



# **AGENDA**

## **JOINT REGULAR MEETINGS**

\* \* \*

## **CLAYTON CITY COUNCIL and CLAYTON SUCCESSOR AGENCY**

\* \* \*

**TUESDAY, December 18, 2018**

**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](http://www.ci.clayton.ca.us)
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

**\* CITY COUNCIL \***

**December 18, 2018**

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) **Information Only** – No Action Requested.

1. Contra Costa County Library’s announcement of its holiday closures for operation of the Clayton Community Library in 2019. ([View Here](#))

2. Written notification by Transwestern Property Company West, Inc., of its termination of the Exclusive Sales Listing Agreement with the City concerning its commercial list and market of site-specific City-owned real properties in the Clayton Town Center. ([View Here](#))

3. **Press Release** – City Council accepting citizen applications for one (1) vacant Planning Commissioner term of office expiring June 30, 2020. ([View Here](#))

(b) Approve the minutes of the City Council’s regular meeting of December 4, 2018. ([View Here](#))

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

(d) City Council approval for cancellation of its regularly-scheduled Council meeting of January 2, 2019. ([View Here](#))

(e) Rescind a December 4, 2018 consent calendar action (Item 3(d)) and award actual low-bid contract to Waraner Bros. Tree Service in the amount of \$176,567 for the removal of seventeen (17) large Eucalyptus trees in selected open space and creek side areas of the city. ([View Here](#))

(f) Adopt a Resolution approving the Notice of Completion of the City Hall HVAC Replacement Project (CIP No. 10444) performed by Servi-Tech Controls, Inc., and authorize the City Clerk to record the Project’s Notice of Completion. ([View Here](#))

(g) Adopt a Resolution approving the Notice of Completion of the Collector Street [Keller Ridge] Repave Project (CIP No. 10425) performed by VSS International, Inc., and authorize the City Clerk to record the Project’s Notice of Completion. ([View Here](#))

(h) Adopt a Resolution approving the Notice of Completion of the 2018 Neighborhood Street Repave Project (CIP No. 10436) performed by Sierra Nevada Construction, and authorize the City Clerk to record the Project’s Notice of Completion. ([View Here](#))

- (i) Adopt a Resolution approving the purchase and outfitting of a used 2015 Ford F250 truck in the total net amount of \$39,787.43, declaring a 2000 Ford F350 as property surplus to the City's needs and authorizing its disposal by the City Manager for trade-in value, and allocating \$39,787.43 from the FY 2018-19 Capital Equipment Replacement Fund (CERF) to complete the acquisition.  
[\(View Here\)](#)

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

**5. REPORTS**

- (a) Planning Commission – Commissioner AJ Chippero.
- (b) Trails and Landscaping Committee – Meeting held December 10, 2018.
- (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**

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 484 amending Clayton Municipal Code Section 17.92 (Inclusionary Housing Requirements) for the purpose of incorporating rental housing projects into this local housing requirement. ([View Here](#))  
(Community Development Director)

Staff recommendations: **1)** Receive the staff presentation; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following City Council discussion or subject to any modifications to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 484 by title and number only and waive further reading; and **5)** Following the City Clerk's reading, adopt a motion to approve Ordinance No. 484 for Introduction with the finding this Ordinance will not result in a significant adverse environmental impact as these amendments were considered as part of the November 18, 2014 City Council adoption of the IS/ND for the 2015-2023 Clayton Housing Element, which was prepared pursuant to the California Environmental Quality Act (CEQA). That IS/ND concluded there was no substantial evidence to suggest the 2015-2023 Clayton Housing Element document would have a significant effect on the environment and anticipated impacts have not changed nor is there new information that would alter those findings.

## 8. **ACTION ITEMS**

- (a) Presentation of the City's financial status report regarding its public employee pension system provided through the California Public Employees Retirement System ("CalPERS"), based on the latest actuarial data as of June 30, 2017.  
(Finance Manager) ([View Here](#))

Staff recommendation: None.

(Note: Report is for information purposes only to provide the City Council and the public with a summary of information contained within the latest CalPERS actuarial reports for the City's multiple-employer cost sharing defined benefit pension plans).

- (b) Review and approval of Mayoral determination of City Council ad-hoc committee, inter-governmental and regional board assignments for 2019. ([View Here](#))  
(Mayor Catalano)

Staff recommendation: Following report by Mayor Catalano and opportunity for public comment, approve by motion the proposed City Council Member assignments for calendar year 2019.

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 is January 15, 2019.

# # # # #

**\* CLAYTON SUCCESSOR AGENCY \***

**December 18, 2018**

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

2. **CONSENT CALENDAR**

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

- (a) Approve the minutes of the regular meeting of January 16, 2018. ([View Here](#))
- (b) Adopt a Resolution approving the Successor Agency's Recognized Obligation Payment Schedule for the time period covering July 1, 2019 through June 30, 2020 (ROPS 2019-20), as required by the CA Department of Finance (DOF). ([View Here](#))

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

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

*Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the Board.*

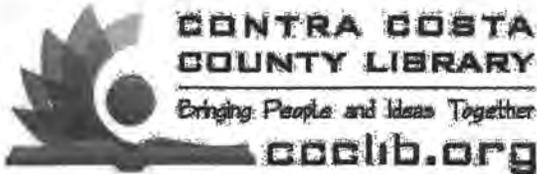
4. **PUBLIC HEARINGS** – None.

5. **ACTION ITEMS** – None.

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

7. **ADJOURNMENT** – the next regular Successor Agency meeting will be scheduled as needed.

# # # # #



**Agenda Date:** 12-18-2018

**Agenda Item:** 3a 1.

**Closures for January 1, 2019 through December 31, 2019:**

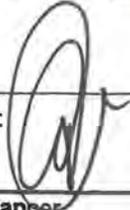
Tuesday, January 1, 2019	New Year's Day	All libraries closed (holiday)
Monday, January 21, 2019	Dr. Martin Luther King Jr. Day	All libraries closed (holiday)
Monday, February 18, 2019	Presidents' Day	All libraries closed (holiday)
Sunday, April 21, 2019	Easter	All libraries closed
Sunday, May 12, 2019	Mother's Day	All libraries closed
Sunday, May 26, 2019		All libraries closed
Monday, May 27, 2019	Memorial Day	All libraries closed (holiday)
Thursday, July 4, 2019	Independence Day	All libraries closed (holiday)
Sunday, September 1, 2019		All libraries closed
Monday, September 2, 2019	Labor Day	All libraries closed (holiday)
Monday, October 14, 2019	All Staff Training Day	All libraries closed
Monday, November 11, 2019	Veterans Day	All libraries closed (holiday)
Wednesday, November 27, 2019	(day before Thanksgiving)	All libraries close at 6:00 p.m.
Thursday, November 28, 2019	Thanksgiving Day	All libraries closed (holiday)
Tuesday, December 24, 2019	Christmas Eve	All libraries closed (holiday)
Wednesday, December 25, 2019	Christmas Day	All libraries closed (holiday)
Tuesday, December 31, 2019	New Year's Eve	All libraries close at 5:00 p.m.



Agenda Date: 12-18-2018

Agenda Item: 3a 2.

Approved:

  
Gary A. Napper  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: CITY MANAGER**

**DATE: 18 DECEMBER 2018**

**SUBJECT: TRANSWESTERN TERMINATION OF EXCLUSIVE SALES LISTING AGMT.  
DOWNTOWN CITY-OWNED PROPERTIES (2 SITES)**

## RECOMMENDATION

No action recommended at this time. Information purpose only.

## TERMINATION NOTIFICATION

By letter dated 04 December 2018, Transwestern Property Company West, Inc., formally notified the City of its resignation [termination] of the Exclusive Sales Listing Agreement between Transwestern and the City. Section 4 of the Agreement allows either party the unilateral right to terminate the Agreement, effective thirty (30) days after delivery of the notice. Addendum No. 4 between the parties would have expired on 02 January 2020.

## BACKGROUND

In April 2014 after an unsuccessful period of time to attract interested buyers/developers of two specific City-owned sites in the Clayton Town Center, the City entered into an Exclusive Sales Listing Agreement with the commercial brokerage firm of Transwestern to list and market the two real property sites for commercial development purposes. The two sites are the large unimproved 1.67 acre site off Main Street (APN 118-560-010) and a three (3) parcel location on Oak Street housing unoccupied and uninhabitable dilapidated bungalows abutting Mitchell Creek. The latter site is under current plans for building demolition and has City land entitlements approved for the multi-use development project known as the "Creekside Terrace."

The result of this action by Transwestern is the two City-owned real property sites will no longer be under contract for commercial listing and marketing for development purposes without further action by the City Council. Transwestern has confirmed it will remove its signage from both sites within the thirty-day termination period.

