cities cannot approve new housing at significantly lower densities (or at different income categories) than was projected in the Housing Element without making specific findings and identifying other sites that could accommodate these units and affordability levels.

RHNA Cycles & Income Levels

Based on population projections from the California State Department of Finance in the lead-up to the last RHNA, and economic and regional housing market uncertainty (including the “Great Recession”), HCD required the Bay Area to plan for 187,990 new housing units during the current 2015-2023 RHNA cycle.

A RHNA assignment is comprised of four income categories: very low; low; moderate; and above moderate income. Table 1 shows the current combined RHNA for Contra Costa County and its 19 jurisdictions.

Table 1 – Contra Costa County and Cities 2015-2023 RHNA and Housing Production through 2017

Income Level	RHNA Allocation by Income Level	Total Permits to Date	Total Remaining RHNA by Income Level
Very Low	5244	401	4861
Low	3075	507	2568
Moderate	3458	1104	2444
Above Moderate	8802	7648	1154
Total RHNA	20579	6143	11027

Source: Department of Housing and Community Development (HCD) Annual Progress Reports

Similar to many communities throughout the Bay Area, the Contra Costa County jurisdictions' RHNA for housing production of very-low, low, moderate, have been modest. In fact, most of the low- and very-low income unit production has been generated by inclusionary zoning¹ requirements, or produced with substantial subsidies from local, state and federal dollars. The production data is indicative of the real challenges faced by local jurisdictions in meeting RHNA for lower income housing in a market-driven environment, where high land and development costs mean substantial subsidy is needed to build each unit, and where local, State and federal funding is inadequate to meet all but a tiny fraction of the need. Cities have the ability to

¹ Inclusionary Zoning = local zoning code standards that require a portion of a market rate project to be provided (and maintained) at below-market-rate.

designate Housing Opportunity Sites; however, with the loss of redevelopment, financing and construction of the housing unit is predominately driven by the private sector.

Certification and Annual Progress Report (APR)

After local adoption, State law provides HCD with the authority to review and “certify” each jurisdiction’s Housing Element. To ensure ongoing compliance, the law requires local jurisdictions to submit an annual report to HCD, generally referred to as the Annual Progress Report (APR), documenting the number of housing units in various affordability categories that have been produced over the past year and through the course of the eight-year housing element cycle.

RECENT CHANGES TO STATE LAW

The extensive housing legislation passed in 2017 (as part of the Housing Package) and supplemented in 2018 reflects the seriousness for State leaders to address the affordable housing crisis. Their focus has been largely on holding local governments accountable (increasing reporting and monitoring), curtailing the discretionary review process (streamlining), and identifying new funding sources.

Of the 15 bills passed in 2017 and the follow-on bills passed in 2018, the following are the most relevant and potentially impactful to Contra Costa County communities:

Streamlined Approval (SB 35): SB 35 requires cities to “streamline” the approval process for housing developments if the jurisdiction has not issued sufficient building permits to satisfy its regional housing need by income category. A project would be eligible for ministerial approval if it complies with objective planning standards, meets specifications such as a residential General Plan designation, does not contain housing occupied by tenants within 10 years, and pays prevailing wages. Additionally, projects must restrict 10 to 50 percent of their units to be affordable to households classified as having low- or very low-income (i.e., less than 80 percent of the area median income).

Housing Accountability Act (SB 167, AB 678, AB 1515): The bills affecting the Housing Accountability Act apply to every housing development application, not just those with an affordable housing component. The legislation requires that local governments provide developers with a list of any inconsistencies between a proposed project and all local plans, zoning, and standards within 30 to 60 days after the application is complete or the project will be deemed complete with all local policies. Additionally, if a housing project complies with all “objective” general plan, zoning, and subdivision standards, it may not be denied or have its density reduced unless a city or county can find that the project would have a specific adverse

impact on public health and safety. If a project includes affordable units, a local jurisdiction is responsible for making additional findings to deny the project, reduce its density, or add a condition that makes the project infeasible, even if the project does not comply with all "objective" standards.

No Net Loss (SB 166): State law in place prior to 2017 prohibited cities from downzoning sites or approving projects at less density than identified in their Housing Elements. Under the 2017 modification, if the approval of a development project results in fewer units by income category, the jurisdiction must identify additional sites to accommodate the RHNA obligation lost as a result of the approval and make corresponding findings. This change is significant because, for many cities, the Housing Element will have counted most of the high-density housing sites as producing very-low and low-income units, when actual projects constructed will typically provide only a portion of their units at below-market rates. This means cities will likely need to zone additional land for higher density development to ensure there is an adequate number of sites to meet RHNA, and to make more conservative assumptions about future yield of affordable units on those sites.

Housing Element Requirements (AB 1397): This bill makes many changes to how a jurisdiction establishes its Housing Element site inventory. Of special note, this legislation requires "by-right" approval for projects that offer 20-percent of its units at a rate that is affordable to lower income households.

BART TOD Districts (AB 2923): This bill was passed in 2018 and established minimum local zoning requirements for BART-owned land that is located on contiguous parcels larger than 0.25 acres and within one-half mile of an existing or planned BART station entrance. All cities must adopt conforming standards within two years of BART adopting transit-oriented development (TOD) standards (or by July 1, 2022) that include minimum height, density, parking, and floor area ratio requirements. In addition, all projects must include a minimum 20 percent of units for very low and low-income households. This bill is anticipated to help facilitate BART's plan to build 20,000 units across its network.

PENDING LEGISLATION

Local jurisdictions should expect another round of significant housing legislation in 2019, and likely beyond. In the first three months of 2019, more than 50 new bills dealing intended to spur housing development have been introduced. Two key issues, the CASA Compact and Senate Bill (SB) 50, are discussed in detail below.

See [Attachment 1](#) for a more detailed breakdown of 21 pieces of proposed legislation, the CASA Compact elements they relate to, as well as local concerns and recommended approaches for future advocacy work. The Contra Costa County jurisdictions participating in this effort will continue to monitor and advocate as appropriate.

CASA Compact Overview

From this point forward, much of this legislation will likely be informed and influenced by the CASA Compact, which was released in December 2018. The Metropolitan Transportation Commission (MTC) formed CASA to address the affordable housing crisis. CASA is a 21-member steering group comprised of major employers, for-profit and nonprofit housing developers, affordable housing advocates, transportation professionals, charitable foundations and elected officials from large cities. CASA's Compact is an ambitious 10-point plan to remedy the Bay Area's housing issues.

The CASA Compact sets out to achieve three goals:

- Produce 35,000 housing units per year (14,000 affordable to low-income and 7,000 to moderate-income, a 60% affordability rate);
- Preserve 30,000 existing affordable units (26,000 of which are market-rate affordable units and 4,000 are at-risk over the next 5 years); and
- Protect 300,000 lower-income households (those who spend more than 50% of income on their housing).

To achieve these goals, the Compact includes 10 Elements (or actions). Below is a brief summary (see Attachment 1 for a more detailed overview):

- *Elements 1-3 – Preserve and Protect*

Together, these elements represent the “preserve and protect” components of the Compact, including arguments for: just-cause eviction standards; rent caps; and rent assistance and free legal counsel.

- *Elements 4-8 – Production*

Together, these elements are the “production” component of the Compact, with subcategories, including: accessory dwelling units (ADUs); process streamlining and financial incentives; and using public land for affordable housing.

- *Elements 9-10 – Revenue and Administration*

Together, these elements offer revenue generating mechanisms to fund the Compact and suggests the formation of a new independent regional “housing authority” to collect and distribute those funds.

The Compact concludes with “Calls for Action,” which were ideas that garnered sufficient interest from the CASA steering committee, but not enough to become a standalone element in the Compact. Because these will also generate some legislative interest, those topic areas are also briefly discussed here:

- *Redevelopment 2.0:* Pass legislation enabling the re-establishment of redevelopment in California to provide new funding for affordable and mixed income development.
- *Lower the Voter Threshold for Housing Funding Measures:* Pass legislation that would apply a 55% threshold for affordable housing and housing production measures.
- *Fiscalization of Land Use:* Pass legislation that would return e-commerce/internet sales tax revenues to the point of sale - not at the point of distribution as it is currently - to provide cities that have a significant residential base with a commensurate financial incentive to develop new housing. Also, pass legislation that would change the Proposition 13 property tax allocation formula to provide cities that build more housing with a higher share of property tax revenue.
- *Homelessness:* CASA's funding package includes resources that help produce housing for formerly homeless people and prevent homelessness when possible.
- *Grow and Stabilize the Construction Labor Force:* Increase the construction labor pool by requiring prevailing wages on projects that receive incentives, calling upon the State to improve the construction employment pipeline, and creating a CASA/state labor workgroup to implement.

Concluding Thoughts Regarding CASA

The intent of the CASA Compact is to serve as state legislative research data for future housing legislation. Specifically, its development timeline is driven by the desire to place elements of the Compact on the ballot in the 2020 General Election. While some jurisdictions are likely to support the philosophical principles of the CASA Compact, many have expressed concerns that revolve around three main issues:

- *One-Size-Fits-All Approach:* The Compact proposes one-size solutions that may be effective in large urban cities but can be counterproductive in smaller suburban and rural communities. As an example, rent caps may disincentivize multifamily housing production in suburban communities. In another example, mandating high density housing near transit lines presumes transit service remain static when in fact that is not the case in suburban communities.
- *Potential to Jobs/Housing Imbalance:* The Compact's singular focus on housing production throughout the entire region minimizes the fact that the most acute housing pressure is focused in three of the nine counties in the Bay Area (San Francisco, San Mateo and Santa Clara), where most of the jobs are being created. Imposing housing production in far reaches of the Bay Area, including certain areas of Contra Costa County, would not alleviate the crisis in the three counties with the largest employment centers. Instead, it would likely induce significant congestion and exacerbate the jobs/housing imbalance. A more reasonable approach could be to adjust the production requirements based on a county's existing housing supply.

- *Absence of Public Engagement:* One of the most concerning aspects of the Compact is the absence of a transparent public process that would have incorporated input from those most affected - the general public and cities throughout the region. An often-repeated concern is that this top-down approach is not only ill-informed of the issues highlighted above but could breed anti-growth sentiment that would actively resist reasonable measures to build or fund affordable housing in the future.

Equitable Communities Incentive (SB 50)

SB 50 is an evolution of Senator Wiener's 2018 proposed bill, SB 827. It is a developer opt-in bill that would require a city or county to grant an "equitable communities incentive," which is a waiver from maximum controls on density, height, and parking spaces per unit, and up to three concessions (such as deviation from setbacks or other development standards), if the project provides low, very low or extremely low income housing and is located in a "job-rich housing project" or "transit-rich housing project," as defined below:

"Transit-rich housing project" means a residential development, the parcels of which are all within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

"Job-rich housing project" means a residential development within an area identified by the Department of Housing and Community Development and the Governor's Office of Planning and Research, based on indicators such as proximity to jobs, high area median income relative to the relevant region, and high-quality public schools, as an area of high opportunity close to jobs.

The League of California Cities Housing, Community and Economic Development Policy Committee (HCED) discussed SB 50 at their January 17, 2019, meeting. HCED took a position to oppose the bill unless amended. Understanding that Senator Weiner is the Chair of the Housing Committee, along with the political make-up of the Senate and Assembly, HCED formed a subcommittee to explore amendments to SB 50 to make it more amenable to cities and will be presented and discussed further at a later time.

A summary of SB 50, which was presented to HCED on January 17, 2019, is included as [Attachment 2](#).

PROACTIVE APPROACH TO LEGISLATIVE ADVOCACY

Below is a discussion of "key themes" to consider while informing, influencing, and advocating, on the topic of housing.

Key Themes

Balanced Solutions – Housing, Jobs, and Transportation

- Regional solutions need to take a balanced approach that considers housing, transportation/transit, and jobs together. Building housing without adequate transportation infrastructure may exacerbate, not alleviate, the affordable housing crisis.
- Regional transit agencies and MTC must support improved transit services to existing and new neighborhoods and address accompanying funding needs.
- Until the transportation and transit infrastructures are improved and ready to accommodate the new housing growth, focus initial efforts to producing housing in the counties where the jobs are located and where the jobs/housing ratio is at its worst.
- Incentivize employers to locate in housing-rich environments.

Provide, Promote, and Protect Affordability

- Protect existing affordable housing stock, including rental apartments, deed-restricted units, and mobile homes, and promote affordable housing that includes long-term affordability agreements.
- Ensure that all new state mandated incentives, fee reductions, and density bonus program are directly linked to the level and percentage of affordable units provided for each project.

Context-Sensitive Housing

- Avoid "one-size-fits-all" standards for regional housing by ensuring that policies and laws allow for sensitivity to local context. For example, historic districts should be exempt from higher density housing requirements if they are not compatible with the historic context of the area. Provide flexibility to cities that have demonstrated that they are working towards meeting their RHNA numbers.
- Advocate and facilitate production of ADUs (examples: reduce all fees including those from special districts and utility companies) and encourage development of "missing-

- middle” housing that is compatible with suburban community character (examples: duplex, triplex and four-plexes, small scale apartment complexes).
- Enable cities to develop locally-appropriate plans that meet State objectives in a manner that is compatible with existing community character. For example, some cities use density-based (rather than height-based) development standards and realistic parking requirements given their distance from reliable and frequent public transit.

Infrastructure and Services

- Mandates for new housing production need to be accompanied by funding that can support expanded transportation, transit, and infrastructure, including planning, and capital improvement programs and funding to support new school facilities.

Funding and Resources

- There should be no net loss of local funding.
- New funding measures should not unduly impact local taxation capacity or divert financial resources from essential local public services and infrastructure programs.
- Any new housing mandates should include funding to offset administrative costs associated with supporting the new program and new reporting requirements. Funding to offset administrative costs could include concepts similar to the surcharge on building permit applications for the Certified Access Specialist (CASP) program.

NEXT STEPS

- Housing and Policy Framework Workshop for Mayors and City Councilmembers
- Develop engagement materials that highlight the narrative regarding key themes

ATTACHMENTS

1. CASA Compact Legislation - Summary & Recommendations
2. SB 50 Overview

SUMMARY OF CASA ELEMENT	CONCERNS AND CONSIDERATIONS	RECOMMENDED APPROACH	RELATED LEGISLATION (information current as of 3/12/2019; subject to change)
<p>1. Just Cause Eviction Standards: Adopt a Bay Area-wide requirement that landlords must cite specific "just causes" (both fault and no-fault) for an eviction. Landlords are required to cover relocation assistance in all "no-fault" evictions. Exemptions would apply.</p> <p>Objective: Protect tenants from arbitrary evictions.</p>	<p>CONCERN STATUS: Low, there is a potentially significant <i>unfunded mandate</i> if cities are responsible for administering/enforcing measures.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> Disincentivizes property owners, who spend a large portion of total income on housing cost, from making housing available for rent on the open market if they are required to provide relocation assistance. 	<p>Monitor legislative progress of these elements. If efforts move forward, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> Implementation to occur <i>after</i> new regional funding sources are available for administration. Administrative responsibility to be assigned to an existing regional agency (no new regional bureaucracy). Mediation to be required as a part of a person seeking their legal remedies for unfair eviction. Provide exemptions for homeowners with ADUs and owner-occupied duplex and triplex units. 	<p>AB 1481 (Bonta) [spot bill] – Non-substantive amendments to existing provisions of state law relating to residential tenancy (intro: 2/22/19).</p>

SUMMARY OF CASA ELEMENT	CONCERNS AND CONSIDERATIONS	RECOMMENDED APPROACH	RELATED LEGISLATION (information current as of 3/12/2019; subject to change)
<p>2. Rent Cap: Establish a Bay Area-wide emergency rent cap that limits annual rent increases to “reasonable” amount. For an emergency period (defined as 15 years), the annual cap would be no more than CPI+5%. Certain exemptions and banking provisions would apply.</p> <p><i>Objective: Decrease the number of households at risk of displacement and to prevent homelessness.</i></p>	<p>CONCERN STATUS: <i>Low</i>, this element has the potential to be counterproductive to multi-family housing production (rent cap disincentivize investment).</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • <i>Production</i> of housing units because it limits a project’s potential return on a high-risk investment; • <i>Maintenance and improvement</i> of the existing housing stock because property owners would be unable to recoup these investments. • <i>Tenant turn-over</i>, leading to a potential “mis-match” between tenants and rental units, which could lead to a decrease in available housing stock. Once a tenant has secured a rent-controlled apartment, s/he may not choose to move in the future and give up the rent-controlled unit, even if housing needs change. Research information source: https://www.brookings.edu/research/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/ • <i>Rent control was recently defeated at the ballot box.</i> 	<p>Monitor legislative progress of these elements. If efforts move forward, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> • Uninhibited production of new rental units and incentives for existing rental units to stay rental and not be converted to for-sale units. • Ensure landlords have ability to cover all necessary maintenance and administrative costs. • Allow a reasonable time period for newly constructed rental units not be subject to rent cap and then it can apply. 	<p>AB 1482 (Chiu) [spot bill] – Non-substantive amendments to existing provisions of state law relating to tenant rights (intro: 2/22/19).</p> <p>AB 36 (Bloom) [spot bill] – Stabilize rental prices and increase availability of affordable rental units (intro: 12/3/18).</p>

SUMMARY OF CASA ELEMENT	CONCERNS AND CONSIDERATIONS	RECOMMENDED APPROACH	RELATED LEGISLATION (information current as of 3/12/2019; subject to change)
<p>3. Rent Assistance and Free Legal Counsel: Provide access to free legal counsel and emergency rent assistance for tenants with an urgent, temporary financial gap. Funding, policies and guidelines to be determined (presumably by the new regional housing authority) at a later time.</p> <p><i>Objective: Ensure right to legal counsel; provide funding for emergency/temporary rent gap.</i></p>	<p>CONCERN STATUS: <i>Low</i>, there is a potentially significant <i>unfunded mandate</i> if cities are responsible for administering/enforcing measures.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • Presumes <i>all</i> tenants lack resources to legal counsel while <i>all</i> landlords do not. The inverse could be true and result in abuse of the system on the part of tenants seeking to thwart a lawful eviction. 	<p>Monitor legislative progress of these elements. If efforts move forward, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> • Implementation to occur <i>after</i> new regional funding sources are available for administration. • Administrative responsibility to be assigned to an existing regional agency (no new regional bureaucracy). • A “means test” (demonstration of need) to be required before receiving free legal assistance. 	<p>SB 18 (Skinner) [spot bill] – “Keep Californians Housed Act” (<i>applicable statewide</i>):</p> <ul style="list-style-type: none"> • Extend provisions of state law to grant month-to-month tenants a 90-day notice prior to eviction • Require State HCD to post landlord/tenant guide • Appropriate funds from General Fund to State HCD to provide and administer statewide rental assistance grants • Establish the “Homelessness Prevention and Legal Aid Fund” <p>(intro: 12/3/18, amended: 3/4/19)</p>

SUMMARY OF CASA ELEMENT	CONCERNS AND CONSIDERATIONS	RECOMMENDED APPROACH	RELATED LEGISLATION (information current as of 3/12/2019; subject to change)
<p>4. Remove Regulatory Barriers to Accessory Dwelling Units (ADUs): Extend existing state law to allow ADUs on single family lots and multiple ADUs in existing multi-family buildings with ministerial approval.</p> <p>Forgives code violations in grandfathered ADUs. Impact fees to be based on a square foot basis and only on net new living area >500 SF.</p> <p>Objective: Increase more affordable units, provide income source for cost-burdened homeowners.</p>	<p>CONCERN STATUS: Low, cities have generally supported the production of ADUs by making it simpler, faster and cheaper to build these units.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> This Element indicates a lack of understanding that cities serve as a collection point for many pass-through fees to other public agencies (such as utility connection and school district fees), which represent the majority of all fees imposed on an ADU. For example, in the San Ramon valley, these fees represent 79-percent of the fees incurred by a typical 742 SF ADU. <p>Given their disproportionate percentage of the total fee amount, limitations and reduction should apply to ALL pass-through public agencies.</p> <ul style="list-style-type: none"> Removing energy efficiency requirements is contrary to established State Green House Gas (GHG) reduction goals. Reducing fees across the board without an evaluation of the impacts to public services and infrastructure is contrary to the fiscal sustainability of each city. Code violations should not be forgiven if they pose health and safety concerns. 	<p>Full support and expansion of this element by:</p> <ul style="list-style-type: none"> Extending the fee limitation/reduction to <i>all</i> pass-through fees (including utility connection fees and school district fees), provided that the fees remain proportionate to impacts generated. Developing standardized ADU permit plans in a range of sizes, pre-approved at the State level, allowing for minimal local plan check requirements (reduced plan check time offsets fee limitations). Allowing cities to count, by right, ADUs that are “affordable by design” in the RHNA process (examples: count ≤ 550 SF ADU as “Low” and 551-1,000 SF ADU as “Moderate” income units). Advocate for standardized Building Codes for ADUs Ensure existing structures are brought up to Code for legitimate Health and Safety reasons. 	<p>AB 68 (Ting) – Accessory Dwelling Units - Land Use Requirements (<i>applicable statewide</i>):</p> <ul style="list-style-type: none"> Reduces ministerial approvals from 120 to 60 days Restricts ability to impose standards related to minimum lot size, floor area ratio (FAR), setbacks, replacement of off-street parking if garage is converted to ADU Prohibits local regulations from restricting ADUs if they are ≥ 800 SF and ≥ 16-feet high Clarifies definition of “owner occupant” and restricts frequency of occupancy monitoring Requires cities without ADU ordinances to grant ministerial approval consistent with state law <p>(intro: 12/3/18)</p> <p>AB 69 (Ting) – Accessory Dwelling Units - Small Home Building Standards (<i>applicable statewide</i>):</p> <ul style="list-style-type: none"> Require State HCD to propose small home building standards to the California Building Standards Commission governing ADUs and homes ≤ 800 SF Authorizes State HCD to notify State Attorney General if an ordinance violates state law <p>(intro: 12/3/18)</p> <p>SB 13 (Wieckowski) [spot bill] – Accessory Dwelling Units – Reduce Impact Fees (intro: 12/3/18)</p>

<p>5. Minimum Zoning Near Transit: Establish state-wide <i>minimum zoning</i> for housing on all residential, commercial and institutional zones to allow 'missing middle' housing product types to be:</p> <ul style="list-style-type: none"> • Minimum 36-feet high within ½-mile of high quality bus service, defined as a bus stop with 15-min headways (weekday peak) and 30-min headways (weekend) • Minimum 55-feet high (75' with density bonus) within ¼-mile of a major transit stop, defined as a rail station or a ferry terminal) <p>Housing Overlay on Low-Density Commercial Sites: Make housing an allowable use on large commercially-zoned parcels near job centers with high quality transit.</p> <p>Tenant Protections: Sites rezoned would be subject to tenant protections, demolition controls and "no net loss" provisions.</p> <p>Affordable Housing: Required at levels not less than state density bonus law. Projects with 10-20 units should have option to pay in-lieu fee as its affordable housing obligation.</p> <p>Sensitive Communities: receive an automatic 3-year deferral on implementation while the city develops a context-sensitive plan.</p> <p>Objective: Spur development near transit.</p>	<p>CONCERN STATUS: High, as it ignores community context with the potential for significant displacement and land speculation near transit.</p> <p>CONCERNS: This is a one-size-fits-all approach that:</p> <ul style="list-style-type: none"> • Ignores community context - creating potential land use incompatibility issues with tall developments immediately adjacent to low density areas or within historic districts/downtowns. • Generates impacts on local infrastructure (i.e., water, sewer, schools, traffic) while fee limitations proposed in Element 6 limits ability to mitigate those impacts. • Creates land speculation around transit zones, driving up land costs and in turn causing housing development costs to rise. • Requiring minimum height does not create density, as it is possible to build a tall multi-story project with lower density luxury units. • Unaware of the fact that transit service is not static in suburban cities; tying housing requirements to transit routes which may be eliminated due to budget cuts (or lowering demand) is problematic as it introduces density to areas that may not have any transportation. • Unaware of the fact that some commercially zoned properties are purposely zoned as such to serve predominately residential areas; as a State Green House Gas (GHG) reduction goal to lower vehicles miles traveled (VMT). • Does not include frequency thresholds or minimum headways for rail station or ferry terminal definitions. • Creates housing near transit but is unclear about proximity to jobs. 	<p>Oppose unless amended as follows:</p> <ul style="list-style-type: none"> • Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit and a balanced land use framework. • Focus requirement on density not on height (as the latter does not necessarily result in more units) and allow cities to retain design quality control to facilitate local acceptance. • Establish realistic frequency thresholds to be considered for rail stations, specifically ACE or Amtrak train lines, which have very limited infrequent service. • Apply density increase as a percentage of adjacent land uses (example: 50% increase in density or height) in acknowledgement that not all communities take the same form near transit lines (example: San Francisco vs the Pleasanton/Dublin Area). • Establish increases contingent upon funding a transit agency's ability to maintain headways for a specified number of years. • Allow a time period for cities to incorporate these requirements into their General Plans and obtain local feedback. • Exempt historic districts/ downtowns where high-density housing is not compatible with the historic context of the area. <p>Monitor any legislation regarding the definition and requirements on "low density" commercial areas.</p> <p>Balanced Approach: Pursue and support policies that maintain the delicate balance of jobs, adequate affordable housing, and a robust transportation network to connect new housing to jobs and daily services. Actively discourage policies that favors one of these at the expense of the others.</p>	<p>SB 50 (Wiener) - "Equitable Communities Incentive" (applicable statewide):</p> <ul style="list-style-type: none"> • Qualified "job-rich" and or "transit-rich" housing projects would receive waivers in from maximum density controls, parking requirements, and up to three additional incentives allowable under existing Density Bonus Law • Additional waivers for projects located within ½-mile or ¼-mile radius of major transit stop • Defers these requirements for "sensitive communities" until January 1, 2025 <p>(intro: 12/3/18)</p>
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6. "Good Government" Reforms to Housing Approval Process: Focused on streamlining the permitting process and how residential impact fees are set and enforced.

- **Streamlining** (zoning compliant projects <500 units): Includes "locking" rules, fees and historic status at the date of the "application completeness"; permits no more than 3 de novo hearings for each project.
- **Impact Fees:** Impose a state standard for establishing and imposing impact fees using objective standards rather than current "reasonableness" test. Allow for fee deferral (pay some fees at a later point in the development process).
- **Inclusionary Zoning:** Establish state law that precludes inclusionary programs from being 'additive' (density bonus, housing impact fees, local inclusionary requirements). Requires in-lieu fees to be an option for fulfilling inclusion (i.e., ability to 'buy' out of providing onsite affordable housing).
- **Downzoning and Moratoria:** State to set criteria for when these can be used locally.
- **Annual 'Impositions' Report:** Recommends cities annually document any impositions (undefined) that would increase the hard cost (excludes labor and materials) of housing construction (such as fees and inclusionary zoning requirements).

Objective: Remove 'regulatory uncertainty' perceived to be a major cause of economically infeasible projects.

CONCERN STATUS: **High.** This has the potential to significantly reduce public input in the review process which may lead to distrust and community concern.

CONCERNS: This is a one-size-fits-all approach that:

- Disincentivizes developers to collaborate on delivering projects that best meet community needs (such as mitigating traffic and infrastructure impacts, offering community amenities).
- Significantly reduces the ability to provide public input and the ability to satisfy the public concerns. Reducing public interest may lead to distrust.
- Potentially eliminates ability to negotiate community benefits (services and infrastructure to support those who would occupy the housing) as a part of the development process.
- Sends a mixed message regarding inclusionary housing, which has been the greatest single contributor to affordable housing in the Contra Costa. Elements of the Compact require inclusionary housing, while this element alleviates the inclusionary requirement for developers.
- As written, this Element severely limits a city's ability to use good design and planning techniques to integrate new affordable housing into the fabric of a community, which will likely result in further community resistance to affordable housing development.

Oppose unless amended as follows:

- Require an "expiration date" for all fees and regulations locked at application completeness to ensure they are applicable to viable projects. Eliminates abuse by developers who might "lock" a future application to avoid addressing future federal, state or local requirements that may surface.
- Require a "reset" should substantive project changes be introduced during the course of the development review process to avoid potential abuse of the system.
- Maintain clear and objective standards and controls, and support fee deferral programs that ensure context sensitivity.
- Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit.

Monitor any legislation regarding the definition and requirements related to an "impositions report."

AB 1483 (Grayson) – Transparency in fees and reporting requirements (*applicable statewide*):

- Compile zoning and development standards and development fees imposed and post on website, submit to State HCD and metropolitan planning organization (such as MTC)
- Annually submit list of all pending housing development projects to State HCD and metropolitan planning organization (such as MTC)

(intro: 2/22/19)

AB 1484 (Grayson) – Restrictions on changes in housing and development fees after project submittal (*applicable statewide*):

- Prohibits cities from imposing a fee unless it is specifically listed on the website at the time of project submittal
- Requires cities to provide the project applicant the web location which lists all fees applicable to the housing development
- Prohibits cities from imposing, increasing or extending fees on a housing development project that is in excess of the list provided

(intro: 2/22/19)

SB 330 (Skinner) – "Housing Crisis Act of 2019" (*applicable statewide*): Among other things, this would prohibit cities and voter-approved initiatives from down-zoning land, imposing housing moratoriums, imposing costly design standards, establishing caps on discretionary approvals, and establishes maximum 3 de novo hearings on housing proposals.

(intro: 2/19/19)

<p>7. Expedited Approvals and Financial Incentives: Another permit streamlining effort to accelerate approvals of zoning-compliant projects and enable on-site affordability with financial incentives.</p> <p><i>Streamlining: Applies to zoning compliant projects that restrict at least 20% of onsite housing units to middle-income households, defined as 80-150% of area median income (AMI). Projects granted a statutory CEQA exemption and limited discretionary review.</i></p> <p><i>Financial Incentives include 15-year property tax increment abatement, cap on impact fees, parking standards reduced to 50% of local requirement. Projects to pay prevailing wage.</i></p> <p><i>Sensitive Communities: receive an automatic 3-year deferral on implementation while the city develops a context-sensitive plan.</i></p> <p>Objective: Build more moderate income housing units.</p>	<p>CONCERN STATUS: High. Much of the Contra Costa has limited developable lands remaining. However, the remaining new and infill developments generate impacts that rely on fees to mitigate. There should be no net loss of local funding.</p> <p>CONCERNS: This one-size-fits-all approach generates many of the same concerns as described in Element #6. Additionally:</p> <ul style="list-style-type: none"> • Potential to reduce property tax allocations for each City. • Caps on impact fees to a "reasonable" level is currently undefined. • Further caps on impact fees would eliminate funding sources to provide services and infrastructure (example: school, transit, etc.). • Requirement to pay prevailing wage is inconsistent with the overall goal to lower housing construction costs. • Reducing tax allocations given to each city without an evaluation that the impacts generated continue to be covered is contrary to the fiscal sustainability of each city. 	<p>Oppose unless amended as follows:</p> <ul style="list-style-type: none"> • There should be no net loss of local funding. • Require outside agencies to cap/reduce fees to stimulate affordable housing. • Require an "expiration date" for all fees and regulations locked at application completeness to ensure they are applicable to viable projects. Eliminates abuse by developers who might "lock" a future application to avoid addressing future federal, state or local requirements that may surface. • Require a "reset" should substantive project changes be introduced during the course of the development review process to avoid potential abuse of the system. • Implement and maintain clear and objective standards and controls to ensure context sensitivity. • Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit. • Consider middle income household definition of 80-120% of area median income, consistent with local standards (instead of 80-150% of AMI), which makes units more affordable. • 50% parking reduction from local standards should initially be applied only in transit rich areas where residents actually have to option to use frequent and high quality public transit. • Projects should be required to agree to a 30-50 year inclusionary requirement to receive the streamlining and financial incentives listed. 	<p>AB 1485 (Wicks/Quirk) [spot bill] – Housing development streamlining for zoning-compliant projects, financial incentives for onsite affordability and prevailing wages. Would allow "sensitive communities" to defer implementation. (intro: 2/22/19)</p> <p>AB 1706 (Qirk) [spot bill] – Affordable housing streamlining, tax incentives and other benefits to developers of qualified middle-income housing projects. (intro: 2/22/19)</p> <p>SB 6 (Beall/McGuire) [spot bill] – Requires State HCD to provide list of local lands suitable and available for residential development (to be identified by cities as a part of their Housing Element). Database to be searchable and publicly accessible. (intro: 12/3/18)</p>
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SUMMARY OF CASA ELEMENT	CONCERNS AND CONSIDERATIONS	RECOMMENDED APPROACH	RELATED LEGISLATION <small>(information current as of 7/12/2019; subject to change)</small>
<p>8. Unlock Public Lands for Affordable Housing: Promote use of “surplus” and “underutilized” public lands (undefined) for affordable housing through legislative and regulatory changes.</p> <p>This would also create a database listing all publicly owned land in the Bay Area, limit approval process to no more than two years, and deploy 10 percent of underutilized/surplus public land to affordable housing development on an annual basis.</p> <p>Element also calls for policies to help expand the housing construction labor pool, including requiring trained apprentices and prevailing wages. Exceptions would apply to temporary housing built to address an emergency.</p> <p>Objective: Encourage re-use of public land for mixed income/affordable housing units.</p>	<p>CONCERN STATUS: High. The Contra Costa has varying amounts of public land between cities. However, the remaining public lands should include context sensitive community plans for each city.</p> <p>CONCERNS: This is a one-size-fits-all approach that:</p> <ul style="list-style-type: none"> • Ignores community context – creating potential land use incompatibility issues with tall developments immediately adjacent to low density areas or within historic districts/ downtowns. • Ignores the fact that not all public lands have the same value for affordable housing development, as some large tracts of public land are located at the urban fringe, away from transit and is inappropriate for housing development that leads to sprawl. • Ignores the fact that ability to deploy land is driven by market forces, which cities do not control. • Disregards the efforts underway by local communities to plan vacant lands around transit in a context-sensitive manner. • Limits a city’s ability to use good design and planning techniques to integrate new affordable housing into the fabric of a community, which will likely result in further community resistance to affordable housing development. • Lacks a definition for surplus and underutilized land and how this proposal relates to the exiting Surplus Land Act requirement to offer surplus land to affordable housing developers and other public agencies. 	<p>Support with amendments as follows:</p> <ul style="list-style-type: none"> • Allow all cities (not just Sensitive Communities) to develop context sensitive community plans that achieves the overall goal of providing affordable housing around transit. • Provide clear and objective standards for the definition of “surplus land.” • Should prioritize land around existing or approved transit stops • Require projects to be consistent with locally adopted land use plans that are already in place (e.g. specific plans) and consistent with objective local standards. <p>Monitor any developing legislation regarding the definition of “surplus/underutilized” lands. As appropriate, advocate for amendments that would allow:</p> <ul style="list-style-type: none"> • Cities to partner with the public entity which owns the surplus land to ensure projects are developed in a manner consistent with local plans and design standards. 	<p>AB 1486 (Ting) – Public surplus land for housing development, among other things:</p> <ul style="list-style-type: none"> • Expands definitions of “local agency” to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies (RDAs), etc.; • Defines “surplus land” to mean land owned by any local agency that is not necessary for the agency’s government operations • Defines the term “dispose of” to includes sale, lease, transfer or other conveyance of interest in real property; • Notification requirements to include council of governments (e.g., Association of Bay Area Governments or ABAG); • Limits negotiations on sales price and lease terms, including the amount and timing of payments <p>(intro: 2/22/19)</p>

<p>9. Funding and Financing the CASA Compact: Raise \$1.5 billion new revenue annually from broad range of sources including (but not limited to) property taxes, ¼-cent sales tax, head tax, and General Obligation Bonds (reissued every 5 years). Of the total \$1.5 billion, \$300 million would come from local communities (former RDA set aside and future tax increment).</p> <p>New revenue allocation formula:</p> <ul style="list-style-type: none"> - Up to 10% for local jurisdiction incentives - Remainder to tenant protection, preservation, housing subsidies <p>New revenue distribution formula:</p> <ul style="list-style-type: none"> - 75% to county of origin ("return to source") - 25% to regional program ("revenue sharing") <p>Revenue collection and disbursement would be managed by a new regional housing authority (described in Element 10).</p> <p>Objective: Fund elements of the Compact that requires public subsidy (e.g., rental assistance, free legal counsel, financial incentives, etc.).</p>	<p>CONCERN STATUS: High. Though not included in the Compact, the Governor has already suggested withholding SB1 funds from cities that do not meet their RHNA assignment. Most cities do not meet the RHNA assignment for at least low and very low units, mostly because such affordability requires significant local subsidies to even get built - the private market simply won't build these units on its own.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • No "return to source" formula at the city-level, resulting in a greater perception of some communities being "donor communities" without having resources to meet its assigned housing obligation. • Vacant property tax could be punitive to small property owners, particularly if vacancy is beyond their control. Potential <i>unfunded mandate</i> if responsibility for enforcement falls upon local cities. • Commercial fees/taxes may be counterproductive if it drives employers out of the region and suppresses business retention. • The property tax "set aside" is punitive to those cities whose tax base is largely from property taxes. • Wide range of new taxes and fees may limit a city's taxing capacity (limit its voters' appetite to pass local funding measures). 	<p>Oppose unless amended to eliminate any reduction in current property tax or transportation funding to cities and amended as follows:</p> <ul style="list-style-type: none"> • Defined return-to-source funding formula at a city level. • Regional "fair share" housing assignment (RHNA process) is correlated to level of funding received (i.e., the less regional funding a city receives, the lower the regional housing assignment) (e.g., we do not want to be donor cities). <p>Support for the following funding sources:</p> <ul style="list-style-type: none"> • Statewide voter-approved sales tax or General Obligation bonds for affordable housing to pay for housing initiative. 	<p>AB 1487 (Chiu) – Changes to Housing Element Law (non-substantive) (intro: 2/22/19)</p> <p>AB 10 (Chiu) – Expands state's Low Income Tax Credit Program by \$500 million per year, up from \$94 million, for farmworker housing projects. (intro: 12/3/18)</p> <p>AB 11 (Chiu) – "Community Redevelopment Law of 2019" would authorize a city, county (or a combination) to form an affordable housing and infrastructure agency; use tax increment financing to fund affordable housing and infrastructure projects. (intro: 12/3/18)</p> <p>SB 5 (Beall/McGuire):</p> <ul style="list-style-type: none"> • Authorizes cities to use ERAF funds for affordable housing or community improvement purposes; • Establishes the "Local-State Sustainable Investment Incentive Program" • Authorizes cities, JPAs, infrastructure financing districts, affordable housing authorities (etc) to apply for program funding <p>(intro: 12/3/18)</p> <p>ACA 1 (Aguiar-Curry) - Local government financing for affordable housing and public infrastructure:</p> <ul style="list-style-type: none"> • Creating additional exception to the 1% limit on the ad valorem tax rate on real property • Reduces the voter threshold to 55% for local bonds for affordable housing or public infrastructure <p>(intro: 12/3/18)</p>
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SUMMARY OF CASA ELEMENT	CONCERNS AND CONSIDERATIONS	RECOMMENDED APPROACH	RELATED LEGISLATION (information current as of 3/12/2019; subject to change)
<p>10. Regional Housing Enterprise (RHE): Establishes a new independent regional housing agency - formed through state legislation - to implement the Compact. It would have the authority to collect and distribute revenue, issue debt, buy/lease/hold land, and track/report on local progress. No regulatory or enforcement powers.</p> <p>Composition: independent board with representation from MTC, ABAG, and stakeholder groups that created the Compact.</p> <p>Objective: Administers the Compact.</p>	<p>CONCERN STATUS: High. The Contra Costa Working Group does not support creating an unrepresentative layer of oversight.</p> <p>CONCERNS</p> <ul style="list-style-type: none"> • Creating an entity that is not comprised of elected officials does not allow it to be accountable to the voters or local needs, and appears to be structured to exclude local government input. • Creating a regional entity introduces another bureaucracy with its own unique set of requirements takes staff time away from facilitating housing production and committing it to report production (in addition to the ones filed with State HCD and Department of Finance). • Creates taxation without representation. • Existing agencies that could do the same functions, with additional funding, are not being considered instead of a new public agency. 	<p>Oppose because it is not representative of each city and includes taxation without representation.</p>	<p>SB 5 (Beall/McGuire) – Establishes the “Sustainable Investment Incentive Committee” to administer “Local-State Sustainable Investment Incentive Program”</p>

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT
Legislative Agenda
January 17, 2019

1. SB 50 (Wiener) More HOMES Act (Housing, Opportunity, Mobility, and Stability)

Bill Summary:

SB 50 (Wiener) is a developer opt-in bill that would exempt specified housing projects from locally adopted parking requirements, density limits, height maximums limits less than 55 feet, and floor area ratio (FAR) maximums less than 3.25.

Bill Description:

Key Definitions

“Affordable” means available at affordable rent or affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate incomes, as specified in context, and subject to a recorded affordability restriction for at least 55 years.

“High-quality bus corridor” means a corridor with fixed route bus service that meets all of the following criteria:

- It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.
- It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 a.m., inclusive, on Monday through Friday.
- It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

“Job-rich housing project” means a residential development within an area identified by the Department of Housing and Community Development and the Office of Planning and Research, based on indicators such as proximity to jobs, high area median income relative to the relevant region, and high-quality public schools, as an area of high opportunity close to jobs. A residential development shall be deemed to be within an area designated as job-rich if both of the following apply:

- All parcels within the project have no more than 25 percent of their area outside of the job-rich area.
- No more than 10 percent of residential units or 100 units, whichever is less, of the development are outside of the job-rich area.

“Transit-rich housing project” means a residential development the parcels of which are all within a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor. A project shall be deemed to be within a one-half

mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor if both of the following apply:

- All parcels within the project have no more than 25 percent of their area outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.
- No more than 10 percent of the residential units or 100 units, whichever is less, of the project are outside of a one-half mile radius of a major transit stop or a one-quarter mile radius of a stop on a high-quality bus corridor.

“Local government” means a city, including a charter city, a county, or a city and county.

“Major transit stop” means a site containing an existing rail transit station or a ferry terminal served by either bus or rail transit service.

“Residential development” means a project with at least two-thirds of the square footage of the development designated for residential use.

“Sensitive community” means an area identified by the Department of Housing and Community Development, in consultation with local community-based organizations in each region, as an area vulnerable to displacement pressures, based on indicators such as percentage of tenant households living at, or under, the poverty line relative to the region.

Specifically, SB 50 (Wiener) is a developer opt-in bill that would require a city, county, or city and county to grant an equitable communities incentive to eligible development proponents. In order to be eligible for an equitable communities incentive, a residential development shall meet all of the following criteria:

- The residential development is either a job-rich housing project or transit-rich housing project.
- The residential development is located on a site that, at the time of application, is zoned to allow housing as an underlying use in the zone, including, but not limited to, a residential, mixed-use, or commercial zone, as defined and allowed by the local government.
- The residential development must comply with a locally adopted inclusionary housing ordinance, if it requires more than 20% for low-income and 11% for very low-income households.
- States that it is the intent of the Legislature to require that any development of _____ or more residential units receiving an equitable communities incentive include housing affordable to low, very low or extremely low income households, which, for projects with low or very low income units, are no less than the number of onsite units affordable to low or very low income households that would be required pursuant to subdivision (f) of Section 65915 for a development receiving a density bonus of 35 percent (20% for low-income and 11% for very low-income households.)
- The site does not contain, or has not contained, either of the following:

- Housing occupied by tenants within the seven years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the application for a development permit.
- A parcel or parcels on which an owner of residential real property has exercised his or her rights under the Ellis Act, Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years prior to the date that the development proponent submits an application.
- The residential development complies with all applicable labor, construction employment, and wage standards otherwise required by law and any other generally applicable requirement regarding the approval of a development project, including, but not limited to, the local government's conditional use or other discretionary permit approval process, the California Environmental Quality Act, or a streamlined approval process that includes labor protections.
- The residential development complies with all other relevant standards, requirements, and prohibitions imposed by the local government regarding architectural design, restrictions on or oversight of demolition, impact fees, and community benefits agreements.
- The equitable communities incentive shall not be used to undermine the economic feasibility of delivering low-income housing under the state density bonus program or a local implementation of the state density bonus program, or any locally adopted program that puts conditions on new development applications on the basis of receiving a zone change or general plan amendment in exchange for benefits such as increased affordable housing, local hire, or payment of prevailing wages.

A residential development that meets the criteria specified above shall receive, upon request, an equitable communities incentive as follows:

- "Job-rich housing project" shall receive the following:
 - A waiver from maximum controls on density.
 - A waiver from maximum automobile parking requirements greater than 0.5 automobile parking spots per unit.
 - Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- "Transit-rich housing project" shall receive the following:

A residential development within one-quarter mile radius of a stop on a high-quality bus corridor:

 - A waiver from maximum controls on density.
 - A waiver from maximum automobile parking requirements greater than 0.5 automobile parking spots per unit.

- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

A residential development that is located within a one-half mile radius, but outside a one-quarter mile radius, of a major transit stop and includes no less than ____ percent affordable housing units shall receive an additional incentive as follows:

- A waiver from maximum controls on density.
- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- A waiver from maximum height requirements less than 45 feet.
- A waiver from maximum FAR requirements less than 2.5.
- A waiver from maximum automobile parking requirement.