Attachments: 1. Transwestern Termination Letter [1 pg.]  
2. Original Transwestern Agreement and Addendum [8 pp.]  
3. *San Francisco Business Times* article on commercial broker Ed Del Beccaro [2 pp.]  
4. Staff Report, 16 January 2018 [3 pp.]

**ATTACHMENT 1**



500 Ygnacio Valley Boulevard  
Suite 100  
Walnut Creek, CA 94596  
Phone: 925-357-2000  
Fax: 925-357-2001

**RECEIVED**

**DEC 06 2018**

**City of Clayton**

December 4, 2018

City Hall  
Attn: Gary Napper, City Manager  
6000 Heritage Trail  
Clayton, CA 94517

**RE: Termination of EXCLUSIVE SALES LISTING AGREEMENT**

Dear Mr. Napper:

Please consider this letter as notice of resignation of the Exclusive Sales Listing Agreement (the "Agreement") by and between Transwestern and The City of Clayton. Pursuant to section 4 of the Agreement Broker has the unilateral right, as does Owner, to terminate the Agreement in writing, effective thirty (30) days after the date of delivery of such notice.

Sincerely,

TRANSWESTERN, CA BRE LICENSE # 01263636

Matt Hatfield, CA BRE LICENSE # 01937755  
Senior Associate  
CC: Natalie Castillo

Acknowledged and Accepted:

Signed: \_\_\_\_\_  
Gary Napper

Date: \_\_\_\_\_



### ADDENDUM FOUR TO EXCLUSIVE SALES LISTING AGREEMENT

Listing name here and **TRANSWESTERN PROPERTY COMPANY WEST, INC. DBA/ TRANSWESTERN, a Texas Corporation** ("Broker") is effective upon execution of this Agreement (the "Effective Date"). Edward Del Beccaro, Matt Hatfield agree to the following amendment(s) in an Authorization regarding the subject property in the City of Clayton, County of Contra Costa, State of California, located at 6005 Main Street, Clayton CA, and further described as parcel number 118-560-010 and three (3) parcels totaling 0.65 acres that make up the Creekside Terrace Development with parcel numbers 119-050-009, 119-050-008, 119-050-034 in the City of Clayton, Contra Costa County, California.

1. Expiration date extended to: January 2, 2020

a. Note: This Listing Agreement is subject to termination by either party for any reason with (30) thirty days written notice. All other terms and conditions of the Agreement shall remain the same.

Dated: 17 JAN. 2018

Dated: \_\_\_\_\_

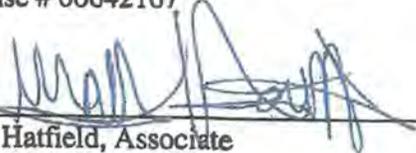
OWNER: City of Clayton

BROKER: TRANSWESTERN PROPERTY  
COMPANY WEST, INC., DBA  
TRANSWESTERN  
License # 01263636

BY:   
Gary Napper, City Manager

BY:   
Edward F. Del Beccaro, Sr. Managing Director  
License # 00642167

Address:  
6000 Heritage Trail  
Clayton, CA 94517

BY:   
Matt Hatfield, Associate  
License # 01937755



**TRANSWESTERN**

**EXCLUSIVE SALES LISTING AGREEMENT**

This Exclusive Sales Listing Agreement ("Agreement") is made and entered into on this 20<sup>th</sup> day of April, 2014 by and between The City of Clayton ("Owner") and TRANSWESTERN PROPERTY COMPANY WEST, INC. DBA/ TRANSWESTERN, a Texas Corporation ("Broker") is effective upon execution of this Agreement (the "Effective Date").

**1. BASIC AGREEMENT**

- a. Subject to the terms and conditions of this Agreement, Owner grants Broker the exclusive right to offer for sale to third parties ("Buyer"), on the terms and conditions set forth in this Agreement, Owner's 1.66 acres of undeveloped land located at 6005 Main Street, Clayton, CA with parcel number 118-560-010 and three (3) parcels totaling 0.65 acres that make up the Creekside Terrace Development with parcel numbers 119-050-009, 119-050-008, 119-050-034 in the City of Clayton, Contra Costa County, California.

- b. Broker shall provide the professional services ("Services") set forth in Paragraph 2 in connection with the sale of the Property, and Owner shall compensate Broker for these Services, in accordance with the terms and conditions of this Agreement.

**2. BROKER'S SERVICES**

- a. Owner is entering into this Agreement in reliance on Broker's special and unique abilities with respect to performing the Services. Broker accepts the relationship of trust and confidence established between it and Owner by this Agreement. Broker represents and warrants that Broker will use its best efforts, skill, judgment, and abilities to show the Property and offer the Property for sale.

1. "Show the Property", as used in this Agreement, shall mean presenting the Property to prospective Buyers and shall include the methods utilized in marketing the Property. Broker shall notify Owner of the methods Broker proposes to use in marketing the Property, and Owner shall have the right to approve or disapprove such methods. Owner shall make its determination whether to approve or disapprove the marketing methods on the basis of Owner's personal taste, the industry norm in marketing similar properties, and the potential effect of the proposed marketing on Owner's other properties, if any.

- ii. "Offer the Property for Sale", as used in the Agreement, shall mean (1) presenting to the Buyer the terms and conditions upon which the Owner is willing to sell and convey the Property, which terms and conditions will be approved by Owner and presented by Broker in writing; (2) negotiating with the Buyer the terms and conditions upon which Buyer is willing to purchase the Property; and (3) bringing Buyer and Owner to the execution and subsequent closing of a transaction for Buyer to purchase the Property from Owner.

- b. Broker represents and warrants that it will further the interests of Owner in accordance with Owner's requirements and procedures, in accordance

with the highest professional standards, regulations and canons, and in compliance with all applicable national, federal, state and municipal laws, regulations, codes, ordinances, orders, and with those of any other body having jurisdiction.

- c. Broker represents and warrants that there are no obligations, commitments, or impediments of any kind that will limit or prevent performance of the Services. Notwithstanding the foregoing, Owner acknowledges that Broker may represent prospective Buyers and Owner consents to such dual representation so long as Owner is properly notified of such dual representation.
- d. Broker represents and warrants that all of the Services to be furnished by Broker pursuant to this Agreement from its inception until the closing of the sale of the Property shall be of the type, standard and quality that prevail among brokers of superior knowledge and skill engaged in commercial real estate brokerage practice.
- e. Broker represents and warrants that all its agents performing this brokerage listing will be duly licensed under the appropriate real estate licensing acts. The agent(s) primarily responsible for performing services under this listing is (are) Edward Del Beccaro, Managing Director license # 00642167, Colby Mikulich Senior Associate license # 01755707 and Sean Barter Associate license # 01920111. Broker represents and warrants that it will furnish efficient business administration and superintendence and perform the Services in the best way and in the most expeditious and economical manner consistent with the interests of Owner.
- f. Without limiting the generality of the foregoing, Broker agrees to:
  - i. Prepare and present in writing to Owner a marketing program within the first thirty (30) days of this Agreement. Owner reserves the right to edit, alter, change, and otherwise modify the program as it deems appropriate.
  - ii. Advertise, as appropriate, in newspapers, trade journals, and other publications as both parties agree in writing, with all advertisements to be approved by Owner prior to commitment.
  - iii. Prepare and produce an Offering Memorandum, subject to Owner's approval, for presentation to prospective purchasers.
  - iv. Prepare and produce detailed data as required to support and/or supplement the Offering Memorandum, which data is to be furnished to prospective purchasers displaying interest in the Property; such data and any modification(s) thereof are to be approved by Owner prior to distribution.
  - v. Provide written reports to Owner no later than the end of each calendar month, and biweekly oral reports describing the Broker's efforts, progress, and strategies.
  - vi. Communicate all purchase offers to Owner, and respond thereto as instructed by Owner.

### 3. INDEPENDENT CONTRACTOR

Broker is acting as an independent contractor in its capacity under this Agreement. Nothing contained in this Agreement or in the relationship of Owner and Broker shall be deemed to constitute a partnership, joint venture, employer/employee or any other relationship between Owner and Broker except

as limited by the terms of this Agreement. Broker's authority is limited to performing the Services in accordance with the terms in this Agreement. Broker does not have any authority to execute any contracts for or on behalf of Owner.

4. **TERM**

This Agreement shall be in effect for a period of 365 days commencing with the execution date first set forth hereinabove; provided, however, that after the initial 90 days of the term, Owner or Broker shall have the right and option to cancel this Agreement, with or without cause, by giving written notice to the other party and any such cancellation shall be effective thirty (30) days after the date of delivery of such notice.

5. **BROKER COMMISSION**

a. Except as provided below, Owner agrees to pay Broker a sales commission equal to six percent (6%) of the gross sales price of the Property. Said commission shall be earned if, during the term hereof (or thereafter as provided in paragraph 5(c) below), a Buyer is procured by Broker, Owner or anyone else, and the sale to such Buyer is subsequently consummated and closed. The provision for the commission to be paid when an outside cooperating broker is involved is detailed in paragraph 5b.

b. After the expiration of the initial forty-five (45) days of the term hereof, Broker agrees to cooperate with other real estate brokers who are validly registered with, and recognized by, Broker as representing prospective buyers. If the sale of the Property is achieved through such a cooperating broker, Owner will pay a total commission of six percent (6%) of the gross sales price. Broker will compensate the cooperating broker from the commission paid by Owner, provided that in no event shall the Broker's net compensation (after payment to the cooperating brokers) be less than three percent (3%). For the purpose of this paragraph, if any agent or broker licensed with Broker (or its affiliate), other than those named in paragraph 2(c) hereinabove, represents the Buyer, such agent or broker shall be deemed to be a cooperating broker. Broker agrees to indemnify, defend and hold Owner harmless from any and all claims and expenses, to the limit of the sales commission, for additional brokers' or finders' fees arising from Broker's dealings in connection with this Agreement.

c. If within 270 days after the expiration or the earlier termination of this Agreement, all of or any part of the Property is sold, or Owner enters into a contract leading to the sale of all or any portion of the Property, Owner shall pay to Broker the commission specified above, provided (i) that Broker presented the Property to Buyer before the expiration or termination of the Agreement, (ii) that the Buyer was on a list of bona fide prospects furnished by Broker to Owner within ten (10) days following the expiration or earlier termination of the Agreement, and (iii) that the sale to such Buyer is actually consummated.

d. If the Property is sold, the commission provided for hereinabove shall be paid at closing (i.e., upon delivery of all closing documents and the transfer of title from Owner to Buyer) either directly from Owner's proceeds of sale or from other funds provided by Owner at closing. Should any proposed transaction under contract fail to be consummated as provided hereinabove for any reason other than the willful refusal of the Owner to close, Broker shall not be entitled to any commission or other compensation whatsoever.

e. If a sale takes place between the City of Clayton and George Chen for the three (3) parcels totalling 0.65 acres that make up the Creekside Terrace Development with parcel numbers 119-050-009, 119-050-008, 119-050-



034 in the City of Clayton, Contra Costa County, California, then no commission is due or payable to Transwestern.

**6. DEFAULT AND REMEDIES**

- a. A party's failure or refusal to perform or observe any obligation, covenant, or condition of this Agreement, which failure or refusal is not cured by such party within ten (10) days of its receipt of written notice from the other party detailing the existence and nature thereof, shall constitute an "Event of Default".
- b. Should an Event of Default occur, the non-defaulting party may, at its option, in addition to all other rights and remedies given under this Agreement or by law or in equity, terminate this Agreement immediately.
- c. No failure by a party to insist upon the strict performance of any obligation, covenant, agreement, term, or condition of this Agreement, or to exercise any right or remedy available upon a breach or any subsequent breach of such obligation, covenant, agreement, term, or condition, shall act as a waiver of any rights or remedies of such party under this Agreement. No obligation, covenant, agreement, term, or condition of this Agreement, and no breach of this Agreement shall be waived, altered, or modified, except by written instrument. No waiver of any breach shall affect or alter this Agreement, but each and every obligation, covenant, agreement, term, and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach of this Agreement.

**7. OWNER'S OBLIGATIONS**

- a. Owner shall provide Broker with such material and information in its possession concerning the Property as is reasonably requested, including, without limitation, any environmental surveys, studies or reports.
- b. Owner shall promptly respond to any and all purchase offers presented to Owner by or through Brokers.
- c. Owner shall remain the sole Owner of the Property and shall not be or become a "foreign person", as defined in the Foreign Investment in Real Property Tax Act.
- d. Owner shall (i) refer promptly to Broker all inquiries and offers regarding the Property made directly to Owner by prospective purchasers or their cooperating brokers; (ii) identify in writing any proprietary information furnished to Broker's use only, which is not to be duplicated or shown to any other party; and (iii) permit inspection of the Property only by those accompanied by an authorized representative of the Broker.
- e. Owner shall disclose to all prospective purchasers of the Property the fact that Broker is the exclusive sales agent on the Property and as such shall have its name included in any sales contract. Owner shall deliver copies of any and all executed sales contracts to Broker.

**8. INDEMNITY AND HOLD HARMLESS**

- a. Broker agrees to indemnify, defend and hold harmless Owner from and against all demands, damages, expenses (including reasonable attorney's fees and costs), claims or causes of action brought or instituted by third parties against Owner (or its officers, members, partners, employees, agents or representatives) arising out of, caused by, or resulting from (i) the gross negligence, wrongful conduct or misrepresentation of Broker (and/or its agents, employees, or persons acting under Broker's control) in

performing the Services hereunder; or (ii) the acts of Broker which are in violation of, or beyond the lawful scope of, the Broker's authority under this Agreement.

- b. Owner agrees to indemnify, defend and hold harmless Broker from and against all demands, damages, expenses (including reasonable attorney's fees and costs), claims or causes of action brought or instituted by third parties against Broker (or its officers, employees, agents or representatives) arising out of, caused by, or resulting from (i) the proper and authorized acts and conduct of Broker (and/or its agents, employees, or persons acting under the Broker's controls) in performing the Services hereunder; or (ii) the gross negligence, wrongful conduct or misrepresentation of Owner (and/or its officers, members, partners, employees, agents and representatives).

#### 9. NON-DISCLOSURE

Broker agrees that during the term of this Agreement and thereafter, it will not divulge to third parties without the consent of Owner (unless required by law) any non-public information obtained from or through Owner relating to the Property in connection with this Agreement.

#### 10. NOTICE

Any notice in this Agreement provided or permitted to be given, made, or accepted by either party to the other, must be in writing and may be given or serviced by depositing the same in the United States mail, postpaid, registered or certified, return receipt requested, addressed to the party to be notified, or by delivering the same to an officer or agent of such party, or by delivering same by reputable overnight courier service, when appropriately addressed to the party to be notified. Notice deposited in the mail in the manner described in this Section 10 shall be effective from and after the expiration of three (3) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. Copies of all notices shall be fixed on the same day as they are mailed or sent out for delivery. For purposes of this Notice, the addresses of the parties, until changes are afterwards provided in writing, shall be as follows:

To Owner: City Hall  
6000 Heritage Trail  
Clayton, CA 94517  
Attn: Gary A. Napper, City Manager  
Fax: (925) 672-4917

To Broker: Transwestern Property  
Company West, Inc. d/b/a  
Transwestern ("Broker")  
500 Ygnacio Valley Rd. Suite 100  
Walnut Creek, CA 94596  
Attn: Edward Del Becoso, Managing Director  
Fax: (925) 357-2001

#### 11. NEGOTIATIONS

Broker shall have the right to negotiate the proposed terms and conditions of sale for the Property, provided Owner shall have the sole right to approve all such terms and conditions, it being specifically understood and agreed that Broker shall have no authority to bind Owner to proposed terms and conditions and that Owner reserves the sole right and option to accept or reject any proposed terms and conditions presented to Owner by Broker. Owner shall have no obligation to Broker for the commission provided for herein by reason of Owner's having rejected any proposed terms and conditions.

**12. RECORDS AND AUDIT**

Broker shall keep adequate files, books and records relating to performance of the Services under this Agreement, and all such books and records shall be available at reasonable times to Owner or its designated representatives during a period ending three (3) years following the date of expiration or earlier termination of this Agreement. Owner's representative shall have the right to copy all such files, books and records.

**13. GOVERNING LAW**

This Agreement, and its interpretation, construction and enforcement, shall be governed by the substantive laws of the state in which the Property is located.

**14. OFAC REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION**

Owner represents and warrants that (i) it is not, and none of its partners, members, managers, employees, officers, directors, representatives or agents is, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or under any other law, rule, order, or regulation that is enforced or administered by OFAC (such persons and entities each being a "Prohibited Person"); (ii) it is not acting directly or indirectly, for or on behalf of any Prohibited Person; (iii) it is not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any Prohibited Person; and (iv) it will not contract with or otherwise engage in any dealings or transactions or be otherwise associated with any Prohibited Person.

Owner hereby agrees to defend, indemnify, and hold harmless Broker from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing representations and warranties.

**15. ENTIRE AGREEMENT; BINDING EFFECT**

This Agreement shall constitute the entire agreement between Broker and Owner and no change, modification or amendment shall be effective until and unless made in writing and signed by the parties hereto. This Agreement shall be binding upon any successors or assigns of Broker or Owner. The persons executing this Agreement for Owner and Broker each respectively represent and warrant to the other party that they are duly authorized to do so on behalf of such party.