A residential development that is located within a one-quarter mile radius of a major transit stop and includes no less than ____ percent affordable housing units shall receive an additional incentive as follows:

- A waiver from maximum controls on density.
- Up to three incentives and concessions pursuant to subdivision (d) of Section 65915 (Density Bonus law). These incentives or concessions may include, but are not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- A waiver from maximum height requirements less than 55 feet.
- A waiver from maximum FAR requirements less than 3.25.
- A waiver from any maximum automobile parking requirement.

Notwithstanding any other law, for purposes of calculating any additional incentive or concession in accordance with Section 65915, the number of units in the residential development after applying the equitable communities incentive received pursuant to this chapter shall be used as the base density for calculating the incentive or concession under that section (Density Bonus law).

An eligible applicant proposing a project that meets all of the requirements under Section 65913.4 (SB 35 streamlining) may submit an application for streamlined, ministerial approval in accordance with that section.

A local government may modify or expand the terms of an equitable communities incentive provided that the equitable communities incentive is consistent with, and meets the minimum standards specified in, this chapter.

It is the intent of the Legislature that, absent exceptional circumstances, actions taken by a local legislative body that increase residential density not undermine the equitable communities incentive program.

"Sensitive community" delayed implementation - It is the intent of the Legislature that implementation of SB 50 be delayed in sensitive communities until July 1, 2020.

It is further the intent of the Legislature to enact legislation that does all of the following:

- Between January 1, 2020, and _____, allows a local government, in lieu of the requirements of this chapter, to opt for a community-led planning process aimed toward increasing residential density and multifamily housing choices near transit stops.
- Encourages sensitive communities to opt for a community-led planning process at the neighborhood level to develop zoning and other policies that encourage multifamily housing development at a range of income levels to meet unmet needs, protect vulnerable residents from displacement, and address other locally identified priorities.
- Sets minimum performance standards for community plans, such as minimum overall residential development capacity and the minimum affordability standards set forth.
- Automatically applies the provisions of this chapter on January 1, 2025, to sensitive communities that do not have adopted community plans that meet the minimum standards whether those plans were adopted prior to or after enactment.

Fiscal Impact:

No direct fiscal impact to cities.

Existing League Policy:

Zoning

The League believes local zoning is a primary function of cities and is an essential component of home rule. The process of adoption, implementation and enforcement of zoning ordinances should be open and fair to the public and enhance the responsiveness of local decision-makers. State policy should leave local siting and use decisions to the city and not interfere with local prerogative beyond providing a constitutionally valid procedure for adopting local regulations. State agency siting of facilities, including campuses and office buildings, should be subject to local notice and

hearing requirements in order to meet concerns of the local community. The League opposes legislation that seeks to limit local authority over parking requirements.

Comments:

What is a "job-rich housing project?"

SB 50 fails to define "job-rich housing project." As currently drafted, HCD and OPR are tasked with making the determination. Without this definition it is impossible to determine the full scope of communities that may be impacted by this measure. Additionally, SB 50 waives maximum density controls and reduces parking to a maximum of .5 parking spots per unit, even though the community may not have access to public transit. This is inconsistent with the desire to add density near major transit stops.

What is a "sensitive community?"

Much like a "job-rich housing project", "sensitive community" is not defined. As drafted, HCD and OPR, in consultation with local community-based organizations from the region, are tasked with determining these communities. It should be noted that local governments are excluded from the consultation process.

When does CEQA apply?

SB 50 clearly states that residential projects seeking an equitable communities incentive shall comply with CEQA. However, it is unclear if CEQA will be conducted before or after the incentive is applied. It would be most appropriate to undergo the environmental review process after the incentive has been applied so that the entire project can be considered.

Can a city establish height limitations for "job-rich housing projects" or "transit-rich housing projects" within one-quarter mile of a stop on a high-quality bus corridor?

It is unclear if a city can establish height limitations in these areas. Eligible projects receive up to three incentives and concessions pursuant to Density Bonus law. One possible concession is an exemption from local height limitations. This will need to be clarified.

Mayors in support of SB 50?

It is important to note that several Mayor's are supporting SB 50. Below are their quotes from Senator Wiener's press release.

San Francisco Mayor London Breed:

"San Francisco, along with the entire Bay Area, needs to create more housing if we are going to address the out of control housing costs that are causing displacement and hurting the diversity of our communities. I have seen too many people I grew up with pushed out of San Francisco because we have not built enough housing, especially affordable housing, throughout our entire City. I look forward to working with Senator Wiener and others to make sure SB 50 creates more housing opportunities near transit, while maintaining strong renter protections and demolition restrictions so we are

focusing development on empty lots and underutilized commercial spaces. I want to thank Senator Wiener for his continued leadership in pushing for more housing throughout California.”

Oakland Mayor Libby Shaaf:

“The Bay Area must address our shared housing crisis with bold solutions and this bill is an important step toward inclusive communities where everyone has access to stable housing. I appreciate that Sen. Weiner has included key elements of the CASA process – an 18-month effort by Bay Area government officials and stakeholders to create new regional housing strategies – and I am committed to working with the state legislature to implement these solutions.”

Sacramento Mayor Darrell Steinberg:

“I strongly support the concepts outlined in SB 50 because cities throughout California are in the midst of a housing affordability crisis and we need tools that allow us to meet our housing demands. Recent state reports demonstrate cities are falling well short of the housing, climate and sustainable transit goals California committed to in SB 375, legislation I authored in 2008. Senator Weiner’s legislation provides a vital tool for local governments to meet those goals.”

Emeryville Mayor John Bauters:

“Every city in California has to do its part to solve the housing crisis, and I’m proud to stand with fellow housing champions in support of the More HOMES Act. In addition to the incredible burden on our workers, the housing crisis is now fueling the climate crisis by forcing people into long commutes. We should build much more housing near transit, and I’m excited to support this effort to do so.”

Support-Opposition: (as of 12/4/18)

Support

San Francisco Mayor London Breed, Oakland Mayor Libby Schaaf, Sacramento Mayor Darrell Steinberg, Emeryville Mayor John Bauters, and El Cerrito Mayor Gabriel Quinto, Non-Profit Housing Association of Northern California (NPH), California Apartment Association,

Opposition:

City of Pasadena

Staff Recommendation:

Staff recommends the committee discuss SB 50 and determine a position.

Committee Recommendation:



Housing and Policy Framework Frequently Asked Questions

HOUSING PAPER AND POLICY FRAMEWORK FREQUENTLY ASKED QUESTIONS

How is Affordable Housing Developed

1. What is a Housing Element, who approves it and when does it get updated?

The Housing Element is one of nine mandated elements in a city's General Plan and implements the declaration of State law that "the availability of housing is a matter of vital statewide importance and the attainment of decent housing and a suitable living environment for all Californians is a priority of the highest order" (Gov. § Code 65580)

Among other things, a Housing Element allows each community to take a local approach to identifying "how" and "where" their fair share of the region's housing needs should be accommodated. A community's Housing Element must be updated every eight years to demonstrate that an adequate amount of land (called "opportunity sites") is available to accommodate its fair share housing assignment.

The current Housing Element planning period is from 2015 to 2023. During the next update to the Housing Element, each city will likely need to identify new "opportunity sites" to meet future housing assignments. This update could begin in 2021 or 2022, and will require review and approval by each city's elected council through a public hearing process that allows for community input.

2. What is a community's "fair share" housing assignment and how is it calculated?

All California cities and counties are required to accommodate their "fair share" of its region's housing needs through a Regional Housing Need Allocation (RHNA) process. The "RHNA assignment" is comprised of four income categories: *very low*; *low*; *moderate*; and *above moderate*-income housing units.

At the state level, based on population projections, the Department of Housing and Community Development (HCD) determines each region's share of the state's housing need. In turn, each region's council of governments (COG) allocates the regional share among its member cities and counties. The San Francisco Bay Area region's COG is the Association of Bay Area Governments (ABAG).

Each city or county must demonstrate how they can accommodate their fair share RHNA assignment in its Housing Element. RHNA assignments are made approximately every eight years and are based on a formula that factors in the size of the community, its potential for housing and job growth, infrastructure and environmental constraints, and availability of public transit.

The RHNA process is not new and has been in effect since the early 1980s.

3. What is the relationship between multi-family housing and "affordable/low income" housing? Will these sites be developed with low income housing?

The RNHA process attempts to encourage development of housing at all income levels, with a focus on affordable housing. There is a presumed correlation between density (i.e. the number of housing units per acre) and affordability (i.e., housing built to higher densities is affordable to a greater segment of the population). However, it should be noted that RHNA process does not establish rental rates or sales prices. Ultimately, the type of housing built on these sites will depend on the housing market and local economy.

4. What is affordable or below market rate housing; and what are the definitions of very low, low, moderate and above moderate income?

This is housing that is offered at a price lower than the market rate. This is usually possible because of government subsidies and other programs that help lower the price or rent of housing. Affordable housing is usually limited to individuals and families that fit into a specific income category (ranging anywhere from less than 30% of area median income to 120% of area median income).

Below is an example of the maximum income limits that were used by all Contra Costa County cities in 2018 for a family of four to qualify to buy an affordable home: [

- Very Low: 50% of Area Median Income (AMI) or \$58,100
- Low: 80% of AMI or \$89,600
- Moderate: 120% of AMI or \$125,300
- Above Moderate: Anything above 120% AMI

5. Does the State require cities and counties to produce housing units?

Under current State law, a jurisdiction is *not* required to build these housing units. Rather, it is required to ensure that there are lands available (called "opportunity sites") that have the appropriate General Plan and Zoning designation to accommodate these housing units under market-driven conditions.

6. Where will this housing be located and does all affordable housing have to be higher density rental housing?

Currently, the location of the housing is at the community's discretion, but some of the current and pending state laws aim to facilitate higher density housing near fixed rail stations (e.g. BART and ACE Stations), high frequency bus routes, or in "jobs rich" areas. The density of the housing can vary depending on its location and local land use policies. Affordable housing can be either for-sale or rental housing. It is the goal of local jurisdictions to meet state and regional mandates in a manner that is compatible with its community character.

7. What is the State doing about the housing shortage?

In 2017, as a response to the statewide housing shortfall, State legislators crafted 15 new housing bills known as the “2017 Housing Package.” Collectively, the focus of these bills has been focused largely on holding local governments accountable (increased reporting and monitoring), reducing public process (permit streamlining), and identifying new funding sources. Despite the outright objection of many communities, the bills became law in late 2017.

8. How do State housing laws affect cities?

Cities are required by State law to ensure that sufficient lands are available to accommodate their “fair share” of housing units. This means that there must be a sufficient amount of land that is designated for all housing types.

As a part of the required Housing Element update, cities must determine whether enough land is available to accommodate its RHNA assignment. If not, then the city is required to designate new “opportunity sites” for this purpose – usually through amending the General Plan and Zoning designation to allow for multifamily housing development.

Under current state law, cities are not required to build housing units. Housing construction is still driven by the private market. Instead, a city’s obligation is to allow these units to be built (through General Plan and Zoning designations). Generally, new housing projects are still required to go through local land use entitlement review and public hearings. New legislation, in some cases, proposes to streamline this review process.

9. What happens if a city doesn’t comply with State housing laws?

Non-compliance could have a number of immediate impacts. First, any RHNA assignment that is not accommodated in one housing cycle will likely be rolled over to the next, increasing the amount of units, and potential land a city is required to designate for multi-family housing during the next cycle. Second, a city would become vulnerable to lawsuits for non-compliance. Third, a city would risk loss of significant transportation funding and become ineligible for a number of state and federal grants.

If sued for non-compliance, a city’s ability to regulate and influence the design and planning of future multifamily housing proposals could be compromised, further diminishing local decision making over what gets built in the future.

10. What is CASA and the CASA Compact?

In July 2017, the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) convened the *Committee to House the Bay Area*, also known as CASA. CASA was charged with developing a “bold plan” to tackle the Bay Area’s housing challenges.

In December 2018, CASA released the “CASA Compact: A 15-Year Emergency Policy Package to Confront the Housing Crisis in the San Francisco Bay Area.” The CASA Compact (“Compact”) is a wide-ranging 10-point plan that sets out to achieve three overarching goals for the Bay Area:

- *Produce* 35,000 housing units per year
- *Preserve* 30,000 affordable units
- *Protect* 300,000 lower-income households

The Compact is comprised of 10 “elements” intended as a package of actions to be implemented in its entirety. These elements include tenant protections, housing production mandates, diversion of local community funds and new taxes, as well as the creation of a new regional authority to implement these ideas.

Representatives on CASA include major employers (Google, Facebook, Genentech), for-profit and non-profit housing developers, housing advocates, charitable foundations and elected officials from large cities and counties.

Details about the CASA Compact can be found at MTC’s website:

<https://mtc.ca.gov/our-work/plans-projects/casa-committee-house-bay-area/about>

11. How or why was CASA created and will it become State law?

CASA was created as a response to the statewide housing concerns, described in a report published in 2017 by the State of California titled, “*California’s Housing Future: Challenges and Opportunities.*” However, much of the CASA analysis and recommendations are focused on the San Francisco Bay Area.

CASA is not an actual legislative bill. However, it is recommended to be used as the framework for another round of state legislation in 2019, aimed at further expanding housing mandates at the expense of local government control.

12. What are the Contra Costa Cities doing to influence pending state legislation?

With over 100 housing bills likely to be introduced by State legislators in 2019, the Contra Costa Cities are working together on a proactive and nuanced approach to advocacy and engagement. In addition to educating the public and stakeholders on these issues, the Contra Costa Cities’ goals are to influence the legislative process and create a shared Contra Costa position on key topics. The Contra Costa Cities have prepared a “Housing Paper and Policy Framework” which will guide our efforts. While this approach provides common areas of concern, each city continues to pursue their own individual areas of concern that are unique to their needs.

RESOLUTION NO. _____

**RESOLUTION OF THE [] CITY/TOWN COUNCIL
SUPPORTING THE CONTRA COSTA COUNTY JURISDICTIONS' HOUSING
AND POLICY FRAMEWORK ON HOUSING MATTERS**

WHEREAS, the Contra Costa County Jurisdictions' recognize and respect the local needs and character of each community, and have a shared interest in maintaining local control of decision-making related to all aspects of the management of each jurisdiction, including but not limited to financial, land use and development, and growth-related matters; and

WHEREAS, in January of 2017, the State of California published a report titled "California's Housing Future: Opportunities and Challenges," which documented the negative consequences of the historic underproduction of housing in California, including an increasing affordability gap, falling rates of homeownership, disproportionate rates of homelessness, and issues such as urban sprawl and traffic congestion. Collectively, these issues have been identified by legislators as part of a statewide "housing crisis"; and

WHEREAS, in September of 2017, California Governor Jerry Brown signed into law the "Housing Package" consisting of 15 new bills focused on funding, permit streamlining, and increased enforcement and accountability for local governments with respect to implementation of the Housing Element; and

WHEREAS, in 2018, State legislators approved, and the Governor signed into law several additional housing bills; and

WHEREAS, the Metropolitan Transportation Commission formed the Committee to House the Bay Area (CASA) to address the housing challenges in the Bay Area; and

WHEREAS, in December 2018 the Committee to House the Bay Area released an ambitious 10-point plan, known as the CASA Compact, to serve as state legislative research data for future housing legislation; and

WHEREAS, the State's focus on the affordable housing challenges is likely to continue for the foreseeable future with new legislation that will impact local Jurisdictions'; and

WHEREAS, the Contra Costa County Jurisdictions' recognize the substantial challenge of providing adequate and affordable housing opportunities in the region, and the shared responsibility of all communities across the State to help address these needs; and

WHEREAS, there is a unique opportunity for the Contra Costa County Jurisdictions' to work together, to develop a collaborative response to influence legislative efforts at the State towards outcomes that address housing needs, while respecting community character and desire for local control of decision making; and

WHEREAS, the Contra Costa County Jurisdictions' affirm their interest in and commitment to shaping housing policy outcomes in a constructive manner, through a proactive and nuanced approach to advocacy and engagement on the topic of housing that will result in better outcomes for the region and the individual communities; and

WHEREAS, the Contra Costa County Jurisdictions' Housing and Policy Framework provides a comprehensive approach, reflecting the following Key Themes:

- Balanced Solutions – Housing, Jobs, and Transportation;
- Provide, Promote, and Protect Affordability;
- Context Sensitive Housing;
- Infrastructure and Services; and
- Funding and Resources; and

WHEREAS, the Key Themes are topic areas where there is consensus among the Contra Costa County and its respective cities, and which can be used to inform, influence, respond, and advocate, on the topic of housing at the local, regional and State level; and

WHEREAS, the overall approach identifies and addresses common areas of concern, while recognizing that each city can and will continue to pursue individual areas of interest that are specific to their community's needs; and

WHEREAS, on XXXXXXXXX 2019, the Contra Costa County Mayors and Councilmembers met to discuss the Contra Costa County Jurisdictions' Housing and Policy Framework; and

WHEREAS, the _____ City/Town Council met on _____, 2019 to consider and discuss the Contra Costa County Jurisdictions' Housing and Policy Framework;

NOW, THEREFORE BE IT RESOLVED THAT THE _____ CITY/TOWN COUNCIL DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER THE FOLLOWING:

Section 1. The Contra Costa County Jurisdictions' Housing and Policy Framework is hereby supported on matters related to housing legislation.

Section 2. The Contra Costa County Jurisdictions' may from time-to-time revisit the Contra Costa County Jurisdictions' Housing and Policy Framework to ensure that the approaches and topics discussed within the report remain relevant and appropriate.

PASSED, APPROVED AND ADOPTED by the _____ City [Town] Council
on March ____, 2019.

I, _____, City [Town] Clerk of the City [Town] of _____,
California, certify that the foregoing resolution was adopted by the City [Town] Council at
a regular meeting held on the ____ day of March 2019, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

City/Town Clerk

APPROVED AS TO FORM:

City/Town Attorney

ABAG-MTC Housing Legislative Working Group Bill Tracker April 3, 2019

[AB 10](#)

(Chiu D) Income taxes: credits low-income housing: farmworker housing.

Current Text: Introduced: 12/3/2018 [html](#) [pdf](#)

Status: 3/28/2019-Measure version as revised on March 27 corrected.

Location: 12/3/2018-A. REV. & TAX

Summary: Would, under the law governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, for calendar years beginning in 2020, increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects by an additional \$500,000,000, as specified, and would allocate to farmworker housing projects \$25,000,000 per year of that amount. The bill, under those laws, would modify the definition of applicable percentage relating to qualified low-income buildings to depend on whether the building is a new or existing building and federally subsidized, or a building that is, among other things, at least 15 years old, serving households of very low income or extremely low income, and will complete substantial rehabilitation, as specified.

[AB 11](#)

(Chiu D) Community Redevelopment Law of 2019.

Current Text: Introduced: 12/3/2018 [html](#) [pdf](#)

Status: 3/26/2019-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 1/17/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law dissolved redevelopment agencies as of February 1, 2012, and designates successor agencies to act as successor entities to the dissolved redevelopment agencies. This bill, the Community Redevelopment Law of 2019, would authorize a city or county, or two or more cities acting jointly, to propose the formation of an affordable housing and infrastructure agency by adoption of a resolution of intention that meets specified requirements, including that the resolution of intention include a passthrough provision and an override passthrough provision, as defined.

[AB 36](#)

(Bloom D) Residential tenancies: rent control.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Summary: Would modify those provisions to authorize an owner of residential real property to establish the initial and all subsequent rental rates for a dwelling or unit that has been issued its first certificate of occupancy within 10 years of the date upon which the owner seeks to establish the initial or subsequent rental rate, or for a dwelling or unit that is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision and the owner is a natural person who owns 2 or more residential units within the same jurisdiction as the dwelling or unit for which the owner seeks to establish the initial or subsequent rental rate, subject to certain exceptions.

[AB 53](#)

(Jones-Sawyer D) Rental housing discrimination: applications: criminal records.

Current Text: Introduced: 12/3/2018 [html](#) [pdf](#)

Status: 1/17/2019-Referred to Com. on H. & C.D.

Location: 1/17/2019-A. H. & C.D.

Summary: Would make it unlawful for the owner of any rental housing accommodation to deny the rental or lease of a housing accommodation without first satisfying specified requirements relating to the application process. The bill would prohibit the owner of a rental housing accommodation from inquiring about, or requiring an applicant for rental housing accommodation to disclose, a criminal record during the initial application assessment phase, as defined, unless otherwise required by state or federal law.

[AB 68](#)

(Ting D) Land use: accessory dwelling units.

Current Text: Amended: 3/27/2019 [html](#) [pdf](#)

Last Amend: 3/27/2019

Status: 4/3/2019-Action From H. & C.D.: Do pass.To L. GOV..

Location: 4/3/2019-A. L. GOV.

Calendar: 4/3/2019 9:15 a.m. - State Capitol, Room 127 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit within 120 days of receiving the application. This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit permit within 60 days of receipt.

AB 69

(Ting D) Land use: accessory dwelling units.

Current Text: Amended: 3/27/2019 [html](#) [pdf](#)

Last Amend: 3/27/2019

Status: 4/3/2019-Action From H. & C.D.: Do pass as amended.To APPR..

Location: 4/3/2019-A. APPR.

Calendar: 4/3/2019 9:15 a.m. - State Capitol, Room 127 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law requires the Department of Housing and Community Development to propose building standards to the California Building Standards Commission, and to adopt, amend, or repeal rules and regulations governing, among other things, apartment houses and dwellings, as specified. This bill would require the department to propose small home building standards governing accessory dwelling units and homes smaller than 800 square feet. The bill would require the small home building standards to be submitted to the California Building Standards Commission for adoption on or before January 1, 2021.

AB 139

(Quirk-Silva D) Emergency and Transitional Housing Act of 2019.

Current Text: Introduced: 12/11/2018 [html](#) [pdf](#)

Status: 1/24/2019-Referred to Com. on H. & C.D.

Location: 1/24/2019-A. H. & C.D.

Calendar: 4/24/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: The The Planning and Zoning Law requires, after the legislative body of the city or county has adopted all or part of a general plan, the planning agency to investigate and make recommendations to the legislative body of the city or county regarding reasonable and practical means to implement the general plan or element and to provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes specified information pertaining to the implementation of the general plan, including, among other things, a listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on specified sites. This bill would additionally require the report to include the number of emergency shelter beds currently available within the jurisdiction and the number of shelter beds that the jurisdiction has contracted for that are located within another jurisdiction, as specified.

AB 143

(Quirk-Silva D) Shelter crisis: homeless shelters: County of Orange.

Current Text: Amended: 3/11/2019 [html](#) [pdf](#)

Last Amend: 3/11/2019

Status: 3/12/2019-Re-referred to Com. on H. & C.D.

Location: 1/24/2019-A. H. & C.D.

Calendar: 4/24/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law, upon a declaration of a shelter crisis by the City of Berkeley, Emeryville, Los Angeles, Oakland, or San Diego, the County of Santa Clara, or the City and County of San Francisco, specifies additional provisions applicable to a shelter crisis declared by one of those jurisdictions. Among other things, current law exempts from the California Environmental Quality Act specified actions by a state agency or a city, county, or city and county relating to land owned by a local government to be used for, or to provide financial assistance to, a homeless shelter constructed pursuant to these provisions. Current law requires a city, county, or city and county that declares a shelter crisis pursuant to these provisions to develop a plan to address the shelter crisis on or before July 1, 2019, and to annually report to specified committees of the Legislature on or before January 1, 2019, and annually thereafter

until January 1, 2021. Current law repeals these additional provisions as of January 1, 2021. This bill would apply these additional provisions to a shelter crisis declared by the County of Orange, any city located within the County of Orange, and the City of San Jose and extend the repeal date of these provisions to January 1, 2023.

[AB 148](#)

(Quirk-Silva D) Regional transportation plans: sustainable communities strategies.

Current Text: Introduced: 12/14/2018 [html](#) [pdf](#)

Status: 1/24/2019-Referred to Coms. on TRANS. and NAT. RES.

Location: 1/24/2019-A. TRANS.

Summary: Current law requires certain transportation planning agencies to prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system. Current law requires the regional transportation plan to include, if the transportation planning agency is also a metropolitan planning organization, a sustainable communities strategy. This bill would require each sustainable communities strategy to identify areas within the region sufficient to house an 8-year projection of the emergency shelter needs for the region, as specified.

[AB 168](#)

(Aguilar-Curry D) Housing: streamlined approvals.

Current Text: Introduced: 1/8/2019 [html](#) [pdf](#)

Status: 1/24/2019-Referred to Com. on H. & C.D.

Location: 1/24/2019-A. H. & C.D.

Summary: Current law, until January 1, 2026, authorizes a development proponent to submit an application for a multifamily housing development that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit, if the development satisfies specified objective planning standards. Under current law the objective planning standards include, among others, a requirement that the development not be located on specified sites. This bill would require the objective planning standards include a requirement that the development not be located on a site that is a tribal cultural resource.

[AB 434](#)

(Daly D) Veterans and Affordable Housing Bond Act of 2018: program funds: application.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Summary: The Veterans and Affordable Housing Bond Act of 2018, which was approved by the voters as Proposition 1 at the November 6, 2018, statewide general election, authorizes the issuance of bonds in the amount of \$4,000,000,000 pursuant to the State General Obligation Bond Law and requires the proceeds from the sale of these bonds to be used to finance various housing programs and a specified program for farm, home, and mobilehome purchase assistance for veterans, as provided. This bill, on or before July 1, 2020, would require the Department of Housing and Community Development, in consultation with the California Tax Credit Allocation Committee, the Strategic Growth Council, the California Debt Limit Allocation Committee, the Department of Veterans Affairs, and the California Housing Finance Agency, to develop a single form that may be used by applicants for funds made available for the above-described programs under the Veterans and Affordable Housing Bond Act of 2018.

[AB 437](#)

(Wood D) Move-In Loan Program.

Current Text: Amended: 3/14/2019 [html](#) [pdf](#)

Last Amend: 3/14/2019

Status: 3/18/2019-Re-referred to Com. on H. & C.D.

Location: 3/14/2019-A. H. & C.D.

Calendar: 4/24/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would establish the Move-In Loan Program for the purpose of providing grants to eligible nonprofit organizations to be used to provide no-interest loans to eligible applicants to afford the security deposit and first month's rent for a rental dwelling. The bill would require the Department of Housing and Community Development to administer the program and to determine the standards for, and control selection of, eligible nonprofit organization applicants to receive a grant to administer a loan program, as specified.

[AB 570](#)

(Aguiar-Curry D) Local Government Investment Act.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 3/26/2019-Re-referred to Com. on L. GOV.

Location: 3/25/2019-A. L. GOV.

Summary: Would define the term "affordable housing" for purposes of specified provisions of the California Constitution to include a first-time home buyer program offered by a local agency. The bill would also specify that a parcel tax imposed pursuant to a specified constitutional provision may include an exemption for persons who are 65 years of age or older, receiving Supplemental Security Income for a disability, or receiving Social Security Disability Insurance Benefits and whose yearly income does not exceed specified amounts.

[AB 579](#)

(Daly D) Development fees: definition.

Current Text: Amended: 3/21/2019 [html](#) [pdf](#)

Last Amend: 3/21/2019

Status: 3/25/2019-Re-referred to Com. on L. GOV.

Location: 3/21/2019-A. L. GOV.

Summary: The Mitigation Fee Act authorizes a local agency to establish, increase, or impose various fees as a condition of approval of a development project, if specified requirements are met. The act defines a "fee" for these purposes to mean a monetary exaction other than a tax or special assessment, as specified, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, and excludes from that definition certain fees, including, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or fees collected pursuant to agreements with redevelopment agencies, as provided. This bill would expand the definition of a "fee" for these purposes by eliminating those exclusions.

[AB 586](#)

(Diep R) California Environmental Quality Act: exemption: special housing projects.

Current Text: Amended: 3/7/2019 [html](#) [pdf](#)

Last Amend: 3/7/2019

Status: 3/11/2019-Re-referred to Com. on NAT. RES.

Location: 3/7/2019-A. NAT. RES.

Summary: CEQA exempts certain housing projects from its requirements if the project meets certain criteria, including that the project site is not located within the boundaries of a state conservancy. This bill would delete that specific criteria.

[AB 587](#)

(Friedman D) Accessory dwelling units: sale or separate conveyance.

Current Text: Amended: 4/2/2019 [html](#) [pdf](#)

Last Amend: 4/2/2019

Status: 4/2/2019-From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV. Read second time and amended.

Location: 2/14/2019-A. L. GOV.

Calendar: 4/10/2019 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary: Current property tax law establishes a welfare exemption under which property is exempt from taxation if the property is owned and operated by a nonprofit corporation that is organized and operated for the purpose of building and rehabilitating single-family or multifamily residences for sale, as provided, at cost to low-income families. This bill would authorize an accessory dwelling unit that was ministerially approved pursuant to the process described above to be sold or conveyed separately from the primary residence to a qualified buyer if certain conditions are met.

[AB 606](#)

(Diep R) Local government zoning ordinances.

Current Text: Introduced: 2/14/2019 [html](#) [pdf](#)

Status: 2/15/2019-From printer. May be heard in committee March 17.

Location: 2/14/2019-A. PRINT

Summary: Current law requires a local agency, as defined, to comply with all applicable building and zoning ordinances of the county or city in which the agency's territory is situated. Current law excepts location or construction of certain utility facilities from these requirements, including facilities for the storage or treatment of water and for the production or generation of electrical energy, as specified. This bill would make a nonsubstantive change to these provisions.

AB 670

(Friedman D) Common interest developments: accessory dwelling units.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on H. & C.D.

Location: 3/28/2019-A. H. & C.D.

Summary: The Davis-Stirling Common Interest Development Act, governs the management and operation of common interest developments. Current law prohibits the governing document of a common interest development from prohibiting the rental or leasing of any separate interest in the common interest development, unless that governing document was effective prior to the date the owner acquired title to their separate interest. This bill would make a provision in a common interest development's governing document void and unenforceable if it prohibits the construction of accessory dwelling units or junior accessory dwelling units, as specified. The bill would apply only to a governing document or amendment to a governing document that becomes effective on or after January 1, 2020.

AB 671

(Friedman D) Accessory dwelling units: incentives.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would require a local agency to include a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent for very low, low-, and moderate-income households in its housing element. The bill would require the Department of Housing and Community Development to develop a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of accessory dwelling units with affordable rent, as specified.

AB 705

(Stone, Mark D) Mobilehome parks: change of use.

Current Text: Introduced: 2/19/2019 [html](#) [pdf](#)

Status: 2/28/2019-Referred to Com. on H. & C.D.

Location: 2/28/2019-A. H. & C.D.

Calendar: 4/24/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would require the management to give homeowners at least 60 days' written notice that the management will be appearing before a local governmental board, commission, or body to obtain local approval for the intended change of use of the mobilehome park and comply with other specified provisions. The bill would also require the local government to first make a finding that the approval of the closure of the mobilehome park and of its conversion into its intended new use will not result in, or materially contribute to, a shortage of housing opportunities and choices within the local jurisdiction for low-and moderate-income households.

AB 724

(Wicks D) Rental property data registry.

Current Text: Amended: 3/21/2019 [html](#) [pdf](#)

Last Amend: 3/21/2019

Status: 3/25/2019-Re-referred to Com. on H. & C.D.

Location: 3/21/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would require the Department of Housing and Community Development to create a rental registry online portal, which

would be designed to receive specified information from landlords regarding their residential tenancies and to disseminate this information to the general public. The bill would require the department to complete the rental registry online portal, the form necessary to support it, by January 1, 2021, and would require landlords to register within 90 days and annually thereafter.

[AB 725](#)

(Wicks D) General plans: housing element: above moderate-income housing: suburban and metropolitan jurisdictions.

Current Text: Amended: 4/2/2019 [html](#) [pdf](#)

Last Amend: 4/2/2019

Status: 4/2/2019-From committee chair, with author's amendments: Amend, and re-refer to Com. on H. & C.D. Read second time and amended.

Location: 2/28/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: The Planning and Zoning Law requires that the housing element include, among other things, an inventory of land suitable for residential development, to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need determined pursuant to specified law. This bill would prohibit more than 20% of a suburban or metropolitan jurisdiction's share of the regional housing need for above moderate-income housing from being allocated to sites with zoning restricted to single-family development.

[AB 726](#)

(Wicks D) Housing: downpayment assistance.

Current Text: Introduced: 2/19/2019 [html](#) [pdf](#)

Status: 2/20/2019-From printer. May be heard in committee March 22.

Location: 2/19/2019-A. PRINT

Summary: Under current law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, homeownership for very low and low-income households, and downpayment assistance for first-time homebuyers. This bill would express the intent of the Legislature to enact legislation that would create a pilot program to provide downpayment assistance to persons who are purchasing their rental residence pursuant to a rent-to-own contract.

[AB 738](#)

(Mullin D) Regional housing need allocation: County of San Mateo.

Current Text: Amended: 3/21/2019 [html](#) [pdf](#)

Last Amend: 3/21/2019

Status: 3/25/2019-Re-referred to Com. on H. & C.D.

Location: 3/21/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would, until January 31, 2031, authorize the County of San Mateo (county) or a jurisdiction within the county, if the county or the jurisdiction contributes affordable housing funds to a deed-restricted affordable housing development in another jurisdiction in the county or to a housing joint powers authority serving the county, and if certain conditions are met, including that the contributing and receiving jurisdictions are in agreement, to report, in proportion to the amount of funds contributed, the associated completed entitlements, building permits, or a certificates of occupancy on the contributing jurisdiction's annual production report.

[AB 791](#)

(Gabriel D) Income taxes: credits: low-income housing: qualified opportunity zone.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on REV. & TAX.

Location: 3/25/2019-A. REV. & TAX

Summary: The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. This bill, for taxable years beginning on or after January 1, 2020, would allow a credit against those taxes to a taxpayer that is transferred, and allocated, credits pursuant to the sale of property located in a qualified opportunity zone to a qualified developer, as defined, that has received a credit reservation from the California Tax Credit Allocation Committee, in specified amounts. The bill would limit the aggregate amount of credit that may be allocated by the committee to \$100,000,000. The bill would require the credits to be allocated on a first-come-first-served basis.

AB 816

(Quirk-Silva D) California Flexible Housing Subsidy Pool Program.

Current Text: Introduced: 2/20/2019 [html](#) [pdf](#)

Status: 3/4/2019-Referred to Com. on H. & C.D.

Location: 3/4/2019-A. H. & C.D.

Calendar: 4/24/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would establish the California Flexible Housing Subsidy Pool Program within the Department of Housing and Community Development for the purpose of making grants available to applicants, defined to include a city, county, city and county, or continuum of care, for eligible activities including, among other things, rental assistance, operating subsidies in new and existing affordable or supportive housing units, and specified outreach services. The bill would continuously appropriate \$450,000,000 from the General Fund every fiscal year to the department for purposes of the program, and set forth how these funds must be allocated.

AB 831

(Grayson D) Department of Housing and Community Development: study: local fees: new developments.

Current Text: Introduced: 2/20/2019 [html](#) [pdf](#)

Status: 3/4/2019-Referred to Com. on H. & C.D.

Location: 3/4/2019-A. H. & C.D.

Summary: Current law requires the Department of Housing and Community Development, by June 30, 2019, to complete a study to evaluate the reasonableness of local fees charged to new developments, as defined, and requires the study to include findings and recommendations regarding potential amendments to the Mitigation Fee Act to substantially reduce fees for residential development. This bill would require the department to post the study on its internet website on or before March 1, 2020.

AB 832

(Gipson D) Income taxes: credits: qualified developer: affordable housing.

Current Text: Introduced: 2/20/2019 [html](#) [pdf](#)

Status: 3/4/2019-Referred to Coms. on REV. & TAX. and H. & C.D.

Location: 3/4/2019-A. REV. & TAX

Summary: The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2020, and before January 1, 2025, to a taxpayer in an amount equal to 50% of the amount contributed by the taxpayer to a qualified developer for the development of a qualified project, as defined, but that does not exceed a specified amount per taxpayer per qualified project. The bill would also limit the aggregate amount of the credit, as specified.

AB 847

(Grayson D) Housing: transportation-related impact fees grant program.

Current Text: Amended: 3/27/2019 [html](#) [pdf](#)

Last Amend: 3/27/2019

Status: 4/1/2019-From committee: Be re-referred to Com. on H. & C.D. Re-referred. (Ayes 10. Noes 0.) (April 1). Re-referred to Com. on H. & C.D.

Location: 4/1/2019-A. H. & C.D.

Summary: Would require the Department of Housing and Community Development, upon appropriation by the Legislature, to establish a competitive grant program to award grants to cities and counties to offset up to 100% of any transportation-related impact fees exacted upon a qualifying housing development project, as defined, by the local jurisdiction.

AB 851

(Bloom D) Accessory dwelling units.

Current Text: Introduced: 2/20/2019 [html](#) [pdf](#)

Status: 4/3/2019-Action From H. & C.D.: Do pass.To L. GOV..

Location: 4/3/2019-A. L. GOV.

Calendar: 4/3/2019 9:15 a.m. - State Capitol, Room 127 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Current law requires the ordinance to designate areas where accessory dwelling units may be permitted and authorizes the designated areas to be based

on criteria that includes, but is not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. This bill would instead require a local agency to designate these areas based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

[AB 1006](#)

(Grayson D) Manufactured or prefabricated housing units: statewide standards.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/7/2019-Referred to Com. on H. & C.D.

Location: 3/7/2019-A. H. & C.D.

Summary: Current law, the Planning and Zoning Law, authorizes a local agency to provide, by ordinance, for the creation of manufactured homes in single-family and multifamily residential zones and sets forth required ordinance standards, including, among others, maximum unit size, parking, and roof overhang standards. This bill would prohibit a local agency from imposing additional building standards for projects that are constructed using prefabricated and manufactured units, beyond those set forth in the California Building Standards Code.

[AB 1010](#)

(Garcia, Eduardo D) Housing programs: eligible entities.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/11/2019-Referred to Com. on H. & C.D.

Location: 3/11/2019-A. H. & C.D.

Calendar: 4/24/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law sets forth the general responsibilities and roles of the Business, Consumer Services and Housing Agency, the Department of Housing and Community Development, and the California Housing Finance Agency in carrying out state housing policies and programs. Current law defines various terms for these purposes, including, but not limited to, the terms "local agency," "local public entity," and "nonprofit housing sponsor." This bill would expand those definitions, as applicable, to include a duly constituted governing body of an Indian reservation or rancheria, or a tribally designated housing entity, as specified.

[AB 1074](#)

(Diep R) Accessory Dwelling Unit Construction Bond Act of 2020.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/7/2019-Referred to Coms. on H. & C.D. and L. GOV.

Location: 3/7/2019-A. H. & C.D.

Summary: Would enact the Accessory Dwelling Unit Construction Bond Act of 2020 (bond act), which, if adopted, would authorize the issuance of bonds in the amount of \$500,000,000 pursuant to the State General Obligation Bond Law to finance the Accessory Dwelling Unit Construction Program, established as part of the bond act. The bill would authorize the Department of Housing and Community Development to enter into a contract under that program with a homeowner to provide financing to pay for the eligible costs incurred by the homeowner in constructing an accessory dwelling unit on the homeowner's property, subject to specified terms and conditions.

[AB 1084](#)

(Mayes R) Redevelopment: housing successor: Low and Moderate Income Housing Asset Fund.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 4/3/2019-Action From H. & C.D.: Do pass.To L. GOV..

Location: 4/3/2019-A. L. GOV.

Calendar: 4/3/2019 9:15 a.m. - State Capitol, Room 127 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would expand the definition of "excess surplus" to also include, for a housing successor that owns and operates affordable housing that was transferred to the housing successor as a housing asset of the former redevelopment agency, an unencumbered amount in the housing successor's Low and Moderate Income Housing Asset Fund that exceeds the greater of \$1,000,000 or the aggregate amount deposited into the account during the housing successor's preceding 8 fiscal years, whichever is greater.

[AB 1110](#)

(Friedman D) Rent increases: noticing.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/28/2019-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 3/7/2019-A. JUD.

Summary: Would require 90 days' notice if a landlord of a residential dwelling with a month-to-month tenancy increases the rent by more than 10%, but no more than 15%, of the amount of the rent charged to a tenant annually. This bill would require 120 days' notice if a landlord of a residential dwelling with a month-to-month tenancy increases the rent by more than 15% of the amount of the rent charged to a tenant annually.

AB 1177

(Frazier D) Planning and zoning: housing development: streamlined approval.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/25/2019-From committee: Be re-referred to Coms. on H. & C.D. and L. GOV. (Ayes 12. Noes 0.) (March 25). Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Summary: Current law, until January 1, 2026, authorizes a development proponent to submit an application for a multifamily housing development, which satisfies specified objective planning standards, that is subject to a streamlined, ministerial approval process, as provided, and not subject to a conditional use permit. Under current law, those objective planning standards include that the development proponent must certify both (1) that the development is either a public work, for purposes of specified law, or that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area and (2) that if the development meets certain conditions, a skilled and trained workforce, as defined, will be used to complete the development if the application is approved, as provided. Existing law exempts from any requirement to pay prevailing wages or use a skilled and trained workforce a project that includes 10 or fewer units and is not a public work. This bill would delete the requirement that a skilled and trained workforce be employed on any project subject to these provisions.

AB 1188

(Gabriel D) Dwelling units: persons at risk of homelessness.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 3/26/2019-Re-referred to Com. on JUD.

Location: 3/25/2019-A. JUD.

Summary: Would authorize a tenant to temporarily permit the occupancy of their dwelling unit by a person who is at risk of homelessness, as defined, for no more than 12 months, regardless of the terms of the lease, without negative repercussions from the owner or landlord of the property. The bill would authorize an owner or landlord to adjust the rent payable under the lease by a maximum unspecified percentage amount as compensation during the time the person who is at risk of homelessness is occupying the dwelling unit, and would require the terms regarding the rent payable in those circumstances to be agreed to in writing by both parties.

AB 1197

(Santiago D) California Environmental Quality Act: exemption: local and regional housing projects and emergency shelters.

Current Text: Amended: 3/21/2019 [html](#) [pdf](#)

Last Amend: 3/21/2019

Status: 3/25/2019-Re-referred to Com. on NAT. RES.

Location: 3/21/2019-A. NAT. RES.

Summary: The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. This bill would exclude from the term "project" local or regional housing projects that meet certain requirements, as specified, and emergency shelters funded by state programs and would thereby exempt those projects from CEQA.

AB 1232

(Gloria D) Affordable housing: weatherization.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on NAT. RES.

Location: 3/25/2019-A. NAT. RES.

Summary: Would, commencing January 1, 2021, require the owner of a dwelling, housing unit, or multiunit residential structure that receives assistance from the Low Income Weatherization Program to maintain the unit as low-income residential housing for 20 years following completion of the weatherization service.

AB 1239

(Cunningham R) Planning and zoning: housing element.

Current Text: Amended: 3/21/2019 [html](#) [pdf](#)

Last Amend: 3/21/2019

Status: 3/25/2019-Re-referred to Com. on H. & C.D.

Location: 3/21/2019-A. H. & C.D.

Summary: The Planning and Zoning Law law requires that the housing element, among other things, sets forth a schedule of actions during the planning period that the local government is undertaking or intends to undertake to implement the policies and achieve the goals of the housing element, as provided. Current law authorizes the Department of Housing and Community Development to allow a city or county to substitute the provision of units for up to 25% of the community's obligation to identify adequate sites for any income category in its housing element pursuant to a schedule of actions. This bill would additionally authorize the department to allow a city or county to substitute the provision of units for up to 25% of the community's obligation to identify adequate sites for any income category under the above-described schedule of actions if the governing body of the city or county has adopted both (1) an ordinance that implements requirements under state law, as well as any applicable requirements of the city or county, relating to accessory dwelling units and meets certain requirements and (2) an ordinance establishing a permitting process and appropriate standards to regulate short-term rentals of single-family dwellings in order to accomplish specified objectives. The bill would also make various nonsubstantive changes.

AB 1255

(Rivas, Robert D) Surplus public land: database.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 4/3/2019-Action From H. & C.D.: Do pass.To L. GOV.,

Location: 4/3/2019-A. L. GOV.

Calendar: 4/3/2019 9:15 a.m. - State Capitol, Room 127 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: The Planning and Zoning Law requires the housing element to contain an inventory of land suitable for residential development, as defined, and requires that inventory to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels. This bill would also require the housing element to contain an inventory of land owned by the city or county that is in excess of its foreseeable needs. The bill would require the city or county identify those sites that qualify as infill or high density, as defined.

AB 1279

(Bloom D) Planning and zoning: housing development: high-resource areas.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/25/2019-From committee: Be re-referred to Coms. on H. & C.D. and L. GOV. (Ayes 12. Noes 0.) (March 25). Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would require the department to designated areas in this state as high-resource areas, as provided, by January 1, 2021, and every 5 years thereafter. The bill would authorize a city or county to appeal the designation of an area within its jurisdiction as a high-resource area during that 5-year period. In any area designated as a high-resource area, the bill would require that a housing development project be a use by right, upon the request of a developer, in any high-resource area designated pursuant be a use by right in certain parts of the high-resource area if those projects meet specified requirements, including specified affordability requirements. For certain development projects where the initial sales price or initial rent exceeds the affordable housing cost or affordable rent to households with incomes equal to or less than 100% of the area median income, the bill would require the

applicant agree to pay a fee equal to 10% of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable, as provided. The bill would require the city or county to deposit the fee into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent to households with a household income less than 50% of the area median income. This bill contains other related provisions and other existing laws.