*Signatures on next page.*

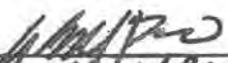
Two handwritten signatures are present in the bottom right corner of the page. The first signature is a stylized, cursive mark, and the second is a circular mark containing a stylized letter, possibly 'A' or 'B'.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement, under seal, as of the date first set forth hereinabove.

CITY OF CLAYTON, CA ("Owner")

By:   
Name: GARY A. NAPPO 04-02-14  
Title: CITY MANAGER

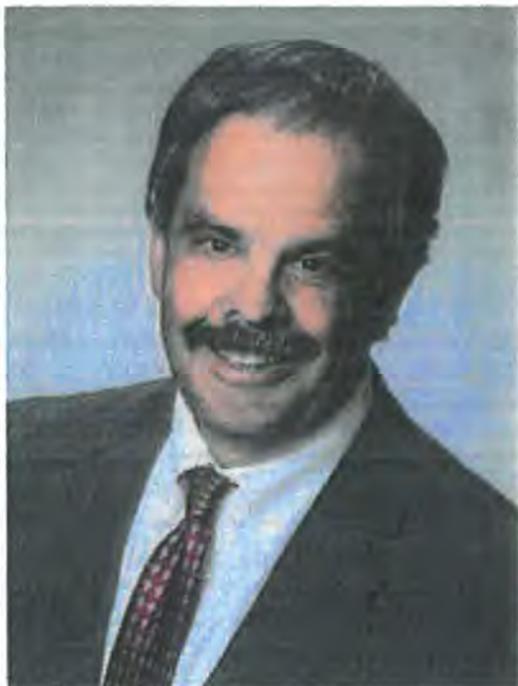
Edward Del Beccaro, Managing Director d/b/a  
Transwestern ("Broker")

By:   
Name: Edward Del Beccaro  
Title: Managing Director

3-28-14

# Longtime East Bay real estate broker poached by rival firm

ATTACHMENT 3



Ed Del Beccaro.

TRI Commercial

By [Blanca Torres](#) – Reporter, San Francisco Business Times  
2 hours ago

[Ed Del Beccaro](#), a long-time fixture in the East Bay real estate scene, is joining TRI Commercial after more than six years running Transwestern's East Bay and Silicon Valley offices.

With about four decades of brokerage experience, Del Beccaro will continue to be based in Walnut Creek and now lead TRI's staff of approximately 80 people.

“The Greater Bay Area is increasingly one market – including Sacramento — and having the ability to serve clients across the spectrum of property types and tenant requirements is paramount to succeeding in today’s marketplace,” he said.

Before Transwestern, Del Beccaro worked at Grubb & Ellis and Colliers International. He also serves on the board of the East Bay Economic Development Alliance.

During his career, Del Beccaro has focused on office and retail leasing and has represented tenants on more than 2 million square feet of leases.

Del Beccaro said he expects to hire more than a dozen people in the next three months to capitalize on growing demand for East Bay real estate.

The East Bay, he said, is expanding from the traditional core of Contra Costa and Alameda counties into San Joaquin, Yolo and Solano counties as people look for more affordable places to live while commuting to the core Bay Area. Employers are already responding to that trend by opening offices closer to where employees live.

“Ed is an East Bay icon,” said [Charles Wall](#), board chairman for TRI. “He is a perfect fit for TRI Commercial’s platform, which is client centric, entrepreneurial, privately held, locally based yet globally connected.”



# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: CITY MANAGER**

**DATE: 16 JANUARY 2018**

**SUBJECT: APPROVE A 4TH ADDENDUM TO THE EXCLUSIVE SALES LISTING AGREEMENT WITH TRANSWESTERN PROPERTY COMPANY TO CONTINUE ITS LIST AND MARKET FOR SALE AND DEVELOPMENT OF CERTAIN CITY-OWNED REAL PROPERTIES IN THE CLAYTON TOWN CENTER**

## RECOMMENDATION

It is recommended the City Council, by minute motion, approve a Fourth Addendum to the Exclusive Sales Listing Agreement with Transwestern Property Company West, Inc. (a Texas Corporation) to extend the list time to 02 January 2020 for the market, sale and development of several City-owned real properties within the Clayton Town Center; specifically, a vacant 1.67 acre parcel on Main Street (APN 118-560-010) and two (2) improved but dilapidated real properties and one (1) adjacent unimproved parcel (0.75 acres total) located at 1005 and 1007 Oak Street (APNs 119-050-034, 119-050-008, and 119-050-009); and authorize the City Manager to sign the Fourth Addendum on behalf of the City.

## BACKGROUND

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

1. An unimproved vacant parcel with some frontage on Main Street (with dual access rights) consisting of approximately 1.67 acres acquired by the City in April 2013 from the Clayton Community Church. The land presently has two (2) signs posted on it by Transwestern noticing the property for sale (APN 118-560-010); and
2. Three smaller parcels with frontage on the west side of Oak Street, between Center and High Streets, comprised of two (2) unoccupied ramshackle bungalows abutting Mitchell Creek, along with an unimproved adjacent hillside parcel to the west. Records indicate City ownership dating back to 1974 and 1986.

The latter real properties listed above enjoy, through significant financial efforts of the former Clayton Redevelopment Agency (RDA), a fully-entitled City-approved development project known as "Creekside Terrace." This commercial mixed-use project involves the permitted construction of a mixed-use two story building with a western-style frontage characteristic of architectural themes suggested in the *Town Center Specific Plan*. The first floor plans for approximately 7,200 sq. ft. of retail commercial space with a 20-foot ceiling. The second floor calls for seven (7) residential units which originally were targeted for affordable housing opportunities with additional financial assistance of the RDA. In the currently-entitled plan, the residential units are 1-bedroom with several containing dens.

The Creekside Terrace Project received its City entitlements on 06 July 2010, and those land use permits have routinely been extended by City Planning Commission action to now expire on 09 January 2019 (note: further 1-year extensions are eligible). The City placed small billboards on the property depicting and illustrating with color renderings the front elevations of the approved project. Those postings elicited several telephone calls and interests. However, continuously the City has no prospective developer interested in pursuing purchase or development of this particular project or properties.

#### **COMMERCIAL BROKER SELECTION AND PROGRESS**

At its public meeting on 01 April 2014, following the City's solicitation of list proposals from several commercial realty companies, the City Council unanimously approved an agreement with Transwestern Property Company West, Inc. (dba Transwestern) to list and to market the City's vacant and underutilized real properties in the Town Center. Since that time, Transwestern created and developed a marketing plan, outreached to numerous retail commercial firms and prospective developers, and brought several interested developers to meet with the City Council Sub-Committee on Economic Development and City staff. During calendar year 2015, Transwestern submitted four (4) distinct developers to the City interested in developing the Main Street property. Driven by market demand, none included ground-floor commercial retail only.

On 19 July 2016 the City approved an Exclusive Negotiation Agreement (ENA) with Pacific Union Land Investors (PULI) as it also worked on obtaining a Purchase-Sale Agreement for the 25,000 sq. ft. real property fronting the City's vacant land on Main Street (owner: Clayton Community Church; APN 119-011-003, 6055 Main Street).

When complications arose with its purchase agreement with the church, PULI requested additional time from the City to file its Initial [City] Application, which date was set to expire on November 1<sup>st</sup>. On 04 October 2016 at its regular public meeting and in recognition of the PULI's difficult status with the church, the City Council approved a First Amendment with PULI to extend its Initial Application filing deadline to 01 December 2016. That deadline passed but on 07 March 2017, PULI sought and received a revised ENA with the City to pursue development solely on the City's property, to include limited commercial retail uses on the street frontage and with an elevated purchase price of \$1.7 million. Shortly thereafter, PULI notified the City it would not be filing a land use application for the project concept.

Turning yet again to Transwestern to solicit additional development proposals for the Main Street site, Transwestern obtained and presented two (2) developers to the City for further consideration. Each potential developer expressed interest in purchasing the property to construct a senior assisted/memory care residential facility coupled with limited commercial retail uses along the Main Street frontage (note: emphasis added as some local social media conversations omit the commercial retail component of the proposal).

At its public meeting on 07 November 2017, the City Council formally approved a new ENA with Fulcrum Development, LLC, a company consisting of long-term owners of several such facilities either operational or under development within California. The adjusted purchase price is now \$1.9 million (City originally purchased the property for \$1.0 million in 2013).

#### **FOURTH ADDENDUM WITH TRANSWESTERN**

The initial term of the Exclusive Sales Listing Agreement with Transwestern was for a period of 365 days commencing with the date of signature of the Agreement, namely 02 April 2014. At its regular public meeting held on 07 April 2015, the City Council and Transwestern mutually agreed to extend the existing terms and conditions of the original Agreement to a new expiration date of 02 January 2016. Thereafter, at its regular public meeting on 19 January 2016, both parties agreed to further extend its marketing relationship to 02 January 2017, and then again on December 20, 2016 the commercial brokerage agreement was extended by approval of a 3<sup>rd</sup> Addendum with Transwestern that expired on 02 January 2018.