[AB 1290](#)

(Gloria D) The California Housing Finance Agency.

Current Text: Amended: 3/19/2019 [html](#) [pdf](#)

Last Amend: 3/19/2019

Status: 3/20/2019-Re-referred to Com. on H. & C.D.

Location: 3/18/2019-A. H. & C.D.

Calendar: 4/24/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would require the California Housing Finance Agency to collaborate with the Strategic Growth Council, the Department of Housing and Community Development, and the Treasurer's office in order to determine a consolidated process for various affordable housing projects to apply for bond money, tax credits, and Affordable Housing and Sustainable Communities grants and loans.

[AB 1315](#)

(Boerner Horvath D) Housing: small lot subdivisions.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. Current law provides for various incentives intended to facilitate and expedite the construction of affordable housing. This bill would authorize a development proponent to submit an application for the construction of a small lot subdivision, as defined, that meets specified criteria. The bill would require a small lot subdivision to be located on a parcel zoned for multifamily residential use and consist of single-family housing units that comply with existing height, floor area, and setback requirements applicable to the presubdivided parcel.

[AB 1318](#)

(Mullin D) Housing: school employees.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/11/2019-Referred to Com. on ED.

Location: 3/11/2019-A. ED.

Summary: Current law exempts certain transactions from the requirements that otherwise apply to the sale or lease of real property by a school district if certain conditions are met, including that the financing proceeds obtained by the school district pursuant to the transaction are expended solely for capital outlay purposes, including the acquisition of real property for intended use as a school site. This bill would specify that the acquisition of real property for intended use as school district employee housing is a permissible capital outlay expenditure for purposes of those provisions.

[AB 1326](#)

(Gloria D) Property taxation: welfare exemption: low income housing.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/11/2019-Referred to Com. on REV. & TAX.

Location: 3/11/2019-A. REV. & TAX

Summary: Current law, through the 2027-28 fiscal year, treats a unit of property owned by an owner who is eligible for the federal low-income housing tax credit as occupied by a lower income household if the occupants were lower income households on the lien date in the fiscal year in which occupancy of the unit commenced and the unit continues to be rent restricted, notwithstanding an increase in the income of the occupants of the unit to 140% of area median income, but that the unit would cease to be treated as a lower income unit if the income of the occupants of the unit increases above 140% of area median income. Current law, through the 2027-28 fiscal year, requires a claim for the welfare exemption on qualified property to be accompanied by an affidavit containing specified information regarding the units occupied by lower income households for which the exemption is claimed and provides that

affidavit is not subject to public disclosure. This bill would extend indefinitely the treatment of a unit of property whose owner is eligible for specified federal low-income housing tax credits as occupied by a lower income household, as provided.

[AB 1386](#)

(Chen R) Residential fees and charges.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 3/26/2019-Re-referred to Com. on L. GOV.

Location: 3/25/2019-A. L. GOV.

Summary: The Mitigation Fee Act prohibits a local agency that imposes fees or charges on a residential development for the construction of public improvements or facilities from requiring the payment of those fees or charges until the date of the final inspection or the date the certificate of occupancy is issued, whichever occurs first, except that the payment may be required sooner when the fees or charges are to reimburse the local agency for previously made expenditures, or when the local agency determines that an account has been established, funds have been appropriated for the public improvements or facilities, and the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy. This bill would delete the above-described authorization for a local agency to require payment of fees or charges prior to the date of final inspection or issuance of the certificate of occupancy, whichever occurs first.

[AB 1399](#)

(Bloom D) Residential real property: rent control: withdrawal of accommodations.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/14/2019-Referred to Coms. on H. & C.D. and JUD.

Location: 3/14/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law authorizes a public entity acting pursuant to the Ellis Act to require an owner who offers accommodations against for rent or lease within a period not exceeding 10 years from the date on which they were withdrawn, as specified, to first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, subject to certain requirements. If the owner fails to comply with this requirement, the owner is liable to a displaced tenant or lessee for punitive damages not to exceed 6 months' rent. This bill would prohibit a payment of the above-described punitive damages from being construed to extinguish the owner's obligation to offer the accommodations to a prior tenant or lessee, as described above.

[AB 1453](#)

(Chiu D) Property tax: welfare exemptions: rental housing and related facilities.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/14/2019-Referred to Coms. on REV. & TAX. and H. & C.D.

Location: 3/14/2019-A. REV. & TAX

Summary: Current property tax law establishes a partial welfare exemption for property that is used exclusively for rental housing and related facilities that is owned and operated by an eligible nonprofit entity, including a limited partnership in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, or a veterans organization, as provided. This bill would authorize the partial welfare exemption to apply to property that is owned and operated by a limited partnership in which the managing general partner is an S corporation that qualifies as a nonprofit corporation, and the property is eligible for, and receives, federal low-income housing credits and federal historic tax credits.

[AB 1481](#)

(Bonta D) Tenancy termination: just cause.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on JUD.

Location: 3/28/2019-A. JUD.

Summary: Would, with certain exceptions, prohibit a lessor of residential property for a term not specified by the parties, from terminating the lease without just cause stated in the written notice to terminate. This bill would require, for curable violations, that the lessor give a notice of violation and an opportunity to cure the violation prior to issuing the notice of termination, unless the notice to terminate states just cause that is related to specific illegal conduct that creates the potential for harm to other tenants.

[AB 1482](#)

(Chiu D) Tenancy: rent caps.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on H. & C.D.

Location: 3/28/2019-A. H. & C.D.

Summary: Would prohibit an owner of residential real property from increasing the rental rate for that property in an amount that is greater than an unspecified percent more than the rental rate in effect for the immediately preceding year, subject to specified conditions. The bill would exempt from these provisions deed-restricted affordable housing, dormitories, and housing subject to a local ordinance that imposes a more restrictive rent increase cap than these provisions. The bill would prohibit a landlord from terminating a tenancy for the purposes of avoiding these provisions and would create a rebuttable presumption that the termination of a tenancy is for the purposes of avoiding these provisions in the absence of a written statement showing cause for the termination.

[AB 1483](#)

(Grayson D) Housing data: collection and reporting.

Current Text: Amended: 4/1/2019 [html](#) [pdf](#)

Last Amend: 4/1/2019

Status: 4/2/2019-Re-referred to Com. on H. & C.D.

Location: 3/14/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: The Planning and Zoning Law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development (department) that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, as provided. This bill would authorize the department to require a planning agency to include in that annual report specified additional information that this bill would require, as specified.

[AB 1484](#)

(Grayson D) Mitigation Fee Act: housing developments.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/14/2019-A. H. & C.D.

Calendar: 4/3/2019 9:15 a.m. - State Capitol, Room 127 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would prohibit a local agency from imposing a fee, as defined, on a housing development project, as defined, unless the type and amount of the exaction is specifically identified on the local agency's internet website at the time the application for the development project is submitted to the local agency.

[AB 1485](#)

(Wicks D) Housing development: incentives.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would, until January 1, 2035, provide specified financial incentives that ensure financial feasibility to a development proponent of a residential housing development in the 9-county San Francisco Bay area region that dedicates at least 20% of the development's housing units to households making no more than 150% of the area median income. The incentives provided to those developments include an exemption from the California Environmental Quality Act, a cap on fees imposed under the Mitigation Fee Act, a density bonus of 35%, parking reductions, and a waiver of other locally imposed requirements.

[AB 1486](#)

(Ting D) Local agencies: surplus land.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on L. GOV.

Location: 3/14/2019-A. L. GOV.

Calendar: 4/10/2019 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary: Current law prescribes requirements for the disposal of surplus land by a local agency. Current law defines "local agency" for these purposes as every city, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property. This bill would expand the definition of "local agency" to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state and any Instrumentality thereof that is empowered to acquire and hold real property, thereby requiring these entities to comply with these requirements for the disposal of surplus land. The bill would specify that the term "district" includes all districts within the state, and that this change is declaratory of existing law.

[AB 1487](#)

(Chiu D) San Francisco Bay area: housing development: financing.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law provides for the establishment of various special districts that may support and finance housing development, including affordable housing special beneficiary districts that are authorized to promote affordable housing development with certain property tax revenues that a city or county would otherwise be entitled to receive. This bill, the San Francisco Bay Area Regional Housing Finance Act, would establish the Housing Alliance for the Bay Area (hereafter "the entity") and would state that the entity's purpose is to increase affordable housing in the San Francisco Bay area, as defined, by providing for enhanced funding and technical assistance at a regional level for tenant protection, affordable housing preservation, and new affordable housing production.

[AB 1515](#)

(Friedman D) Planning and zoning: community plans: review under the California Environmental Quality Act.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on L. GOV.

Location: 3/28/2019-A. L. GOV.

Calendar: 4/24/2019 1:30 p.m. - State Capitol, Room 127 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

Summary: The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. This bill, notwithstanding the above-described requirement for a court to enter an order under CEQA, would prohibit a court in an action or proceeding to attack, review, set aside, void, or annul the acts or decisions of the local agency in adopting an update to a community plan on the grounds of noncompliance with CEQA from invalidating, reviewing, voiding, or setting aside the approval of a development project that meets certain requirements. The bill would define various terms for these purposes. The bill would specify that these provisions do not affect or alter the obligation of a project that is consistent with an approved community plan update to comply with CEQA. The bill would repeal these provisions as of January 1, 2025, but would provide that the repeal of these provisions does not affect any right or immunity granted by the bill to a development project that meets specified requirements before that date.

[AB 1536](#)

(Gray D) Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) districts: standards.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on H. & C.D.

Location: 3/28/2019-A. H. & C.D.

Summary: Would, no later than November 30, 2020, require the Office of Planning and Research to develop standards for the

formation of Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) districts. The bill would require that these standards encourage equitable development in location-efficient areas adjacent to public transit investments in passenger rail in order to refocus growth toward city centers while reducing greenhouse gas emissions and reinforcing community resilience.

[AB 1561](#)

(Garcia, Cristina D) Residential development: discrimination.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/14/2019-Referred to Coms. on H. & C.D. and JUD.

Location: 3/14/2019-A. H. & C.D.

Summary: Would prohibit a city, county, and city and county from subjecting any residential development, or part thereof, to a new or modified regulation, rule, policy, action, ordinance, or other requirement, beyond those adopted and in effect on January 1, 2019, that increases the cost to develop or construct new housing. The bill would declare such an action null and void, unless it is established by a preponderance of the evidence that the new rule, policy, action, ordinance, or other requirement is mandated by federal law or necessary to mitigate or avoid a specific, adverse impact on public health or safety, as defined.

[AB 1568](#)

(McCarty D) Housing law compliance: withholding of transportation funds.

Current Text: Amended: 4/1/2019 [html](#) [pdf](#)

Last Amend: 4/1/2019

Status: 4/2/2019-Re-referred to Com. on H. & C.D.

Location: 3/14/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Current law requires the Department of Housing and Community Development to notify the city or county and authorizes the department to notify the Office of the Attorney General that the city or county is in violation of state law if the department makes certain findings of noncompliance or a violation of specified provisions related to housing. This bill would require the department to also notify the Controller that the city or county is in violation of state law if the department makes certain findings of noncompliance or a violation, as specified.

[AB 1585](#)

(Boerner Horvath D) Accessory dwelling units.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 2/25/2019-Read first time.

Location: 2/22/2019-A. PRINT

Summary: The Planning and Zoning Law authorizes a local agency to provide by ordinance for the creation of accessory dwelling units in single-family and multifamily residential zones and sets forth standards the ordinance is required to impose, including, among others, maximum unit size, parking, and height standards. This bill would make nonsubstantive changes to these provisions.

[AB 1629](#)

(Rivas, Robert D) Low-income housing tax credits.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 2/25/2019-Read first time.

Location: 2/22/2019-A. PRINT

Summary: Current law establishes the California Tax Credit Allocation Committee in state government to allocate the federal and state low-income housing tax credits. Current law requires the committee to adopt a qualified allocation plan, as provided. This bill would make nonsubstantive changes to the provision requiring the committee to adopt a qualified allocation plan.

[AB 1648](#)

(Levine D) California Environmental Quality Act: local educational agencies: affordable housing projects: administrative and judicial streamlining.

Current Text: Amended: 3/27/2019 [html](#) [pdf](#)

Last Amend: 3/27/2019

Status: 3/28/2019-Re-referred to Com. on NAT. RES.

Location: 3/18/2019-A. NAT. RES.

Calendar: 4/8/2019 2:30 p.m. - State Capitol, Room 447 ASSEMBLY NATURAL RESOURCES, FRIEDMAN, Chair

Summary: Would establish specified procedures for the administrative and judicial review of the environmental review and approvals granted for affordable housing projects for employees of a school district, county office of education, charter school, or state special school located on properties owned by local educational agencies that are zoned for affordable housing. Because a public agency would be required to comply with those new procedures, this bill would impose a state-mandated local program.

AB 1697

(Grayson D) Housing: tenancy termination: just cause.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 3/26/2019-Re-referred to Com. on JUD.

Location: 3/25/2019-A. JUD.

Summary: Would, with certain exceptions, prohibit a lessor of residential property, for a term not specified by the parties, in which the tenant has occupied the property for 12 months or more, from terminating the lease without just cause, stated in the written notice to terminate.

AB 1706

(Quirk D) Housing development: incentives.

Current Text: Amended: 3/26/2019 [html](#) [pdf](#)

Last Amend: 3/26/2019

Status: 3/27/2019-Re-referred to Com. on H. & C.D.

Location: 3/25/2019-A. H. & C.D.

Summary: Would, until January 1, 2035, provide specified financial incentives that ensure financial feasibility to a development proponent of a residential housing development in the 9-county San Francisco Bay area region that dedicates at least 20% of the development's housing units to households making no more than 150% of the area median income. The incentives provided to those developments include an exemption from the California Environmental Quality Act, a density bonus of 35%, a waiver of local parking requirements, and a waiver of physical building requirements imposed on development by the local agency, such as green building standards.

AB 1717

(Friedman D) Transit-Oriented Affordable Housing Funding Program Act.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on H. & C.D.

Location: 3/28/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would establish the Transit-Oriented Affordable Housing Funding Program, to be administered by the California Housing Finance Agency (CalHFA). The bill would authorize the city council of a city, or the board of supervisors of a city and county, to participate in the program by enactment of an ordinance establishing a transit-oriented affordable housing district, as provided. The bill would require that the city council or board of supervisors serve as the governing board of the district and, in that capacity, prepare and adopt a transit-oriented affordable housing financing plan.

AB 1734

(Chiu D) Property taxation: welfare exemption: rental housing: moderate income housing.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/18/2019-Referred to Com. on REV. & TAX.

Location: 3/18/2019-A. REV. & TAX

Calendar: 4/8/2019 2:30 p.m. - State Capitol, Room 126 ASSEMBLY REVENUE AND TAXATION, BURKE, Chair

Summary: Current property tax law, in accordance with the California Constitution, provides for a "welfare exemption" for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met. Under existing property tax law, property that meets these requirements that is used exclusively for rental housing and related facilities is entitled to a partial exemption, equal to that percentage of the value of the property that is equal to the percentage that the number of units serving lower income households represents of the total number of residential units, in any year that any of certain criteria apply. This bill, on and after January 1, 2020, would provide a similar

exemption for qualified property, as defined, that meets the requirements of the welfare exemption and that is used exclusively for rental housing and related facilities, equal to that percentage of the value of the property that is equal to the percentage that the number of units serving moderate-income households, as defined, represents of the total number of residential units.

AB 1745

(Kalra D) Shelter crisis: homeless shelters: County of Alameda: City of San Jose.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on H. & C.D.

Location: 3/28/2019-A. H. & C.D.

Summary: Current law, upon a declaration of a shelter crisis by the City of Berkeley, Emeryville, Los Angeles, Oakland, or San Diego, the County of Santa Clara, or the City and County of San Francisco, specifies additional provisions applicable to a shelter crisis declared by one of those jurisdictions. Among other things, existing law exempts from the California Environmental Quality Act specified actions by a state agency or a city, county, or city and county relating to land owned by a local government to be used for, or to provide financial assistance to, a homeless shelter constructed pursuant to these provisions. Current law requires a city, county, or city and county that declares a shelter crisis pursuant to these provisions to develop a plan to address the shelter crisis on or before July 1, 2019, and to annually report to specified committees of the Legislature on or before January 1, 2019, and annually thereafter until January 1, 2021. Current law repeals these additional provisions as of January 1, 2021. This bill would apply these additional provisions to a shelter crisis declared by the County of Alameda or the City of San Jose, if those jurisdictions meet specified requirements, and extend the repeal date of these provisions to January 1, 2023.

AB 1763

(Chiu D) Planning and zoning: density bonuses: affordable housing.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on H. & C.D.

Location: 3/28/2019-A. H. & C.D.

Calendar: 4/10/2019 9:15 a.m. - State Capitol, Room 126 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: Would require a density bonus to be provided to a developer who agrees to construct a housing development in which 100% of the total units, exclusive of managers' units, are for lower income households, as defined. The bill would also require that a housing development that meets this criteria receive 4 incentives or concessions under the Density Bonus Law.

AB 1775

(Reyes D) Development fees: definition.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/18/2019-Referred to Com. on L. GOV.

Location: 3/18/2019-A. L. GOV.

Summary: The Mitigation Fee Act authorizes a local agency to establish, increase, or impose various fees as a condition of approval of a development project, if specified requirements are met. The act defines a "fee" for these purposes to mean a monetary exaction other than a tax or special assessment, as specified, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, and excludes from that definition certain fees, including, among others, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or fees collected pursuant to agreements with redevelopment agencies, as provided. This bill would expand the definition of a "fee" for these provisions by eliminating those exclusions.

AB 1783

(Rivas, Robert D) H-2A worker housing: state funding: streamlined approval process for agricultural employee housing development.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/3/2019-Action From H. & C.D.: Do pass as amended.To P. & C.P..

Location: 4/3/2019-A. P. & C.P.

Calendar: 4/3/2019 9:15 a.m. - State Capitol, Room 127 ASSEMBLY HOUSING AND COMMUNITY DEVELOPMENT, CHIU, Chair

Summary: The California Community Services Block Grant Program requires the Department of Community Services and Development to administer the federal Community Services Block Grant funds to provide financial assistance for activities designed to have a measurable and potentially major impact on causes of poverty in a community or areas of a community where poverty is a particularly acute problem. Current law authorizes this funding to assist programs that, among other things, meet the needs of migrant and seasonal farmworkers and their families, such as improved housing and sanitation, including the provision and maintenance of emergency and temporary housing and sanitation facilities. This bill would prohibit the provision of state funding, as defined, for the purposes of planning, developing, or operating any housing used to comply with the federal law requirement to furnish housing to H-2A workers and would require an employer, as defined, or other recipient of state funding who utilizes state funding for these purposes to reimburse the state or state agency that provided the funding in an amount equal to the amount of that state funding expended for those purposes

AB 1795

(Kamlager-Dove D) Civil actions: unlawful detainer: court records.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on JUD.

Location: 3/28/2019-A. JUD.

Summary: Current law provides summary proceedings for obtaining possession of real property in specified cases, including a case in which an owner of real property seeks to displace, on the ground of unlawful detainer, a tenant or lessee of accommodations that the owner has withdrawn from rent or lease. Existing law requires the clerk of the court to allow access to the records of those summary proceedings, as specified. This bill would prohibit the clerk from allowing access to the records of an unlawful detainer action described above, except as specified.

ACA 1

(Aguilar-Curry D) Local government financing: affordable housing and public infrastructure: voter approval.

Current Text: Amended: 3/18/2019 [html](#) [pdf](#)

Last Amend: 3/18/2019

Status: 3/28/2019-Coauthors revised. From committee: Be adopted, and re-refer to Com. on APPR. Re-referred. (Ayes 5. Noes 2.) (March 27). Re-referred to Com. on APPR.

Location: 3/27/2019-A. APPR.

Summary: The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

SB 4

(McGuire D) Housing.

Current Text: Amended: 2/28/2019 [html](#) [pdf](#)

Last Amend: 2/28/2019

Status: 4/2/2019-VOTE: Do pass, but first be re-referred to the Committee on [Governance and Finance]

Location: 4/2/2019-S. GOV. & F.

Summary: Would authorize a development proponent of a neighborhood multifamily project or eligible TOD project located on an eligible parcel to submit an application for a streamlined, ministerial approval process that is not subject to a conditional use permit. The bill would define a "neighborhood multifamily project" to mean a project to construct a multifamily unit of up to 2 residential dwelling units in a nonurban community, as defined, or up to 4 residential dwelling units in an urban community, as defined, that meets local height, setback, and lot coverage zoning requirements as they existed on July 1, 2019. The bill would define an "eligible TOD project" as a project located in an urban community, as defined, that meets specified height requirements, is located within 1/2 mile of an existing or planned transit station parcel or entrance, and meets other floor area ratio, density, parking, and zoning requirements.

SB 5

(Beall D) Affordable Housing and Community Development Investment Program.

Current Text: Amended: 3/21/2019 [html](#) [pdf](#)

Last Amend: 3/21/2019

Status: 3/26/2019-Set for hearing April 2.

Location: 3/20/2019-S. HOUSING

Summary: Would establish in state government the Affordable Housing and Community Development Investment Program, which would be administered by the Affordable Housing and Community Development Investment Committee. The bill would authorize a city, county, city and county, joint powers agency, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority, transit village development district, or a combination of those entities, to apply to the Affordable Housing and Community Development Investment Committee to participate in the program and would authorize the committee to approve or deny plans for projects meeting specific criteria.

SB 6

(Beall D) Residential development: available land.

Current Text: Amended: 2/27/2019 [html](#) [pdf](#)

Last Amend: 2/27/2019

Status: 4/2/2019-VOTE: Do pass, but first be re-referred to the Committee on [Governmental Organization] with the recommendation: To Consent Calendar

Location: 4/2/2019-S. G.O.

Summary: Would require the Department of Housing and Community Development to furnish the Department of General Services with a list of local lands suitable and available for residential development as identified by a local government as part of the housing element of its general plan. The bill would require the Department of General Services to create a database of that information and information regarding state lands determined or declared excess and to make this database available and searchable by the public by means of a link on its internet website.

SB 9

(Beall D) Income taxes: low-income housing credits: allocation: sale.

Current Text: Introduced: 12/3/2018 [html](#) [pdf](#)

Status: 1/16/2019-Referred to Com. on GOV. & F.

Location: 1/16/2019-S. GOV. & F.

Summary: Current law, beginning on or after January 1, 2009, and before January 1, 2020, requires, in the case of a project that receive a preliminary reservation of a state low-income housing tax credit, that the credit be allocated to the partners of a partnership owning the project in accordance with the partnership agreement, as provided. Existing law, beginning on or after January 1, 2016, and before January 1, 2020, authorizes a taxpayer that is allowed a low-income housing tax credit to elect to sell all or a portion of that credit to one or more unrelated parties for each taxable year in which the credit is allowed, as described. This bill would delete the January 1, 2020, date with respect to both of these provisions, thereby requiring the allocation of credits among partners in accordance with the partnership agreement and authorizing the sale of a credit, as described above, indefinitely.

SB 13

(Wleckowski D) Accessory dwelling units.

Current Text: Amended: 3/11/2019 [html](#) [pdf](#)

Last Amend: 3/11/2019

Status: 3/26/2019-Set for hearing April 2.

Location: 3/20/2019-S. HOUSING

Summary: Current law requires accessory dwelling units to comply with specified standards, including that the accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling or detached if located within the same lot, and that it does not exceed a specified amount of total area of floor space. This bill would, instead, authorize the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling use.

SB 15

(Portantino D) Property tax revenue allocations: successor agencies.

Current Text: Amended: 3/20/2019 [html](#) [pdf](#)

Last Amend: 3/20/2019

Status: 3/27/2019-Re-referred to Coms. on GOV. & F. and HOUSING.

Location: 3/27/2019-S. GOV. & F.

Summary: Would, for the 2020–21 fiscal year and each fiscal year thereafter, require the county auditor of a county in which a successor agency, as defined, is located to decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund by the countywide local-state sustainable investment amount and to allocate a commensurate amount to the successor agencies that are located within the county. The bill would require the successor agencies to use these funds for specified purposes, including to increase the availability of affordable housing.

SB 18

(Skinner D) Keep Californians Housed Act.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 4/2/2019-VOTE: Do pass, but first be re-referred to the Committee on [Judiciary]

Location: 4/2/2019-S. JUD.

Summary: Current law establishes the Department of Consumer Affairs (DCA) under the control of a civil executive officer known as the Director of Consumer Affairs. Current law requires, among other things, that the director provide for the establishment of a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems. This bill, no later than January 1, 2021, would require DCA to publish on its internet website, and to biannually update, a guide to all state laws pertaining to landlords and the landlord-tenant relationship.

SB 25

(Caballero D) California Environmental Quality Act: projects funded by qualified opportunity zone funds or other public funds.

Current Text: Amended: 3/7/2019 [html](#) [pdf](#)

Last Amend: 3/7/2019

Status: 3/8/2019-March 20 hearing postponed by committee. Set for hearing April 10.

Location: 1/16/2019-S. E.Q.

Calendar: 4/10/2019 9:30 a.m. to 12:30 p.m. - Room 113 SENATE ENVIRONMENTAL QUALITY SPECIAL ORDER, ALLEN, Chair

Summary: CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA. This bill would establish specified procedures for the administrative and judicial review of the environmental review and approvals granted for projects that are funded, in whole or in part, by specified public funds or public agencies. Because a public agency would be required to comply with those new procedures, this bill would impose a state-mandated local program.

SB 48

(Wiener D) Interim housing intervention developments.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 4/2/2019-VOTE: Do pass, but first be re-referred to the Committee on [Governance and Finance]

Location: 4/2/2019-S. GOV. & F.

Summary: Would revise the requirements of the housing element, as specified, in connection with the identification of zones where emergency shelters are allowed as a permitted use with a conditional use or other discretionary permit. The bill would generally require that emergency shelters be in areas that allow residential use, including mixed-use areas, but would permit designation in industrial zones if a local government can demonstrate that the zone is connected to specified amenities and services. The bill would remove the authorization granted to local government to require off-street parking, as specified, in connection with standards applied to emergency shelters.

SB 49

(Skinner D) Energy efficiency.

Current Text: Amended: 4/2/2019 [html](#) [pdf](#)

Last Amend: 4/2/2019

Status: 4/2/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on E., U. & C.

Location: 3/20/2019-S. E. U., & C.

Calendar: 4/10/2019 9 a.m. - Room 3191 SENATE ENERGY, UTILITIES AND COMMUNICATIONS, HUESO, Chair

Summary: Would require the State Energy Resources Conservation and Development Commission to prescribe, by regulation, standards for appliances and buildings to facilitate load management. The bill would authorize the commission to include in the

regulations other cost-effective measures, as specified, to promote the use of demand flexible appliances, the use of which has an effect on a building's energy demand profile. The bill would require that the standards and other regulations become effective no sooner than one year after the date of adoption or revision.

SB 50

(Wiener D) Planning and zoning: housing development: incentives.

Current Text: Amended: 3/11/2019 [html](#) [pdf](#)

Last Amend: 3/11/2019

Status: 4/2/2019-VOTE: Do pass, but first be re-referred to the Committee on [Governance and Finance]

Location: 4/2/2019-S. GOV. & F.

Summary: Would require a city, county, or city and county to grant upon request an equitable communities incentive when a development proponent seeks and agrees to construct a residential development, as defined, that satisfies specified criteria, including, among other things, that the residential development is either a job-rich housing project or a transit-rich housing project, as those terms are defined; the site does not contain, or has not contained, housing occupied by tenants or accommodations withdrawn from rent or lease in accordance with specified law within specified time periods; and the residential development complies with specified additional requirements under existing law.

SB 128

(Beall D) Enhanced infrastructure financing districts: bonds: issuance.

Current Text: Amended: 3/21/2019 [html](#) [pdf](#)

Last Amend: 3/21/2019

Status: 3/28/2019-Read third time. Passed. (Ayes 24. Noes 7.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

Location: 3/28/2019-A. DESK

Summary: Current law authorizes the legislative body of a city or a county to establish an enhanced infrastructure financing district, with a governing body referred to as a public financing authority, to finance public capital facilities or other specified projects of communitywide significance. Current law requires a public financing authority to adopt an infrastructure financing plan and hold a public hearing on the plan, as specified. Current law authorizes the public financing authority to issue bonds for these purposes upon approval by 55% of the voters voting on a proposal to issue the bonds. Current law requires the proposal submitted to the voters by the public financing authority and the resolution for the issuance of bonds following approval by the voters to include specified information regarding the bond issuance. This bill would instead authorize the public financing authority to issue bonds for these purposes without submitting a proposal to the voters.

SB 191

(Morrell R) Land use: housing element.

Current Text: Introduced: 1/30/2019 [html](#) [pdf](#)

Status: 2/6/2019-Referred to Com. on RLS.

Location: 1/30/2019-S. RLS.

Summary: The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan that includes various mandatory elements, including a housing element. That law requires the housing element to contain, among other things, an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. That law requires the Department of Housing and Community Development to determine the current and projected need for housing for each region, as specified. This bill would make nonsubstantive changes to that law.

SB 196

(Beall D) Property taxes: welfare exemption: community land trust.

Current Text: Introduced: 1/31/2019 [html](#) [pdf](#)

Status: 2/13/2019-Referred to Com. on GOV. & F.

Location: 2/13/2019-S. GOV. & F.

Summary: Current property tax law, in accordance with the California Constitution, provides for a "welfare exemption" for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met. This bill, for lien dates occurring on and after January 1, 2020, would provide that property is within the welfare exemption if that property is owned by a community land trust, as defined, otherwise qualifying for the welfare exemption, and specified conditions are met, including that the property is being or will be developed or rehabilitated as

housing, as specified.

SB 215

(Morrell R) Local government: housing.

Current Text: Introduced: 2/6/2019 [html](#) [pdf](#)

Status: 2/13/2019-Referred to Com. on RLS.

Location: 2/6/2019-S. RLS.

Summary: Current law authorizes local governments to conduct a review or appeal regarding allocation data provided by the Department of Housing and Community Development or the council of governments regarding the locality's share of the regional housing need or the submittal of data or information for a proposed allocation, as specified. This bill would make nonsubstantive changes to this provision.

SB 235

(Dodd D) Planning and zoning: housing production report: regional housing need allocation.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 4/2/2019-VOTE: Do pass, but first be re-referred to the Committee on [Appropriations]

Location: 4/2/2019-S. APPR.

Summary: Would authorize the County of Napa and the City of Napa to reach a mutually acceptable agreement to allow one of those jurisdictions to report on its annual production report to the Department of Housing and Community Development those completed entitlements, building permits, and certificates of occupancy issued by the other jurisdiction for the development of housing if certain conditions are met. The bill would require the board of supervisors of the County of Napa and the city council of the City of Napa to each hold a public hearing to solicit public comment on the proposed agreement and to make specified written findings based on substantial evidence before approving the agreement.

SB 294

(Hill D) Property taxation: welfare exemption: low income housing.

Current Text: Introduced: 2/14/2019 [html](#) [pdf](#)

Status: 3/29/2019-Set for hearing April 8.

Location: 3/27/2019-S. APPR.

Calendar: 4/8/2019 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, PORTANTINO, Chair

Summary: Would require any outstanding qualified ad valorem property tax in excess of the \$20,000,000 limitation, and related interest or penalty, which was levied or imposed on and after January 1, 2019, and before January 1, 2020, with respect to qualified property for which a qualified claim was filed, to be canceled to the extent that the amount canceled does not result in a total assessed value exemption amount in excess of \$250,000,000 being allowed to a qualified taxpayer with respect to a single property or multiple properties for any fiscal year. The bill would, on and after January 1, 2020, prohibit an escape assessment from being levied on qualified property if that amount would be subject to cancellation pursuant to this bill.

SB 329

(Mitchell D) Discrimination: housing: source of income.

Current Text: Introduced: 2/15/2019 [html](#) [pdf](#)

Status: 3/28/2019-Set for hearing April 23.

Location: 2/28/2019-S. JUD.

Calendar: 4/23/2019 1:30 p.m. - Room 112 SENATE JUDICIARY, JACKSON, Chair

Summary: Current law defines the term "source of income" for purposes of the provisions relating to discrimination in housing accommodations as specified, to mean lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant. This bill would instead define the term for purposes of those provisions, to mean verifiable income paid directly to a tenant, or paid to a housing owner or landlord on behalf of a tenant, including federal, state, or local public assistance and housing subsidies, as specified.

SB 330

(Skinner D) Housing Crisis Act of 2019.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 3/25/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.

Location: 2/28/2019-S. GOV. & F.

Summary: Would, until January 1, 2030, with respect to land where housing is an allowable use, prohibit the legislative body of a county or city, defined to include the electorate exercising its local initiative or referendum power, in which specified conditions exist, from enacting an amendment to a general plan or specific plan or adopting or amending any zoning ordinance that would have the effect of (A) changing the zoning classification of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed under the general plan or specific plan land use designation and zoning ordinances of the county or city as in effect on January 1, 2018; (B) imposing a moratorium on housing development within all or a portion of the jurisdiction of the county or city, except as provided; (C) imposing design standards that are more costly than those in effect on January 1, 2019; or (D) establishing or implementing any provision that limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within the county or city.

SB 384

(Morrell R) Housing.

Current Text: Amended: 3/25/2019 [html](#) [pdf](#)

Last Amend: 3/25/2019

Status: 3/28/2019-Set for hearing April 10.

Location: 3/26/2019-S. E.Q.

Calendar: 4/10/2019 9:30 a.m. to 12:30 p.m. - Room 113 SENATE ENVIRONMENTAL QUALITY SPECIAL ORDER, ALLEN, Chair

Summary: CEQA requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA. This bill would establish specified procedures for the administrative and judicial review of the environmental review and approvals granted for housing development projects with 50 or more residential units

SB 529

(Durazo D) Tenant associations: eviction for cause: withholding payment of rent.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/28/2019-Set for hearing April 23.

Location: 3/7/2019-S. JUD.

Calendar: 4/23/2019 1:30 p.m. - Room 112 SENATE JUDICIARY, JACKSON, Chair

Summary: Current law prohibits a lessor from retaliating against a lessee because the lessee has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law by increasing rent, decreasing services, causing a lessee to quit involuntarily, bringing an action to recover possession, or from threatening to do any of those acts. This bill would declare that tenants have the right to form, join, and participate in the activities of a tenant association, subject to any restrictions as may be imposed by law, or to refuse to join or participate in the activities of a tenant association.

SB 532

(Portantino D) Redevelopment: bond proceeds: affordable housing.

Current Text: Introduced: 2/21/2019 [html](#) [pdf](#)

Status: 3/21/2019-March 27 hearing postponed by committee.

Location: 3/7/2019-S. GOV. & F.

Summary: This bill, notwithstanding the requirement that the remaining bond proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation, would authorize a successor agency to use the remaining bond proceeds for the purposes of increasing, improving, and preserving affordable housing, as defined. The bill, if the remaining bond proceeds are used for these purposes, would require the Last and Final Recognized Obligation Payment Schedule to be adjusted to allow for the allocation of revenues from the Redevelopment Property Tax Trust Fund to the successor agency for purposes of paying the remaining principal and interest on the bonds.

SB 621

(Glazer D) California Environmental Quality Act: court actions or proceedings: affordable housing projects.

Current Text: Amended: 3/28/2019 [html](#) [pdf](#)

Last Amend: 3/28/2019

Status: 3/28/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on EQ.

Location: 3/14/2019-S. E.Q.

Calendar: 4/10/2019 9:30 a.m. to 12:30 p.m. - Room 113 SENATE ENVIRONMENTAL QUALITY SPECIAL ORDER, ALLEN, Chair

Summary: Would require the Judicial Council, by July 1, 2020, to adopt a rule of court applicable to an action or proceeding brought to attack, review, set aside, void, or annul the certification of an environmental impact report for an affordable housing project, as defined, or the granting of an approval of an affordable housing project that requires the action or proceeding, including any potential appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceeding with the court. The bill would prohibit a court from staying or enjoining the construction or operation of an affordable housing project unless it makes certain findings.

[SB 623](#)

(Jackson D) Multifamily Housing Program: total assistance calculation.

Current Text: Amended: 3/27/2019 [html](#) [pdf](#)

Last Amend: 3/27/2019

Status: 3/27/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.

Location: 2/22/2019-S. RLS.

Summary: Current law requires that of the total assistance provided under the Multifamily Housing Program, a specified percentage that is proportional to the percentage of lower income renter households in the state that are lower income elderly renter households, as reported by the United States Department of Housing and Urban Development on the basis of the most recent decennial census conducted by the United States Census Bureau, be awarded to units restricted to senior citizens. That calculation, known as the total assistance calculation, excludes assistance for certain projects related to housing for homeless youths and supportive housing for target populations. This bill would, instead, require the total assistance calculation described above use data as reported by the United States Department of Housing and Urban Development on the basis of the most recent American Community Survey or successor survey conducted by the United States Census Bureau.

[SB 695](#)

(Portantino D) Land use planning: housing element: foster youth placement.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/15/2019-Set for hearing April 2.

Location: 3/14/2019-S. HOUSING

Summary: Would authorize a city to meet 10% of its share of the regional housing need by adopting of a program that meets certain, listed requirements, including that the program actively promote and assist in the placement of foster youth in existing family-based households, as specified, and be approved by the council of governments that assigns the city's share of regional housing needs or, in the absence of a council, by the Department of Housing and Community Development.

[SB 718](#)

(Moorlach R) Housing.

Current Text: Introduced: 2/22/2019 [html](#) [pdf](#)

Status: 3/14/2019-Referred to Com. on RLS.

Location: 2/22/2019-S. RLS.

Summary: Current law, the Planning and Zoning Law, requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element. Current law defines several terms for the purposes of these provisions. This bill would make nonsubstantive changes to those definitions.

[SB 744](#)

(Caballero D) Planning and zoning: California Environmental Quality Act: permanent supportive housing: No Place Like Home Program.

Current Text: Amended: 3/27/2019 [html](#) [pdf](#)

Last Amend: 3/27/2019

Status: 4/2/2019-VOTE: Do pass, but first be re-referred to the Committee on [Governance and Finance]

Location: 4/2/2019-S. GOV. & F.

Summary: Would require a lead agency to prepare concurrently the record of proceeding for a No Place Like Home project, as defined, with the performance of the environmental review of the project if that project is not eligible for approval as a use by right, as specified.

[SCA 1](#)

(Allen D) Public housing projects.

Current Text: Introduced: 12/3/2018 [html](#) [pdf](#)

Status: 3/20/2019-Referred to Coms. on HOUSING, E. & C.A., and APPR.

Location: 3/20/2019-S. HOUSING

Summary: The California Constitution prohibits the development, construction, or acquisition of a low-rent housing project, as defined, in any manner by any state public body until a majority of the qualified electors of the city, town, or county in which the development, construction, or acquisition of the low-rent housing project is proposed approve the project by voting in favor at an election, as specified. This measure would repeal these provisions.

Total Measures: 101

Total Tracking Forms: 101



Senator Scott Wiener, 11th Senate District

SB 50 – More HOMES Act of 2019: *Housing, Opportunity, Mobility, Equity, Stability*

SUMMARY

Senate Bill 50 allows for building housing near existing job centers and public transportation, and includes strong protections against displacement for renters and vulnerable communities in those areas.

The bill is expected to help relieve the acute housing shortage and affordability crisis in California's cities. It will also reduce climate pollution and improve public health by greatly expanding access to sustainable transportation options, like public transportation, and by allowing people to live closer to where they work.

BACKGROUND/EXISTING LAW

Existing law leaves most zoning and land use decisions to local governments, and includes no minimum density standards near state- and federally-funded transit infrastructure. While state land use standards in the Density Bonus Law and SB 375 establish general guidelines and principles, they do not include adequate provisions for enforcement.

Due to the lack of adequate and enforceable statewide standards, most California cities (with a few noteworthy exceptions) are still operating from outdated and highly restrictive zoning ordinances that make it difficult or impossible to build multi-family dwellings at any density. Duplexes, fourplexes, and similar infill housing types near high-quality transit are routinely banned due to neighborhood objections and underlying single-family zoning.

Clearly, a significant component of solving California's housing crisis must include greatly expanding access to transit services for workers at all income levels, while addressing the well-documented housing shortage. The status quo is jeopardizing several of the State's high-priority policy objectives:

- **On housing affordability:** [The California Legislative Analyst's Office](#) has found that the housing shortage in coastal cities is pushing a growing share of Californians into poverty, and forcing a large and growing cohort to spend more than half their income on rent.
- **On climate change:** [The California Air Resources Board](#) has found that the state will miss its climate targets unless Californians

reduce the amount they drive by 25 percent by 2030. Absent a surge of new housing development in livable, pedestrian-oriented areas near public transit, such reductions in vehicle miles travelled are impossible.

- **On equitable growth:** [According to the California Department of Housing and Community Development](#), "Today's population of 39 million is expected to grow to 50 million by 2050. Without intervention, much of the population increase can be expected to occur further from job centers, high-performing schools, and transit, constraining opportunity for future generations."

PROBLEM

Economic and educational opportunities in California are increasingly concentrated in urban areas, but housing construction has not kept pace with demand for access to these opportunities. Local governments play the lead role in determining the location and amount of housing in their jurisdictions, including which developments will be located near high-quality transit corridors. They also control, via housing supply, reasonable access to schools, parks, libraries and other vital services that improve community well-being and ensure a vibrant economic future.

The dearth of new housing construction, particularly in California's highest-opportunity communities, has compounded over the last several decades into a [shortage of 3.5 million homes](#), according to the California Housing and Community Development Department.

California's workers and families feel the results of this shortage in the form of exorbitant rents and the highest home purchase prices in the nation. Excessive competition for limited housing supply is also [driving a statewide epidemic of displacement, evictions, and homelessness](#).

California's failure to keep home building on pace with job growth is directly responsible for longer commutes and increased air pollution. Millions of low- and middle-income Californians have [multi-hour commutes](#), as they seek affordable housing far from areas with concentrated economic and educational opportunities.

Statewide, California's businesses have created 4.5 jobs for every new housing unit; according to the [Building Industry Association](#), the ideal ratio is 1.5 jobs per housing unit.

According to the Department of Housing and Community Development:

"Land use policies and planning can help encourage greater supply and affordability, as well as influence the type and location of housing. Thoughtful land use policies and planning can translate into the ability for families to access neighborhoods of opportunity, with high-performing schools, greater availability of jobs that afford entry to the middle-class, and convenient access to transit and services. Easy access to jobs and amenities reduces a household's daily commute and other travel demands. Encouraging new homes in already developed areas and areas of opportunity not only alleviates the housing crisis, but also supports the State's climate change and equity goals."

SOLUTION

While the housing shortage is chronic across most California jurisdictions, there are several examples of cities taking the lead on reforms that help alleviate the crisis by encouraging infill housing near transit, job, and educational opportunities. These include [Los Angeles, which authorized creation of the Transit Oriented Communities \(TOC\) program in 2017](#). The measure created powerful incentives for affordable housing near Metro subway stops and bus services through modifications to the zoning code; as projects move closer to high-quality transit, they are required to increase the amount of affordable housing.

[Oakland's experience](#) also offers a positive vision for future housing growth. In 2016, the city eliminated minimum parking requirements, drastically reducing the cost of new housing construction while encouraging new developments on high-quality transit corridors. The changes to the city's zoning and development standards have resulted in a mini-boom of walkable, transit-oriented apartments near BART and AC Transit bus stations, and within a short distance from the city's primary job locations.

Senate Bill 50 integrates lessons learned from cities like Los Angeles and Oakland to expand the benefits of affordable, transit-rich and job-rich housing across the state. The bill will give cities new tools to provide relief to rent-burdened workers and families while reversing the growing, and alarming, trends of homelessness, displacement, and migration out of California.

State Minimums, More Housing Choices:

The bill waives apartment bans near high-quality transit and in job-rich areas to ensure that the benefits of public investments in transportation are broadly accessible to Californians of all incomes. The bill also includes specific requirements to provide low-income housing in new development to ensure that market-rate construction is always coupled with affordable units for the lowest income Californians.

SB 50 applies to sites that are either within 1/2 mile of high-quality public transportation, or within a job-rich, high-opportunity neighborhood. Under SB 50, a local government will be allowed to approve higher-density housing with no parking requirements, provided the site is adjacent to transit, or reduced parking requirements in areas close to jobs and high-quality schools. Height limits for new housing with close, walkable access to rail or connected transit will be loosened to encourage mid-rise, apartment-style housing construction. For example, in areas close to rail or transit-connected ferry service, a local government may allow buildings of up to 4-5 stories, depending on the distance from transit.