That sunset date passed before the City Council could hold its first meeting in 2018 on January 16th. Consequently, the Agreement and its listing association warrant an additional time extension. Transwestern has provided a Fourth Addendum to extend the original terms and conditions for two years to 02 January 2020. Given the timeframe for Fulcrum's pursuit and public review of its development proposal, a two-year time extension with Transwestern is proposed rather than a single year period.

It is staff's recommendation the City Council maintain its existing commercial brokerage relationship with Transwestern as proposed.

- Exhibits: 1. Fourth Addendum to Exclusive Sales Listing Agreement with Transwestern [1 pg.]  
2. Transwestern Exclusive Sales Listing Agreement [7 pp.]  
3. Bio of Edward F. Del Beccaro, Transwestern [1 pp.]  
4. Fulcrum Development, LLC info [25 pp.]  
5. Creekside Terrace Mixed-Use development opportunity [7 pp.]

# PRESS RELEASE

Agenda Date: 12-18-2018

Agenda Item: 3a 3.



## Now accepting Applications for PLANNING COMMISSIONER CITY OF CLAYTON

**Office term: January 2019 through June 2020**

- There is one (1) vacant Commissioner office expiring on June 30, 2020 created by a Commissioner elected to the City Council.

The Planning Commission is comprised of 5 members appointed by the City Council, normally for two-year terms. The Planning Commission advises the City Council on land use matters, including General Plan and Zoning Ordinance amendments. The Commission also makes decisions on project development, Site Plan Reviews, Use Permits, Subdivisions, and Variances. Planning Commission meetings are open to the public and its decisions can be appealed to the City Council.

- The Planning Commission meets on the second and fourth Tuesday of each month, 7:00 pm; in Hoyer Hall at Clayton Community Library, 6125 Clayton Road, Clayton, CA.
- An applicant must be 18 years of age, registered voter and a resident of Clayton.
- Planning Commissioners presently receive a monthly stipend \$120.

An application may be obtained:

In person: Clayton City Hall  
6000 Heritage Trail

By mail: Call City offices at (925) 673-7300

E-mail: [jcalderon@ci.clayton.ca.us](mailto:jcalderon@ci.clayton.ca.us)

City's web site: [www.ci.clayton.ca.us](http://www.ci.clayton.ca.us)

Please return a completed application to the City Clerk by **5:00 p.m., Thursday, January 10, 2019**. Full City Council interview of applicants will be held on January 15, 2019 and are open to the public. Appointment is expected to be made later that same evening at the City Council meeting of January 15, 2019. Applications filed are subject to public disclosure, and the appointed commissioner must file a Statement of Economic Interests required by the CA Fair Political Practices Commission.

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

**Agenda Date:** 12-18-2018

**Agenda Item:** 3b

**TUESDAY, December 4, 2018**

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Haydon in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. **Councilmembers present:** Mayor Haydon, Councilmembers Catalano, Diaz and Pierce. **Councilmembers absent:** Vice Mayor Shuey. **Staff present:** City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, City Engineer Scott Alman, Maintenance Supervisor Jim Warburton, Chief of Police Elise Warren, and City Clerk Janet Calderon.

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

3. **CONSENT CALENDAR**

**It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).**

- (a) **Information Only** – No Action Requested.
1. Notification by Contra Costa Water District (CCWD) of its public hearing on January 2, 2019 to consider rate structure changes and an annual rate increase of up to 6%.
- (b) Approved the minutes of the City Council's regular meeting of November 20, 2018.
- (c) Approved the Financial Demands and Obligations of the City.
- (d) Awarded the lowest-bid contract to West Coast Arborist in the amount of \$194,050 for the removal of seventeen (17) large Eucalyptus trees in open space/creek areas near Regency Drive/El Portal Drive, along a portion of the Cardinet Trail behind homes in the Rachel Ranch subdivision, and several trees on Lydia Lane near the park entry; and allocate \$10,000 from the Landscape Maintenance District reserve fund to gap-fund the necessary budgeted project.
- (e) Adopted Resolution No. 44-2018 certifying the results of canvass of returns in the November 2018 General Municipal Election and declaring Jeff Wan and Carl "CW" Wolfe elected to 4-year terms of public office on the City Council of the City of Clayton, California.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Certificates of Recognition to public school students for exemplifying the "Do The Right Thing" character trait of "Respect" during the month of October 2018.

Mayor Haydon and Mt. Diablo Elementary School Second Grade Teacher Mrs. Pike presented certificates to Daelynn Chippero and Nathan Stojanovich.

Mayor Haydon and Diablo View Middle School Principal Patti Bannister presented certificates to Shelly Suaboksan and Daniel Akl.

Mayor Haydon and Clayton Valley Charter High School Athletic Director Bob Ralston presented a certificate to Analysa Espinoza. Student Gabe Martin was unable to attend this evening and Mr. Ralston took the Certificate to be given to him.

5. **REMARKS BY OUTGOING CITY COUNCIL MEMBERS**

Mayor Haydon advised Vice Mayor David Shuey was unable to attend this evening due to a prior commitment.

Mayor Haydon remarked he appreciated the opportunity to serve on the Council, it has been a wonderful educational experience; anyone who begins to follow the City Council and all they are able to accomplish can appreciate the work that goes into running this City. City Council makes a lot of the decisions, but really the day-to-day operations here in the City are performed by the City staff. Mayor Haydon wished to recognize two of his mentors who really helped him understand what is expected of a City Councilperson by always being prepared; those mentors are Howard Geller and Julie Pierce.

Mayor Haydon also recognized and praised an excellent City Manager, Gary Napper; we are very fortunate to have him as he is able to apply the experience he has gained, not only in other assignments but his experience here in Clayton for about twenty years. Mayor Haydon also recognized Janet Calderon, our City Clerk, for her administrative assistance for the City Council, and Assistant to the City Manager, Laura Hoffmeister, as she carries out many of the duties working with the residents and varying community groups, assisting with the front desk at City Hall, and dealing with our residents. And he noted additional staff department heads in attendance: Mindy Gentry, Community Development Director, Kevin Mizuno, Finance Director, Jim Warburton, our new Maintenance Supervisor, Scott Alman, City Engineer, and our new Chief of Police, Elise Warren.

Mayor Haydon thanked Clayton for allowing him to serve in this role, but he stated that also the big reason Clayton is the wonderful community we all enjoy in large part is due to a staff that ensures all of the needs are being met. "Thanks again."

Councilmember Pierce recognized the work of Vice Mayor David Shuey as he served on the City Council for sixteen (16) years, and worked four (4) years prior on the original Community Services Commission working on The Grove Park Design Committee that he also chaired. He also worked on our Landscape Maintenance ballot measures, as did Keith Haydon, and was just always there to volunteer, to lend an experienced ear. His expertise in construction claims law when we had issues with any of our contracts was particularly valuable. David gave his heart and soul to this City and will continue to, and for that we want to absolutely thank him from the depths of our hearts.

Councilmember Pierce further recognized Keith Haydon as she has known him since they were together on the Board of Directors at the Westwood Home Owners Association a very long time ago, where Keith still serves as President. She wanted folks to understand the depth of his commitment to this community since the time Westwood was a brand new subdivision; she noted the median around the mailboxes at the Westwood entrance would not exist except for the fact they came together to the then-City Council and protested it cannot sign off on the Conditions of Approval for that park because the developer had not finished its work; she believes that incident is what got them interested in some of the work they have done since then. Mayor Haydon followed that event with a total of sixteen (16) years on the Planning Commission, as well as his time on the City Council, and she knows he is one of the more active volunteers with the

Clayton Business and Community Association, and for that we also “thank you.” She knows he will continue to volunteer all over town with every event CBCA has and she values volunteerism in a hands-on community like ours. It has been an honor to serve with him.

Mayor Haydon thanked Councilmember Pierce for recognizing the contributions of Vice Mayor Shuey for his many years of service,

Councilmember Diaz advised he had an opportunity to meet with David one-on-one where David expressed some disappointment with the outcome of the election; he is still very positive on Clayton and all the things that we have and will continue to accomplish here. Particularly, things he was involved in like The Grove Park and various other parks in the community, he was personally involved in the development of those and wants to see things continue in a very positive manner. He was very upbeat and they developed a closer relationship as a result of this conversation.