Preservation of Local Control:

Under the legislation, all housing projects will still be subject to environmental review (the California Environmental Quality Act), and must follow existing labor and employment standards for new construction. Local development fees, community engagement processes, and architectural design review for each housing development will remain as-is. Additionally:

- **Anti-demolition:** A local government retains existing authority to ban, prohibit, or restrict demolition of existing housing, consistent with the Housing Accountability Act. At a minimum, a local government may not issue demolition permits for housing currently or recently occupied by renters.
- **Local affordable housing policy:** If a local government requires more affordable housing than what is required in SB 50, that policy will be honored in new developments.
- **Neighborhood height limits:** A local government retains authority to set or maintain local height limits for new housing in areas without easy access to rail transit.
- **Local initiatives to encourage TOD:** If a community has a successful, preexisting, program to encourage apartments near public transportation, such as the TOC program in Los Angeles, then properties eligible for that incentive will be ineligible for this program.

Key provisions for renters and sensitive communities:

SB 50 includes the following provisions:

- **Tenant Protections:** Establishes strict tenant protections to ensure long-time residents will not be displaced from their communities, including a prohibition on demolishing buildings currently or recently occupied by renters.
- **Affordable Housing:** Establishes a requirement that every new housing development larger than 20 units must include a significant number of housing units affordable to for low, very low, or extremely low-income households, ensuring affordable housing will be built for people of all income levels. Each project must designate 15-25% of the total units to low-income families, or designate an equivalent amount for very low- or extremely low-income families.
- **Sensitive Communities:** Allows for delayed implementation in sensitive communities at risk of gentrification and displacement, and grants five years for a community-led planning process in these neighborhoods.
- **Job-Rich Communities:** Proposes a new “job-rich housing project” designation to ensure that high-opportunity communities with easy access to jobs allow a broader range of multifamily housing choices for people of all income levels, even in the absence of high-quality transit.

CO-AUTHORS

- Sen. Anna Caballero (D-Salinas)
- Sen. Ben Hueso (D-San Diego)
- Sen. John Moorlach (R-Costa Mesa)
- Sen. Nancy Skinner (D-Berkeley)
- Sen. Jeff Stone (R-Temecula)

- Asm. Autumn Burke (D-Marina Del Rey)
- Asm. Kansen Chu (D-San Jose)
- Asm. Tyler Diep (R-Westminster)
- Asm. Vince Fong (R-Bakersfield)
- Asm. Ash Kalra (D-San Jose)
- Asm. Kevin Kiley (R-Rocklin)
- Asm. Evan Low (D-Campbell)
- Asm. Kevin McCarty (D-Sacramento)
- Asm. Robert Rivas (D-Hollister)
- Asm. Phil Ting (D-San Francisco)
- Asm. Buffy Wicks (D-Oakland)

SPONSORS/SUPPORT

- California Yimby (Co-Sponsor)
- Non-Profit Housing Association of Northern California (Co-Sponsor)
- California Association of Realtors (Co-Sponsor)

- 6Beds, Inc.
- Abundant Housing Los Angeles
- American Association of Retired Persons – (AARP)
- Associated Students of the University of California (ASUC)
- Bay Area Council
- Bay Area Housing Advocacy Coalition
- Bay Area Rapid Transit (BART)
- Black American Political Association of California (BAPAC) – Sacramento Chapter
- Building Industry Association, Bay Area
- California Apartment Association
- California Asian Pacific Islander Chamber of Commerce
- California Building Industry Association (CBIA)
- California Chamber of Commerce
- California Community Builders
- California Downtown Association
- California Foundation of Independent Living Centers
- California Labor Federation
- California League of Conservation Voters (CLCV)
- California Public Interest Research Group (CalPIRG)
- California Renters Legal Advocacy and Education Fund (CaRLA)
- California State Building and Construction Trades Council, AFL-CIO
- Circulate San Diego
- City and County of San Francisco, Mayor London Breed
- City of Anaheim, Councilmember Jordan Brandman
- City of Campbell, Former Councilmember Jeffrey R. Cristina
- City of Culver City, Councilmember Alex Fisch
- City of El Cerrito, Councilmember Gabe Quinto
- City of Emeryville Councilmember Dianne Martinez
- City of Emeryville, Councilmember John Bauters
- City of Fairfield, Councilmember Chuck Timm
- City of Foster City, Vice Mayor Herb Perez
- City of Half Moon Bay, Mayor Councilmember Deborah Penrose
- City of Healdsburg, Mayor David Hagele

- City of Los Gatos, Councilmember Rob Rennie
- City of Milpitas, Former Councilmember Marsha Grilli
- City of Oakland, Mayor Libby Schaaf
- City of Palo Alto, Councilmember Adrian Fine
- City of Pinole, Councilmember Vincent Salimi
- City of Rancho Cordova, Councilmember Donald Terry
- City of Sacramento, Mayor Darrell Steinberg
- City of San Jose, Mayor Sam Liccardo
- City of South San Francisco, Former Mayor Pradeep Gupta
- City of Stockton, Mayor Michael Tubbs
- City of Woodland, Councilmember Enrique Fernandez
- College Democrats of the University of Southern California
- Council of Infill Builders
- EAH Housing
- East Bay for Everyone
- Environment California
- Fair Housing Advocates of Northern California
- First Community Housing
- Fossil Free California
- Grow The Richmond
- Habitat for Humanity
- Homeless Services Center (Santa Cruz)
- House Sacramento
- Housing Leadership Council of San Mateo County
- Indivisible Sacramento
- Los Angeles Business Council
- Los Angeles Chamber of Commerce
- Mission YIMBY
- Natural Resources Defense Council (NRDC)
- New Way Homes
- NextGen Marin
- North Bay Leadership Council
- Northern Neighbors
- Orange County Business Council (OCBC)
- People for Housing - Orange County
- Progress Noe Valley
- Related California
- San Francisco Foundation
- San Francisco Housing Action Coalition
- San Francisco Planning and Urban Research (SPUR)
- Santa Cruz County Business Council
- Santa Cruz Yimby
- Silicon Valley @ Home
- Silicon Valley Community Foundation
- Silicon Valley Leadership Group
- Silicon Valley Young Democrats
- South Bay Yimby
- State Council on Developmental Disabilities
- Supervisor Das Williams, Santa Barbara County
- Supervisor David Canepa, San Mateo County
- Supervisor Don Horsley, San Mateo County
- Supervisor Jim Spering, Solano County
- Supervisor Michael Kelley, Imperial County
- Supervisor Miguel Villapudua, San Joaquin County
- TechNet
- TMG Partners
- Up For Growth, California
- Valley Industry Commerce Association (VICA)
- YIMBY Action
- Yimby Democrats of San Diego

FOR MORE INFORMATION

Annie Fryman, *Legislative Aide*
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 Phone: (916) 651-4011



Cities Association of Santa Clara County: Position Paper on Housing

The Cities Association of Santa Clara County (CASCC) is an association of the fifteen cities of the county that works collectively to discuss and find solutions on issues at a regional level.

CASCC recognizes the need for increased housing opportunities, especially for people earning below the area median income. We fully **endorse** local and regional efforts to encourage the production of more housing, preserve and increase subsidized below market rate housing at moderate- and below-income levels, and provide benefits to minimize the impact for current residents in rapidly changing neighborhoods.

The CASA Compact is a high-level document with only limited detail. Small and medium sized cities were not well represented in it's creation yet represent 66% of the Bay Area population. CASCC wants to ensure that their member cities' voices are heard as the details of legislation are being crafted. CASCC further encourages MTC, ABAG and the State Legislature collaborate with all cities on the ideas contained within the CASA Compact so that we can collectively formulate workable solutions to address the Bay Area's housing needs. It is the consensus of the CASCC that:

We support legislation that will provide voters statewide with the opportunity to apply a 55 percent threshold for revenue generating ballot measures for investments in affordable housing and housing production.

We support legislation that will return e-commerce/internet sales tax revenue to the point of sale – not the point of distribution as currently mandated – to provide cities that have a significant residential base with a commensurate fiscal stimulus for new housing.

We support Governor Newsom's investments proposed in the state budget that will benefit California cities including a substantial increase in state funding for affordable and workforce housing and to address the growing homelessness crisis in our state.

We support incentives for the production of new accessory dwelling units to streamline the entitlement of those ADU's.

We support removing barriers to planning complete communities, ensuring that adequate resources are available for new schools and parks to serve our growing population.

We support additional transportation investments to expand the Bay Area transit network that provide connections from job centers to existing housing as well as planned future housing.

We support establishing tenant protections as cities deem appropriate for their residents.

We support maintaining local control of the entitlement process. We urge the State to recognize that cities control entitlements, while developers build. Cities should therefore primarily be measured by entitlements when calculating RHNA attainment, and not penalized when funding is inadequate to build affordable housing.

We support ABAG, an elected body, to serve as the governance structure that administer new affordable housing funds and monitor housing production rather than establishing yet another agency to take on that role.

We oppose a one-size-fits-all approach to housing densities and land-use decision-making.

We oppose any diversion of existing revenue sources from cities.

Cities in Santa Clara County are actively addressing the housing shortage.

- All 15 cities have State-approved plans for new housing growth.
- Permits for 30,000 new residential homes have been approved since 2015 which represents over 50% of the state's housing goal for Santa Clara County of 58,836 new homes by 2023.
- Over 6,000 new residential units were approved in Santa Clara County in 2018.
- Santa Clara County voters increased local taxes to support \$950 million in affordable housing funds. As of 2018, \$234 million has been invested for 1,437 new multi-family units and 484 rehabilitated units.
- The Cities Association of Santa Clara County is leading the effort to form a 2023-2031 RHNA Sub-Region within the County.

About us: The Cities Association of Santa Clara County is an association of the fifteen cities of the county and the elected representatives of more than 1.9 million Bay-Area residents. Since 1990, the city representatives have been gathering to discuss and find consensus and solutions for regional issues. The cities of our association are diverse and include cities of a few thousand people and a city of a million people.

CASA Compact

April 16, 2019

Background – What is CASA?

- CASA is short for The Committee to House the Bay Area
- CASA was convened in mid 2017 by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) to tackle the region's housing crisis.
- CASA's mission is to address the region's housing affordability crisis by identifying and unifying behind bold, game-changing ideas

MTC is the Metropolitan Planning Organization (MPO) for the nine Bay Area counties as designated by the federal government, and is the Regional Transportation planning agency for the Bay Area as designated by the State of California

ABAG was created by local governments in the nine Bay Area counties to meet planning and research needs related to land use, environmental and water resource protection, disaster resilience, energy efficiency and hazardous waste mitigation.

Components of the CASA Compact

REVENUE

The CASA Compact purports to create a new unelected body to:

- Levy and collect taxes
- Issue debt
- Impose fees on taxpayers, businesses, property owners, and local governments

EXPENSE

This unelected body will be responsible for:

- Imposing rent control
- Funding tenant litigation against landlords
- Forcing landlords to pay for tenant relocation
- Overriding local zoning for height, setbacks, and parking
- Reducing local government review of development projects
- Reducing environmental review
- Pushing public land to be used for affordable housing

Background – What has happened?

The causes of the housing crisis are listed in CASA's presentation materials

CASA PREAMBLE – 3 P'S

The Bay Area faces a housing crisis because we have failed at three tasks:

- Failed to **produce** enough housing for residents of all income levels
- Failed to **preserve** existing affordable housing
- Failed to **protect** current residents from displacement

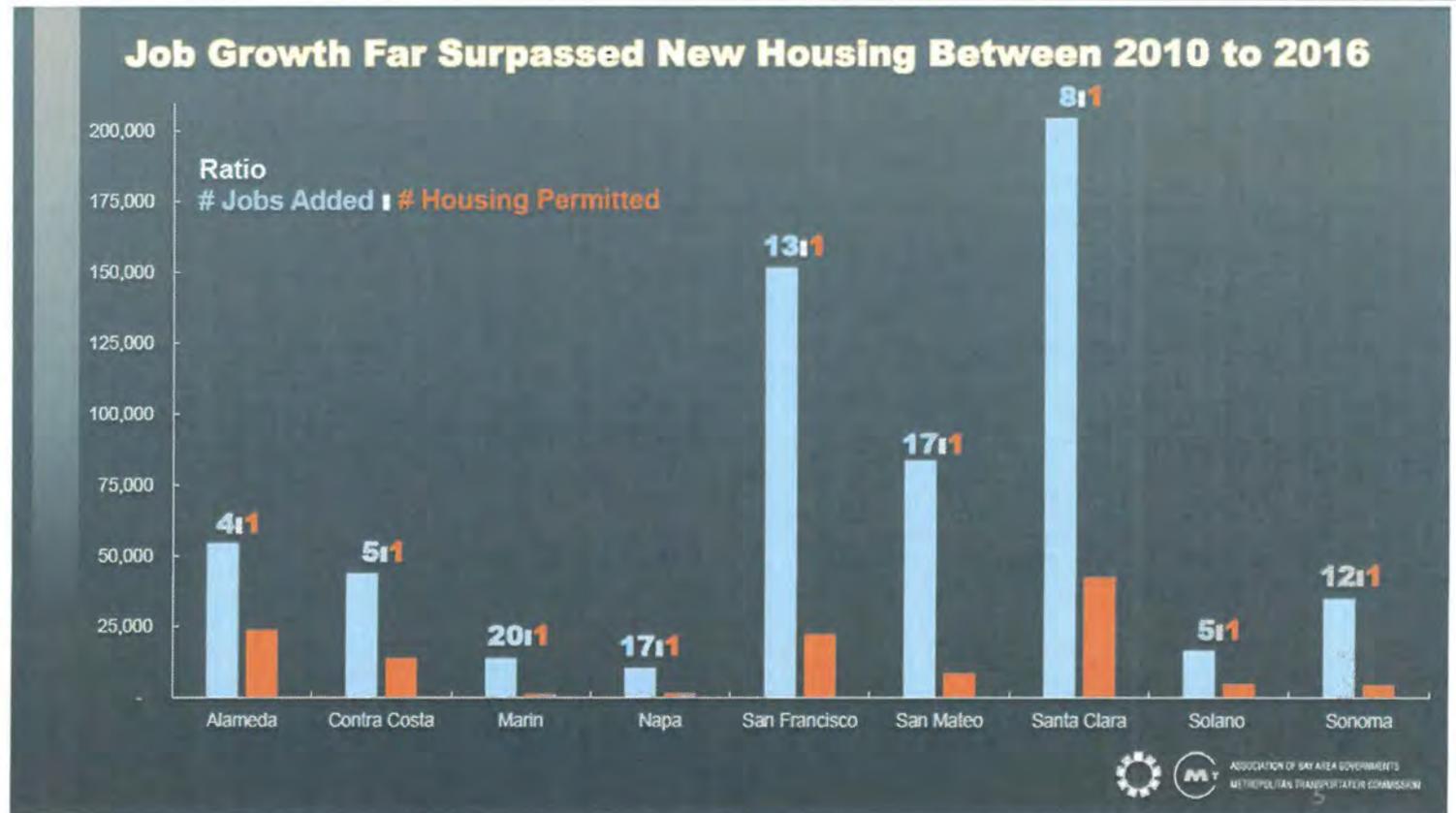


Background – How did we get here?

From the CASA presentation materials:

Jobs added has greatly exceeded housing units added.

This is driven in greatest numbers by 3 counties: San Francisco, San Mateo, and Santa Clara



Background – Why CASA?

The CASA preamble asserts the following:

- Bay Area housing shortage has reached **crisis** proportions
- The housing crisis is also a transportation crisis
- 10s of thousands are ill-housed or not housed at all
- Since 2010, the Bay Area has added 722K jobs and constructed 106K housing units
- **Every signatory to the Compact pledges to support the entire agreement and all of its provisions.**

CASA set out to achieve three goals:

1. **Produce** 35K housing units/year
2. **Preserve** 30K existing affordable units
3. **Protect** 300K lower-income households

CASA Leadership

CO-CHAIRS	Company	Overview
Fred Blackwell	San Francisco Foundation	Poverty and income inequality advocacy
Leslye Corsiglia	Silicon Valley @ Home	Affordable housing advocacy
Michael Covarrubias	TMG Partners	Builder
Other Leadership	Company	Overview
Steve Heminger	MTC	Regional transportation planning
Linda Mandolini	Eden Housing	Affordable housing builder
Derecka Mehrens	Working Partnerships USA	Just economy advocacy
Denise Pinkston	Bay Area Council	Public policy advocacy

Steering Committee

Technical Committee

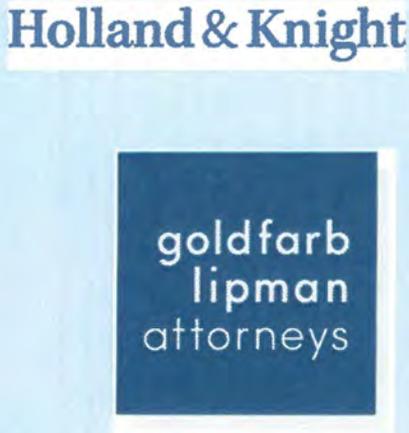
CASA Leadership – Steering Committee

CASA Steering Committee includes representatives from:

Builders	Governmental	Tech Companies	Labor and Advocacy
  	        	  	   <small>Our communities. Our transportation. Our future.</small>

CASA Leadership – Technical Committee

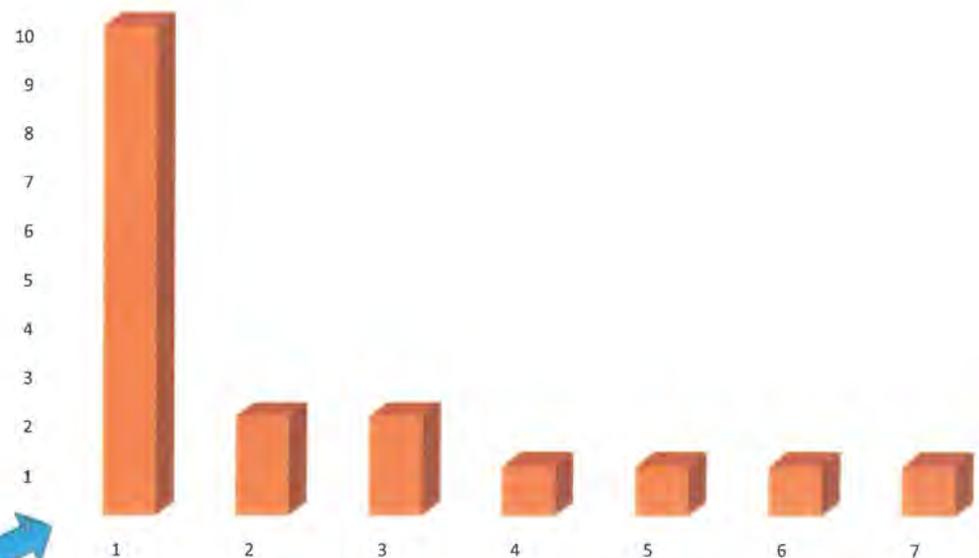
CASA Technical Committee includes representatives from:

Builders	Governmental	Legal	Advocacy
			

Background – MTC Voting members

- MTC is made up of 21 commissioners, 18 voting members, and 3 non-voting members
- The 18 voting members represent each of the nine bay area counties, but not all counties are represented equally
- San Francisco, Santa Clara, and Alameda each get 3 votes. Contra Costa and San Mateo get 2 votes, and the four remaining counties get 1 vote each. ABAG gets 1 vote
- **Together, three large counties and the ABAG delegate can control all of MTC**

Which counties get to vote at MTC



Each are members of the CASA Steering Committee

CASA Compact Element #1

Just Cause Eviction Policy

- **Fault and no-fault evictions** – Requires landlords to cite specific “just causes” that are either fault or no-fault for termination of tenancy.
- **Requires noticing and cure period** – If the reason for termination is fixable, then landlord is required to provide notice and an opportunity to cure the issue.
- **Landlords required to pay relocation assistance** – For no-fault causes of termination (e.g. owner move in, withdrawal from rental market, condo conversion), landlords must notify tenants of their right to relocation assistance and pay the tenant directly.

CASA Compact Element #2

Rent Cap

- **Rent control** - Establishes rent control whereby a landlord cannot increase rent in any given year greater than CPI +5%.
- **15 years** - Rent control period lasts 15 years with ability to be extended

CASA Compact Element #3

Rent Assistance and Access to Legal Counsel

- **Provide legal counsel** - Any tenant facing eviction shall have the full scope of legal representation provided to them
- **Provide rent assistance** - Tenants facing eviction due to non payment eligible to receive money to assist in paying rent
- **Provide notice** - Landlords required to provide notice of these available options to tenants

CASA Compact Element #4

Remove Regulatory Barriers to Accessory Dwelling Units (ADUs)

- **Remove local regulations** – Requires ministerial approval for ADUs in all residential zones
- **Allow multiple in multi-family homes** – multiple ADUs and Junior ADUs in multi-family zones
- **Create small homes building code** – State wide rather than local control

CASA Compact Element #5

Minimum Zoning near Transit

- **Overrides local zoning** – local restrictions on height, setbacks, parking are superseded
- **Transit rich areas** - Allows 5 and 7 story building heights near transit like bus stops
- **Job rich areas** - Also applies to any area deemed to be “job-rich” – area is associated with positive educational and economic outcomes
- **State decides** – Department of Housing and Community Development (HCD) makes determination on what is a “job rich area”

Potential Impact of Element #5

Transit-rich would be based on proximity to public transportation. Zoning changes could be initiated by changes in the bus schedule.

Jobs-rich isn't defined, but will be based on proximity to jobs, school quality, and median income. Even if Clayton isn't immediately impacted, this criteria could easily encompass our city in the future.