Councilmember Catalano added Mayor Haydon’s commitment to the City was much more than the City Council as he served on the Planning Commission, also serving as an original member of the Trails and Landscaping Committee, a very long commitment, to reading the Council materials; he made an excellent contribution to the City. She finds it very appropriate his representation of Clayton on the East Contra Costa Habitat Conservancy Board, also leaving that board as its last Chair. She had the pleasure of serving with him on the Planning Commission and the Budget/Audit Committee, one of the assignments with a number of meetings and hours looking at the budget items line-by-line. That is one example of his level of focus to detail, commitment and being prepared, which is needed as a council member, and his level of public service that is admirable.

Former Mayor Keith Haydon then stepped down from the Council dais and sat in the audience.

## **6. OATHS OF OFFICE BY NEWLY-ELECTED CITY COUNCIL MEMBERS**

Mr. Jeff Wan and Mr. Carl “CW” Wolfe were then invited forward by the City Clerk.

The Oaths of Office by the November 2018 elected Councilmembers Jeff Wan and Carl Wolfe were administered by City Clerk Janet Calderon. Each of the newly-elected Councilmembers then took a seat at the Council dais.

George Escutia, Jr., Field Representative for California Senator Glazer, presented a certificate to former Mayor Haydon in recognition of his services as Mayor to the Clayton community.

## **7. ANNUAL REORGANIZATION OF CLAYTON CITY COUNCIL**

- (a) Election of Mayor by the City Council  
[Councilmember Pierce, as the tenured member of Council, to conduct the election]

Councilmember Pierce opened the nominations for mayor. Councilmember Pierce nominated Tuija Catalano for the office of Mayor.

Councilmember Diaz said as he reviewed the last election and all of the challenges we faced, and what will be coming in the next year, he finds himself in a difficult position in that he believes in the past we have always had someone from the position of vice

mayor before ascending to mayor's position. He thinks it benefits that person in terms of experience and things that go into taking on the mayoral role. Although all of the Councilmembers are equal in stature, he stated the mayor takes the position as the administrator head of the Council and out more in the public. He remarked not having that experience as the vice mayor is a void.

Councilmember Diaz then nominated Julie Pierce for the office of Mayor. Councilmember Pierce declined the nomination.

Councilmember Wolfe seconded the nomination of Tuija Catalano for the office of Mayor. With no further nominations occurring, Councilmember Pierce then closed the nominations.

**On call by Councilmember Pierce, the election of Tuija Catalano as Mayor passed by acclamation (Passed 4-0-1 vote; Diaz, abstained).**

- (b) Election of Vice Mayor by the City Council  
[Newly-elected Mayor to conduct the election]

Mayor Catalano opened nominations for vice mayor. Mayor Catalano nominated Julie Pierce for the position of Vice Mayor. There were no other nominations and Mayor Catalano closed the nominations.

**On call by Mayor Catalano, the election of Julie Pierce as Vice Mayor passed by acclamation. (Passed 4-0-1 vote; Diaz, abstained).**

- (c) Recognitions and remarks by new Mayor and Council Members.

Mayor Catalano presented former Mayor Haydon with a personalized gavel plaque as a small token of appreciation for his years of service on the Council and as Mayor.

Councilmember Wolfe remarked he is honored and humbled to be elected to the Clayton City Council, thanked his supporters and hopes to earn the trust of the voters that did not elect him. He congratulated Councilmember Wan for his win and will work together to fill the divide that occurred in the community with this election.

Councilmember Diaz welcomed Councilmember Wan and Councilmember Wolfe to the City Council and knows both are up to the challenges for the coming year. He also congratulated them on their elections.

Councilmember Wan thanked his wife and family for their support, as he could not have done the things he does without them. He also thanked Councilmember Shuey for his service; even though they were opponents in this election, he appreciated Mr. Shuey's many years of public service for the benefit of Clayton. Councilmember Wan commented this election showed an unmet community desire of transparency and he will be providing regular updates through various social media platforms; with the technological tools we have today there really is not a reason to not meet people where they are and he expects to continue to do that during his term. He looks forward to working with the City Council.

Vice Mayor Pierce also welcomed Councilmember Wan and Councilmember Wolfe and expressed she looks forward to working together as a team in the best interest of Clayton. Although there may be some spirited discussions, that is what it is all about and having respect for each other's views, with one goal in mind: it is all for Clayton.

Mayor Catalano thanked the Council for electing her as Mayor for the coming year and she looks forward to a very positive year ahead. Although there is some division, this community seems to come together for what is best for Clayton. The City has its challenges coming ahead from the State and other agencies; we do not need to use our energy fighting amongst each other but by expressing our opinions constructively.

7:34 p.m. Social Break

Mayor Catalano called for a short break in the Council proceedings so attendees in the audience and members of the City Council could socialize with the newly-installed members of the City Council and former Mayor Haydon.

[Councilmember Diaz left the meeting]

8: 01 p.m.

Mayor Catalano called the City Council meeting back to order.

8. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – Meeting held on November 27, 2018.
- (c) City Manager/Staff

City Manager Napper, on behalf of City staff, welcomed Councilmember Wan and Councilmember Wolfe and expressed he looks forward to working with them in serving our community. He also congratulated our new Mayor and Vice Mayor and noted there is a little more working with City staff in these two positions. City Manager Napper also thanked Keith Haydon and David Shuey for their services to the city of Clayton.

City Manager Napper announced with the Holiday Season approaching it is typically a slow time of the year at City Hall. City Hall employees met and they have collectively elected to use personal accrued paid time to close City Hall the week between Christmas Eve Day and New Year's Day, which is a regular holiday, resulting in City Hall [3<sup>rd</sup> Floor] closed until January 2, 2019. Police field services and Maintenance crews will remain operational and available for emergencies. A Press Release will be posted on the City's website, bulletin boards and the front doors of City Hall.

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

Councilmember Wolfe indicated "No Report".

Councilmember Wan indicated "No Report".

Councilmember Pierce attended a Metropolitan Transportation Commission workshop, the Clayton Business and Community Association's Tree Lighting event, and she announced the upcoming Clayton Historical Society Homes Tour.

Councilmember Catalano attended the Clayton Community Library Foundation Board's meeting, and the Clayton Business and Community Association's Tree Lighting event.

(e) Other – None.

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

Frank Gavidia, 104 Gold Rush Court, congratulated the new Councilmembers and thanked David Shuey for all of his service. Mr. Gavidia also wanted to address the comments on how divisive the election was; he felt there were a number of residents in the community that disagreed with some things going on in the community. Mr. Gavidia agreed with a statement made by Councilmember Wolfe during the election, *"Regardless of where we stood on this, we all love Clayton."* Mr. Gavidia held up a re-print of the *Clayton Pioneer's* article on the July 2010 4<sup>th</sup> of July Parade, when it used to sponsor a best picture award contest. He noted his daughter and Jim Gamble's daughter were in the photo printed in the newspaper. He commented things can get heated but that's America. It is not a big deal – it was just an election. He will do his part to "heal the divide" by participating and helping in the community.

10. **PUBLIC HEARINGS** – None.

11. **ACTION ITEMS** – None.

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

13. **CLOSED SESSIONS** – None.

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

The next regularly scheduled meeting of the City Council is December 18, 2018.

# # # # #

Respectfully submitted,

---

Janet Calderon, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

---

Tuija Catalano, Mayor

# # # # #



Agenda Date: 12/18/18

Agenda Item: 3c

# STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: KEVIN MIZUNO, FINANCE MANAGER**

**DATE: 12/18/18**

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

Approved:   
Gary A. Napper  
City Manager

**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.

Cash Requirements Report	-Accounts Payable-	Report dated:	12/14/2018	\$ 258,620.58
Cash Requirements Report	-Payroll, Taxes-	Pay period ending:	12/2/2018	\$ 85,542.45
			<b>Total</b>	<b>\$ 344,163.03</b>

**Attachments:**

Cash Requirements reports, dated 12/14/18 (6 pages)

Paychex Cash Requirements, weeks 49 (2 pages)

## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<b>Ace Sierra Tow</b>								
Ace Sierra Tow	12/18/2018	12/18/2018	4535	PD Motorcycle Tow X2	\$130.00	\$0.00		\$130.00
<i>Totals for Ace Sierra Tow:</i>					<u>\$130.00</u>	<u>\$0.00</u>		<u>\$130.00</u>
<b>Advanced Elevator Solutions, Inc</b>								
Advanced Elevator Solutions, Inc	12/18/2018	12/18/2018	33950	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>
<b>All City Management Services, Inc.</b>								
All City Management Services, Inc.	12/18/2018	12/18/2018	57737	School crossing guard svcs 11/4/18-11/17/18	\$475.68	\$0.00		\$475.68
All City Management Services, Inc.	12/18/2018	12/18/2018	58016	School crossing guard svcs 11/18/18-12/1/18	\$297.30	\$0.00		\$297.30
<i>Totals for All City Management Services, Inc.:</i>					<u>\$772.98</u>	<u>\$0.00</u>		<u>\$772.98</u>
<b>Authorize.net</b>								
Authorize.net	12/18/2018	12/18/2018	October18	Online credit card gateway fee for October	\$26.90	\$0.00		\$26.90
Authorize.net	12/18/2018	12/18/2018	November18	Online credit card gateway fee for November	\$26.40	\$0.00		\$26.40
<i>Totals for Authorize.net:</i>					<u>\$53.30</u>	<u>\$0.00</u>		<u>\$53.30</u>
<b>Bay Area Barricade Serv.</b>								
Bay Area Barricade Serv.	12/18/2018	12/18/2018	0359477-IN	Rain gear for PW	\$470.78	\$0.00		\$470.78
Bay Area Barricade Serv.	12/18/2018	12/18/2018	0359903-IN	Clayton downtown street sign	\$64.70	\$0.00		\$64.70
Bay Area Barricade Serv.	12/18/2018	12/18/2018	0360030-IN	Street sign U clamps	\$97.82	\$0.00		\$97.82
<i>Totals for Bay Area Barricade Serv.:</i>					<u>\$633.30</u>	<u>\$0.00</u>		<u>\$633.30</u>
<b>Bay Area News Group</b>								
Bay Area News Group	12/18/2018	12/18/2018	1162317	Legal ad for November, St John's	\$168.56	\$0.00		\$168.56
<i>Totals for Bay Area News Group:</i>					<u>\$168.56</u>	<u>\$0.00</u>		<u>\$168.56</u>
<b>Best Best &amp; Kreiger LLP</b>								
Best Best & Kreiger LLP	12/18/2018	12/18/2018	838275	Legal services for November	\$8,500.00	\$0.00		\$8,500.00
Best Best & Kreiger LLP	12/18/2018	12/18/2018	838276	Legal services for November, Labor/Empl	\$796.50	\$0.00		\$796.50
Best Best & Kreiger LLP	12/18/2018	12/18/2018	838277	Legal services for November, 4850 Bene	\$295.00	\$0.00		\$295.00
<i>Totals for Best Best &amp; Kreiger LLP:</i>					<u>\$9,591.50</u>	<u>\$0.00</u>		<u>\$9,591.50</u>
<b>CalPERS Retirement</b>								
CalPERS Retirement	12/18/2018	12/18/2018	120218	Retirement PPE 12/2/18	\$16,247.66	\$0.00		\$16,247.66
<i>Totals for CalPERS Retirement:</i>					<u>\$16,247.66</u>	<u>\$0.00</u>		<u>\$16,247.66</u>
<b>Caltronics Business Systems, Inc</b>								
Caltronics Business Systems, Inc	12/18/2018	12/18/2018	2652774	Copier contract coverage 10/30/18-11/29/18	\$260.70	\$0.00		\$260.70
<i>Totals for Caltronics Business Systems, Inc:</i>					<u>\$260.70</u>	<u>\$0.00</u>		<u>\$260.70</u>
<b>CCWD</b>								
CCWD	12/18/2018	12/18/2018	F Series	Irrigation 10/25/18-12/7/18	\$31,493.77	\$0.00		\$31,493.77
<i>Totals for CCWD:</i>					<u>\$31,493.77</u>	<u>\$0.00</u>		<u>\$31,493.77</u>

## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
City of Concord	12/18/2018	12/18/2018	71465	Dispatch services for November	\$20,089.50	\$0.00		\$20,089.50
				<i>Totals for City of Concord:</i>	<i>\$20,089.50</i>	<i>\$0.00</i>		<i>\$20,089.50</i>
<b>Clayton Historical Society</b>								
Clayton Historical Society	12/18/2018	12/18/2018	EH111218	EH deposit refund minus HH rental fees	\$446.00	\$0.00		\$446.00
				<i>Totals for Clayton Historical Society:</i>	<i>\$446.00</i>	<i>\$0.00</i>		<i>\$446.00</i>
<b>Clean Street</b>								
Clean Street	12/18/2018	12/18/2018	92340	Street sweeping for November	\$4,500.00	\$0.00		\$4,500.00
				<i>Totals for Clean Street:</i>	<i>\$4,500.00</i>	<i>\$0.00</i>		<i>\$4,500.00</i>
<b>Comcast</b>								
Comcast	12/18/2018	12/18/2018	120518	Internet 12/10/18-1/9/19	\$386.08	\$0.00		\$386.08
				<i>Totals for Comcast:</i>	<i>\$386.08</i>	<i>\$0.00</i>		<i>\$386.08</i>
<b>Concord Uniforms</b>								
Concord Uniforms	12/18/2018	12/18/2018	14667	Armor vest, PD	\$1,191.85	\$0.00		\$1,191.85
Concord Uniforms	12/18/2018	12/18/2018	14742	Uniform, PD	\$668.12	\$0.00		\$668.12
Concord Uniforms	12/18/2018	12/18/2018	14770	Rain gear for PD	\$2,008.63	\$0.00		\$2,008.63
Concord Uniforms	12/18/2018	12/18/2018	14780	Equipment belt, PD	\$231.42	\$0.00		\$231.42
				<i>Totals for Concord Uniforms:</i>	<i>\$4,100.02</i>	<i>\$0.00</i>		<i>\$4,100.02</i>
<b>Contra Costa County - Office of the Sheriff</b>								
Contra Costa County - Office of the She	12/18/2018	12/18/2018	CLPD-1810	Toxicology for October	\$300.00	\$0.00		\$300.00
Contra Costa County - Office of the She	12/18/2018	12/18/2018	CLPD-318	Blood withdrawals for August	\$199.50	\$0.00		\$199.50
				<i>Totals for Contra Costa County - Office of the Sheriff:</i>	<i>\$499.50</i>	<i>\$0.00</i>		<i>\$499.50</i>
<b>Contra Costa Tractor Mobile Svc</b>								
Contra Costa Tractor Mobile Svc	12/18/2018	12/18/2018	017925	Service to Ford 260C tractot	\$492.97	\$0.00		\$492.97
				<i>Totals for Contra Costa Tractor Mobile Svc:</i>	<i>\$492.97</i>	<i>\$0.00</i>		<i>\$492.97</i>
<b>Critical Reach</b>								
Critical Reach	12/18/2018	12/18/2018	19-105	APBNet Law enforcement bulletin service, 2	\$145.00	\$0.00		\$145.00
				<i>Totals for Critical Reach:</i>	<i>\$145.00</i>	<i>\$0.00</i>		<i>\$145.00</i>
<b>De Lage Landen Financial Services, Inc.</b>								
De Lage Landen Financial Services, Inc.	12/18/2018	12/18/2018	61588648	Copier lease 12/15/18-1/14/19	\$304.59	\$0.00		\$304.59
				<i>Totals for De Lage Landen Financial Services, Inc.:</i>	<i>\$304.59</i>	<i>\$0.00</i>		<i>\$304.59</i>
<b>Digital Services</b>								
Digital Services	12/18/2018	12/18/2018	11273	IT services 11/1/18-12/10/18	\$1,875.10	\$0.00		\$1,875.10
				<i>Totals for Digital Services:</i>	<i>\$1,875.10</i>	<i>\$0.00</i>		<i>\$1,875.10</i>
<b>Dillon Electric Inc</b>								
Dillon Electric Inc	12/18/2018	12/18/2018	3806	Streetlight maintenance 12/4/18	\$602.29	\$0.00		\$602.29
				<i>Totals for Dillon Electric Inc:</i>	<i>\$602.29</i>	<i>\$0.00</i>		<i>\$602.29</i>