CASA Compact Element #6

Good Government Reforms to Housing Approval Process

- **Places restrictions on cities processing of applications** – rules and fees are locked at the date of application, including impact fees even if project takes multiple years to bring to fruition
- **Adds reporting requirements on cities** – requires additions to annual housing element reporting to document local government imposition of costs
- **Limits the number of public hearings** – no more than three public hearings even if project takes years and has multiple changes

CASA Compact Element #7

Expedited Approvals and Financial Incentives for Select Housing

- For projects that use prevailing wages and comply with existing zoning standards, among other qualifications:
- **No CEQA** - Creates new California Environmental Quality Act (CEQA) exemption so not subject to environmental impact review
- **Financial incentives** – caps impact fees, provides 35% density bonus, reduces parking requirements by 50%, abates property taxes for 15 years

CASA Compact Element #8

Unlock Public Land for Affordable Housing

- **Changes surplus and underutilized land requirements** – for public land sold, priority must be given to those who propose the greatest number of affordable housing units. Must also notify various groups prior to sale
- **Adds reporting requirements on cities** – HCD will create database of properties and current uses and have power to refer infractions to Attorney General
- **Zoning of public land** – allows residential uses on all developable public land regardless of zoning. Requires housing element to encourage development of affordable housing on public land

CASA Compact Element #9

There is a menu of different options to fund and finance the CASA Compact. Those that would pay through fees, increased taxes, and debt include:

- Property owners
 - Developers
 - Employers
 - Local Governments
 - Taxpayers
- Minimum of 60% of funds collected dedicated to affordable housing
 - 25% of money collected directed to regional spending outside the county of origin, 75% spent in the county of origin. This is by County, not city so 100% of the money taken from Clayton could go outside of Clayton

CASA Compact Element #10

Create Regional Housing Enterprise – A new quasi governmental body

- Implements CASA Compact
- Comprised of same unelected group that helped develop CASA Compact
- Reports on progress – work through ABAG and MTC to mandate data collection for reporting
- Ability to impose fees and taxes to collect revenues, and issue debt
- Ability to purchase, lease, and hold land for development

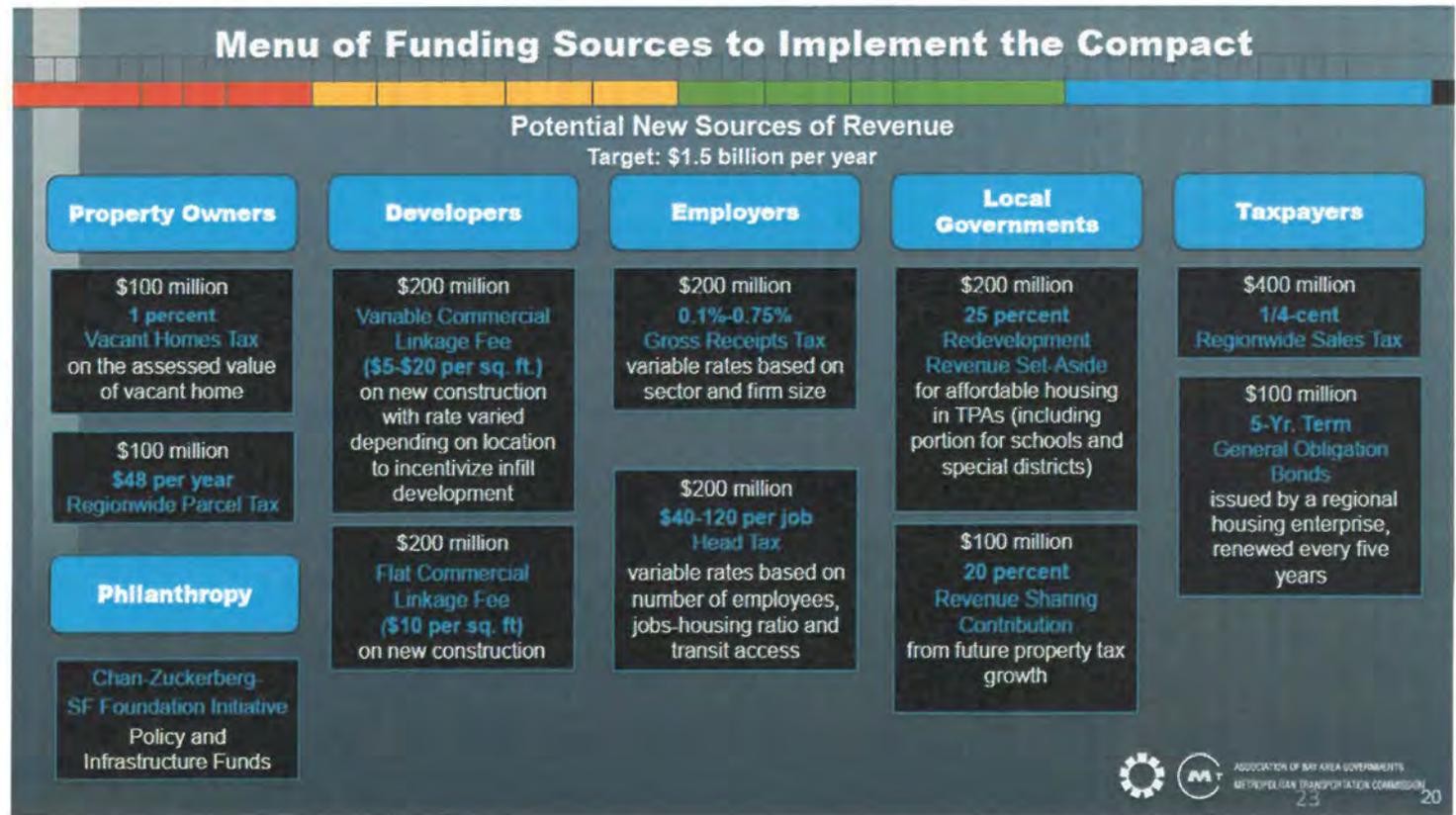
CASA Calls for Action

These items were deemed important, but did not garner enough support to be included in the core elements:

- **Redevelopment 2.0 –**
Re-create RDAs that were previously eliminated
- **Lower the voter threshold for housing funding measures –**
Lower requirement to raise taxes for housing from a 2/3 majority to 55%.
Sales tax imposed at point of sale – capture sales tax from online purchases based on where item was purchased, not where it was distributed from
- **Fiscalization of land use –**
Update formula for commercial and residential property tax allocation to incent cities more towards residential
- **Homelessness –**
Provide funding to reduce homelessness
- **Grow and stabilize the construction labor force –**
Pay prevailing wages whenever there is public funding or public land, or any other incentives in the CASA Compact

Paying for CASA

CASA proposes to tax homes, commercial construction, employers, local governments, taxpayers, etc.



Paying for CASA

Property Owners

\$100 million
1 percent
Vacant Homes Tax
on the assessed value
of vacant home

\$100 million
\$48 per year
Regionwide Parcel Tax

Anyone with a vacant home would face additional property tax assessment (may be unconstitutional)

All homeowners would be levied additional parcel taxes

Paying for CASA

Employers

\$200 million

0.1%-0.75%

Gross Receipts Tax
variable rates based on
sector and firm size

Currently, if a business has \$1,000 in revenue and \$950 in expenses, it typically would pay tax on \$50, the net income

This proposal would tax the gross revenues, or a tax on the \$1,000 before any deductions are made

\$200 million

\$40-120 per job
Head Tax

variable rates based on
number of employees,
jobs-housing ratio and
transit access

Any business that employs people would pay a tax based on the number of people that are employed

Paying for CASA

Local Governments

\$200 million
25 percent
Redevelopment
Revenue Set-Aside
for affordable housing
in TPAs (including
portion for schools and
special districts)

Not enough information to present on this item

\$100 million
20 percent
Revenue Sharing
Contribution
from future property tax
growth

Divert portion of city's share of property taxes attributable to increases in assessed value (may be unconstitutional)

Paying for CASA

Taxpayers

\$400 million
1/4-cent
Regionwide Sales Tax

\$100 million
5-Yr. Term
General Obligation
Bonds
issued by a regional
housing enterprise,
renewed every five
years

Increase in sales tax. Any increase in tax reduces the future ability of cities to raise funds to provide for essential services

Bond issues costs everyone but it is unclear how it will be funded based on the information presented

Paying for CASA – Clayton Summary

Based on available information*, a high level estimate of what the CASA Compact could cost the City of Clayton, its residents, and its businesses.

*does not include RDA set aside or debt issuance

Summary

<u>CASA Category</u>	<u>Revenue Menu Option</u>	<u>Total Tax</u>
Property Owners	Vacant Homes Tax	\$ 330,080
	Parcel Tax	\$ 244,080
Developers	Variable Commercial Linkage Fee	\$ -
	Flat Commercial Linkage Fee	\$ -
Employers	Gross Reciepts Tax	\$ 382,089
	Per Job Tax	\$ 8,000
Local Governments	Redevelopment Revenue Set-Aside	\$ -
	Revenue Sharing Contribution	\$ 9,477
Taxpayers	Sales Tax	\$ 119,250
	General Obligation Bonds	\$ -
Total Taxes from All CASA Menu Options		\$ 1,092,976
Adjustment Factor		83%
Adjusted Total Revenues from CASA		\$ 910,813

Bay Area Response

Several cities in the Bay Area have spoken out about the CASA Compact

Entity	Position	Action
City of Berkeley	Opposed	Wrote letter
City of Cupertino	Opposed	Wrote letter
City of Los Altos	Opposed	Wrote letter
City of Los Gatos	Opposed	Wrote letter
City of Palo Alto	Opposed	Wrote letter
City of Santa Clara	Opposed	Wrote letter
City of Sunnyvale	Opposed	Wrote letter
City of Rohnert Park	Opposed	Wrote letter
City of Cotati	Opposed	Wrote letter

Entity	Action
City of Lafayette	Drafting letter in process
City of Orinda	Drafting letter in process
City of Moraga	Drafting letter in process
Town of Danville, cities of San Ramon, Dublin, Pleasanton, Livermore	Formed Tri-Valley Cities Policy Framework assessing each of the 10 CASA Compact elements.
City of Cupertino	Mayor came out opposed
City of Walnut Creek	Discussed Feb 5, 2019

Clayton's Response





Agenda Date: 4-16-2019

Agenda Item: 8c

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 16 APRIL 2019

SUBJECT: DETERMINE PREFERRED PROCESS FOR RECRUITMENT AND EMPLOYMENT OF NEXT CITY MANAGER, AND OTHER CONSIDERATIONS

RECOMMENDATION

Following staff report and opportunity for public comments, it is recommended the City Council provide policy direction to staff concerning its preferred process for recruitment of its next city manager [due to incumbent retirement], and the probable necessity of hiring an interim city manager.

BACKGROUND

At the conclusion of the 02 April 2019 City Council meeting, announcement was made the current Clayton city manager intends to retire soon after 17.5 years with the City, and the City Council must now initiate public discussion as to its preferred process for advertising, recruitment and selection of its next city manager. Coupled with that timetable is the likely necessity of needing to hire an interim city manager to head the City organization until the next city manager starts employment. Although the Employment Agreement with the current city manager only requires a thirty (30) day written notice of resignation, the incumbent's advance notification was designed to give as much time as practical to accomplish the transition while still matching personal plans. At this time the current Clayton City Manager intends to officially retire at the end of July 2019.

RECRUITMENT OPTIONS

Essentially there are really only two (2) options for the management and conduct of a recruitment involving the employment of the City's chief executive officer [city manager]. The first is to handle the process in-house using existing City personnel (human resources office) while the second option is to retain a qualified and experienced public sector executive search firm to manage the entire process.

Option 1: In-House Management of the Recruitment

Similar to the City's past practice and experiences in successfully hire vacated department head and management positions in the City organization, the Human Resources office would largely handle the timetable, placement of advertisements in professional publications, prepare a professional-grade brochure, receive applications and then work with a City Council sub-committee to initially screen prospective candidates. Following that internal process, a professional interview panel could be convened to assist in vetting selected candidates along with the obligatory interview before the full City Council in a noticed closed session.

Finalists selected would be subjected to further background check, likely by the Clayton chief of police or an outside background investigator. The City Council would then ultimately negotiate the terms and conditions of employment (including compensation) with the successful finalist. The process concludes with an Employment Agreement approved by the City Council at a public meeting and arrangements are made for a mutually-agreeable start date of employment.

Advantage of an in-house managed recruitment process is the expenses can be less than utilizing an executive search firm and advertisements usually occur in the same job opportunity venues. For example, the City's current recruitment for its next Community Development Director incurred initial publication and advertising expenses of approximately \$2,000.

Disadvantages to this recruitment process include it is very time intensive for in-house personnel and candidly, many prospective executive candidates highly prefer the anonymity of discussing the city manager opportunity with experienced executive recruiters in advance of making formal application.

Option 2: Use a Public Sector Executive Search Firm

As it did in 2001 when recruiting and employing the current city manager, many public agencies rely on the retention of an experienced executive search firm to not only handle all aspects of the recruitment and selection but also to attract qualified candidates to the professional opportunity. These recruiters are skilled in understanding the internal and external nuances that are inherent in successfully placing a professional public manager into the right public agency and can be of considerable value in shepherding the City Council through that process.

There are a host of public sector executive search firms available to the California public employment field and an interested City Council would initiate the process by inviting several to prepare submittals to invitations for Request for Proposals (RFP). The RFP need not be formal – interest can be ascertained by verbal contact. As these firms are often quite busy, not every potential executive search firm will respond to an RFP by Clayton as its own personnel may be preoccupied handling commitments to other public sector recruitments.

Expense can become an issue for some public agencies when using an executive search firm, particularly ones having smaller financial budgets. To provide actual examples in expense for recent city manager recruitments conducted in the Contra Costa County area, the below sampling is offered:

City Manager	City of Lafayette, CA	\$ 26,900
City Administrator	City of Piedmont, CA	\$ 26,000
City Manager	City of Moraga, CA	\$ 27,000
City Manager	City of Martinez, CA	\$ 26,400 *

(* included expenses capped at \$6,500)

These rates are negotiable and vary depending on the extent of professional services desired of the executive search firm (e.g., publication expenses, coordination of the interview process and questions, background checks, assistance negotiating the final Employment Agreement, etc.).

RECRUITMENT STEERING COMMITTEE

Since a city manager is one of the two direct positions the City Council hires in this City [the other is city attorney], it is absolutely fundamental the City Council stay directly involved in guiding the in-house personnel or interfacing with the chosen executive search firm to obtain the desired objectives and outcome. While it is natural each of the elected officials wish to be intimately involved in the selection process, it is not essential that all be involved in the transactions and processes leading up the candidate screenings, interview and ultimate selection. Therefore, it is recommended the City Council at this meeting determine an ad-hoc committee [no more than 2 persons] to serve as the recruitment steering committee for this purpose. Doing so will greatly streamline and facilitate the complexities of this recruitment process.

INTERIM CITY MANAGER SERVICES

Despite the reasonable notice provided by the City current Manager, it is probable that once the preferred recruitment process is officially engaged it may take a good 4-5 months (or longer) to select the next city manager and actually have that person onboard. Consequently, the City Council should have some public dialogue on whether to explore the retention of an interim city manager, either from within existing City management personnel or the hiring a retired city manager wishing to assist the City Council in this transition. Such a decision rests solely with the City Council.

FISCAL IMPACT

No monies were allocated in the adopted City Budget for FY 2018-19 for this purpose.



PECKHAM & MCKENNEY
EXECUTIVE SEARCH

SEARCH SCHEDULE

- Resume filing deadlineApril 17, 2019
- Preliminary Interviews.....April 23-25, 2019
- Recommendation of Candidates... April 30, 2019
- Finalist Interview Process ...May 16 and 17, 2019

These dates have been confirmed, and it is recommended that you plan your calendar accordingly.



The City Administrator will be forward thinking and solution oriented. Respecting this professional leadership team for its abilities, the City Administrator will be a critical thinker who asks the right questions, sets a high standard, challenges the team to innovate, and brings out the best in staff. As the team's leader, the City Administrator will support, coach, and mentor staff and will encourage continuous development and improvement.

The next City Administrator has the opportunity to take the time to assess the organization and identify opportunities for improvements and efficiencies to better serve the community. The selected candidate will bring experience managing projects through others and an understanding of shepherding a project from conception to financing to execution, in a successful manner and without surprises. A generalist background is most desired, although technical experience in the areas of budget and finance are appreciated. A Bachelor's degree in public administration,

business administration, or a closely related field is required; a Master's degree is preferred.

THE COMPENSATION

The salary for the City Administrator is competitive and dependent upon the qualifications of the selected candidate.

The city also offers an outstanding benefits package including life, health, dental, and vision insurance; leave time; and city vehicle. In addition, retirement is through CalPERS 2% @ 60, three-year average benefit calculation (legacy). Employees new to the CalPERS system, or not eligible for reciprocity, will be provided the CalPERS 2% @ 62 plan. The city's contract also provides for credit for unused sick leave in accordance with Government Code Section 20965 of the California Public Employees' Retirement Law.

Another attractive employment benefit is that children of full-time city employees are eligible to attend school in the Piedmont Unified School District.

THE RECRUITMENT PROCESS

To apply for this exciting career opportunity, please visit our website at:

Peckham & McKenney
www.peckhamandmckenney.com

Please do not hesitate to contact Bobbi Peckham toll-free at (866) 912-1919 if you have any questions regarding this position or recruitment process.

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EXECUTIVE SEARCH

www.peckhamandmckenney.com

THE COMMUNITY

The City of Piedmont is a community of approximately 11,500 residents located in the beautiful Oakland Hills overlooking the San Francisco Bay. Rich in history dating back to the 1800's, when land holdings passed from original Spanish settlers to newcomers from the east, the community was aptly named "Piedmont," or "foot of the mountain" by James Gamble, owner of the Piedmont Land Company. Over the years, gardens, bridges, parks, and schools were developed, and many artists, writers, and prominent citizens made Piedmont their home. Following the 1906 San Francisco earthquake, the community of Piedmont grew ten-fold in just one year. By 1907, residents voted to incorporate as the City of Piedmont, and in 1923 the city became a charter city.

Today, residents of Piedmont continue to take great pride in their community and enjoy many city-sponsored events, such as movies and concerts in the park, the annual Martin Luther King Day celebration, and the well-known 4th of July Parade. Within the city's 1.7 square-mile-area, there are five parks and numerous landscaped areas that offer wooded paths, tennis courts, children's playgrounds, playfields, and picnic facilities.

Located in the East Bay hills of Alameda County, Piedmont is surrounded on all sides by the City of Oakland. Specifically, Piedmont's northwestern border is adjacent to Oakland's Piedmont Avenue commercial district, the historic Grand Lake District to the southwest, the Rockridge District to the west, the quaint and more rustic Montclair District on its northeastern border, and the Crocker Highlands and Glenview Districts to the south.

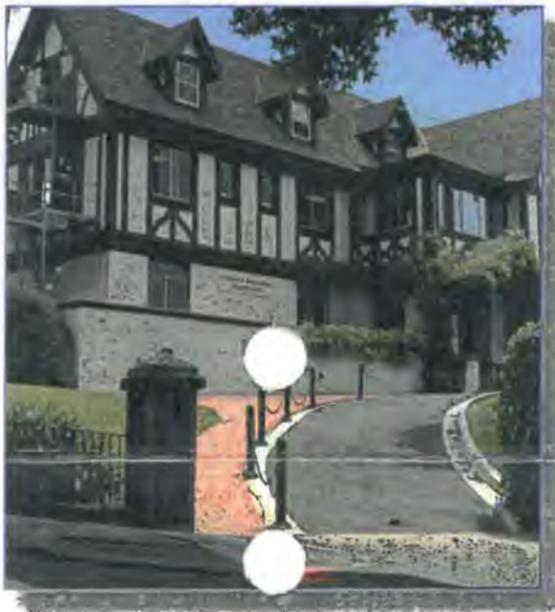
Piedmont is virtually built out and consists of established quality single-family homes on quiet, tree-lined streets. Characterized by a stable, well-educated, and sophisticated population, Piedmont is comprised of long-time residents as well as an influx of younger families bringing an increased diversity to the community. Although the city has a small commercial district, Piedmont is almost entirely zoned for single-family dwelling residential use and relies primarily on property and voter-approved parcel taxes. A significant portion of the city is located in canyon areas with urban/wild land intermix.

Incorporated for over 110 years, the City of Piedmont provides its residents with outstanding public safety, educational opportunities, neighborhoods, parks, vistas, customer service, and quality of life. The City of Piedmont is served by the Piedmont Unified School District. The district has three elementary schools, one middle

school, one high school, and one alternative high school. On California Standards Tests and STAR, the district is among the highest ranking unified school districts in the state, and over 95% of the district's graduates pursue a college education. As a result of a bond measure passed by voters in 2016, the Piedmont Unified School District is currently engaged in a major construction program that includes remodeling and improvements at its facilities, including new construction at the Piedmont High School.

Residents and visitors enjoy many of the community's public parks including Piedmont Park, Dracena Park, Crocker Park, Hampton Park, Linda Avenue Tot Lot and Dog Run, Kennelly Skate Park, and Blair Park. Playfields include Coaches Playfield, Linda Playfield, and Piedmont Sports Field. Piedmont has a City Hall, Community Hall, Veterans' Memorial Building, Recreation Center, Aquatics Center, and Center for the Arts.

To learn more about the city, please visit www.ci.piedmont.ca.us.



THE ORGANIZATION

Piedmont is a full-service charter city operating under a City Council/Administrator form of government. Five Council members are elected at-large on a nonpartisan basis to staggered, four-year terms. Elections are held concurrent with the statewide general election in November of even-numbered years. Following each election, the City Council elects a mayor and vice-mayor from among its members. Under the City Charter, a Council member may be elected for no more than two consecutive four-year terms of office. After two full terms have elapsed (eight years), Council members may again run for office. The next municipal election will be held in November 2020.

The City of Piedmont is served by a variety of skilled volunteer commissions and committees appointed by the City Council. These include the Budget Advisory & Financial Planning, CIP Review, City-School Liaison, and Public Safety Committees; Civil Service, Park, Planning, and Recreation Commissions; and the Police & Fire Pension Board.

The City Administrator and City Attorney are appointed and directed by, and hold office at the pleasure of, the Piedmont City Council. All other department heads are appointed

by the City Council upon recommendation of the City Administrator. Department Heads are directed by and serve at the pleasure of the City Administrator.

City departments include Administration, Finance, Planning, Public Works, Police, Fire, and Recreation. The city also operates KCOM-TV, a government/educational access television station. The city employs approximately 93 full-time employees and has a total operating budget of \$27.6 million. Piedmont has an outstanding team of public servants that prides itself on delivering quality and customer-focused services to the community. The city's skilled and professional leadership team enjoys a collegial and supportive culture. Although Piedmont relies primarily on property taxes, the city is fiscally sound. Approximately 22% of the general fund is in reserves, and the city budgets very conservatively and staffs accordingly.

Looking to the future, the city will explore opportunities for the improvement of public facilities, many of which were built as long as 100 years ago. In addition, the city is currently working on a variety of technological upgrades. Upgrades to these facilities and technology will provide enhanced services to the community's residents.

THE POSITION

This career opportunity is available with the upcoming retirement of Paul Benoit, who has served as Piedmont's City Administrator since 2014. The individual selected from this recruitment process will be Piedmont's third City Administrator over the past 30 years.

First and foremost, the ideal candidate will embrace the unique history and qualities of the Piedmont community, understanding the importance of delivering responsive, high-quality customer service at all times. The new City Administrator will be comfortable interacting and engaging with the public, attending community events and meeting with residents directly.

The City Administrator will create, maintain, and enhance relationships and partnerships within the community and with the school district. In addition, she/he will serve as a leader in representing the City of Piedmont on regional challenges and issues, working with other Alameda County communities, special districts, and strategic partners.

The ideal candidate brings proven, hands-on leadership experience in a local government setting. Communicating regularly with the City Council, the City Administrator will provide timely project updates, as well as information on current and future issues and challenges. The City Administrator will provide the Mayor and City Council with well-supported recommendations, treat all Council members equally, and will be respectful and responsive in implementing Council policy.



Photo: Scott Fitzgerald



Photo: Scott Fitzgerald