## City of Clayton Cash Requirements Report

<u>Vendor Name</u>	<u>Due Date</u>	<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Balance</u>	<u>Potential Discount</u>	<u>Discount Expires On</u>	<u>Net Amount Due</u>
<b>East Bay Rgn Comm System Auth</b>								
East Bay Rgn Comm System Auth	12/18/2018	12/18/2018	201900111	EBRCSA operating payment FY 19	\$12,768.00	\$0.00		\$12,768.00
				<i>Totals for East Bay Rgn Comm System Auth:</i>	<u>\$12,768.00</u>	<u>\$0.00</u>		<u>\$12,768.00</u>
<b>Hammons Supply Company</b>								
Hammons Supply Company	12/18/2018	12/18/2018	104422	EH janitorial supplies	\$24.95	\$0.00		\$24.95
				<i>Totals for Hammons Supply Company:</i>	<u>\$24.95</u>	<u>\$0.00</u>		<u>\$24.95</u>
<b>Health Care Dental Trust</b>								
Health Care Dental Trust	12/18/2018	12/18/2018	252522	Dental for December	\$2,152.13	\$0.00		\$2,152.13
				<i>Totals for Health Care Dental Trust:</i>	<u>\$2,152.13</u>	<u>\$0.00</u>		<u>\$2,152.13</u>
<b>HUB Inter of CA Ins Svc</b>								
HUB Inter of CA Ins Svc	12/18/2018	12/18/2018	November 18	Event insurance for November	\$211.70	\$0.00		\$211.70
				<i>Totals for HUB Inter of CA Ins Svc:</i>	<u>\$211.70</u>	<u>\$0.00</u>		<u>\$211.70</u>
<b>LarryLogic Productions</b>								
LarryLogic Productions	12/18/2018	12/18/2018	1777	City council meeting production 12/4/18	\$360.00	\$0.00		\$360.00
				<i>Totals for LarryLogic Productions:</i>	<u>\$360.00</u>	<u>\$0.00</u>		<u>\$360.00</u>
<b>LEHR</b>								
LEHR	12/18/2018	12/18/2018	SI22911	Outfit 2018 F150, PD unit 1742	\$16,049.05	\$0.00		\$16,049.05
LEHR	12/18/2018	12/18/2018	SI23043	Replace Interior F/R light bars, PD car 1740	\$187.50	\$0.00		\$187.50
				<i>Totals for LEHR:</i>	<u>\$16,236.55</u>	<u>\$0.00</u>		<u>\$16,236.55</u>
<b>Matrix Association Management</b>								
Matrix Association Management	12/18/2018	12/18/2018	8329	Diablo Estates mgmt for November	\$4,532.50	\$0.00		\$4,532.50
				<i>Totals for Matrix Association Management:</i>	<u>\$4,532.50</u>	<u>\$0.00</u>		<u>\$4,532.50</u>
<b>Mobile Living Truck Accessories</b>								
Mobile Living Truck Accessories	12/18/2018	12/18/2018	100005	Camper shell for F150, PD	\$2,011.88	\$0.00		\$2,011.88
				<i>Totals for Mobile Living Truck Accessories:</i>	<u>\$2,011.88</u>	<u>\$0.00</u>		<u>\$2,011.88</u>
<b>Mt Diablo Interpretive Association</b>								
Mt Diablo Interpretive Association	12/18/2018	12/18/2018	HH111018	HH deposit refund	\$200.00	\$0.00		\$200.00
				<i>Totals for Mt Diablo Interpretive Association:</i>	<u>\$200.00</u>	<u>\$0.00</u>		<u>\$200.00</u>
<b>Neopost (add postage)</b>								
Neopost (add postage)	12/18/2018	12/18/2018	120318	Postage added 12/3/18	\$300.00	\$0.00		\$300.00
				<i>Totals for Neopost (add postage):</i>	<u>\$300.00</u>	<u>\$0.00</u>		<u>\$300.00</u>
<b>Nutrien Ag Solutions</b>								
Nutrien Ag Solutions	12/18/2018	12/18/2018	37837333	Landscape chemicals	\$4,088.60	\$0.00		\$4,088.60
				<i>Totals for Nutrien Ag Solutions:</i>	<u>\$4,088.60</u>	<u>\$0.00</u>		<u>\$4,088.60</u>
<b>Paychex</b>								
Paychex	12/18/2018	12/18/2018	2018120301	Payroll fees PPE 12/2/18	\$202.36	\$0.00		\$202.36

## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<i>Totals for Paychex:</i>					\$202.36	\$0.00		\$202.36
<b>Paysafe Payment Processing</b>								
Paysafe Payment Processing	12/18/2018	12/18/2018	Nov18	Online bankcard fee for November	\$143.67	\$0.00		\$143.67
Paysafe Payment Processing	12/18/2018	12/18/2018	Nov18	Bankcard fee for November	\$153.98	\$0.00		\$153.98
<i>Totals for Paysafe Payment Processing:</i>					\$297.65	\$0.00		\$297.65
<b>Pond M Solutions</b>								
Pond M Solutions	12/18/2018	12/18/2018	436	Replace filtration pump in fountain	\$866.00	\$0.00		\$866.00
<i>Totals for Pond M Solutions:</i>					\$866.00	\$0.00		\$866.00
<b>Portable Computer Systems, Inc</b>								
Portable Computer Systems, Inc	12/18/2018	12/18/2018	55958	Computer equipment for patrol cars	\$49,312.44	\$0.00		\$49,312.44
<i>Totals for Portable Computer Systems, Inc:</i>					\$49,312.44	\$0.00		\$49,312.44
<b>Professional Convergence Solutions, Inc</b>								
Professional Convergence Solutions, Inc	12/18/2018	12/18/2018	PCS1210181	Phone maintenance	\$150.00	\$0.00		\$150.00
<i>Totals for Professional Convergence Solutions, Inc:</i>					\$150.00	\$0.00		\$150.00
<b>Rex Lock &amp; Safe, Inc.</b>								
Rex Lock & Safe, Inc.	12/18/2018	12/18/2018	122580	Library keys	\$32.08	\$0.00		\$32.08
<i>Totals for Rex Lock &amp; Safe, Inc.:</i>					\$32.08	\$0.00		\$32.08
<b>Riso Products of Sacramento</b>								
Riso Products of Sacramento	12/18/2018	12/18/2018	189916	Copier coverage 10/20/18-11/19/18	\$74.55	\$0.00		\$74.55
Riso Products of Sacramento	12/18/2018	12/18/2018	190164	Copier lease pmt 21 of 60	\$106.09	\$0.00		\$106.09
<i>Totals for Riso Products of Sacramento:</i>					\$180.64	\$0.00		\$180.64
<b>Site One Landscape Supply, LLC</b>								
Site One Landscape Supply, LLC	12/18/2018	12/18/2018	87933644-001	Irrigation controller at Indian Wells/Oakhurst	\$18,672.48	\$0.00		\$18,672.48
<i>Totals for Site One Landscape Supply, LLC:</i>					\$18,672.48	\$0.00		\$18,672.48
<b>Todd Skow</b>								
Todd Skow	12/18/2018	12/18/2018	EH120318	EH deposit refund	\$500.00	\$0.00		\$500.00
<i>Totals for Todd Skow:</i>					\$500.00	\$0.00		\$500.00
<b>Spraytec</b>								
Spraytec	12/18/2018	12/18/2018	15252	Waste water maintenance for March	\$225.00	\$0.00		\$225.00
Spraytec	12/18/2018	12/18/2018	15251	Waste water maintenance for February	\$225.00	\$0.00		\$225.00
Spraytec	12/18/2018	12/18/2018	15255	Waste water maintenance for April	\$225.00	\$0.00		\$225.00
Spraytec	12/18/2018	12/18/2018	15258	Waste water maintenance for May	\$225.00	\$0.00		\$225.00
<i>Totals for Spraytec:</i>					\$900.00	\$0.00		\$900.00
<b>Sprint Comm (PD)</b>								
Sprint Comm (PD)	12/18/2018	12/18/2018	703335311-204	Cell phones 10/26/18-11/25/18	\$645.82	\$0.00		\$645.82
<i>Totals for Sprint Comm (PD):</i>					\$645.82	\$0.00		\$645.82

## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<b>SRPSTC, American River College</b>								
SRPSTC, American River College	12/18/2018	12/18/2018	19-229	Background investigative training, PD	\$139.00	\$0.00		\$139.00
<i>Totals for SRPSTC, American River College:</i>					<u>\$139.00</u>	<u>\$0.00</u>		<u>\$139.00</u>
<b>Staples Business Credit</b>								
Staples Business Credit	12/18/2018	12/18/2018	1621924217	Office supplies for November	\$336.72	\$0.00		\$336.72
<i>Totals for Staples Business Credit:</i>					<u>\$336.72</u>	<u>\$0.00</u>		<u>\$336.72</u>
<b>State Water Resources Control Board</b>								
State Water Resources Control Board	12/18/2018	12/18/2018	WD-0141336	Sewer Sys Mgmt Plan annual permit fee	\$2,286.00	\$0.00		\$2,286.00
<i>Totals for State Water Resources Control Board:</i>					<u>\$2,286.00</u>	<u>\$0.00</u>		<u>\$2,286.00</u>
<b>T &amp; G 2009, LLC</b>								
T & G 2009, LLC	12/18/2018	12/18/2018	1038	Deposit refund, Creekside Terrace	\$4,918.12	\$0.00		\$4,918.12
T & G 2009, LLC	12/18/2018	12/18/2018	5058	Deposit refund, Creekside Terrace	\$2,200.00	\$0.00		\$2,200.00
<i>Totals for T &amp; G 2009, LLC:</i>					<u>\$7,118.12</u>	<u>\$0.00</u>		<u>\$7,118.12</u>
<b>Trademark Pools</b>								
Trademark Pools	12/18/2018	12/18/2018	CAP0310	C&D refund for 1206 Bridlewood Ct	\$2,000.00	\$0.00		\$2,000.00
<i>Totals for Trademark Pools:</i>					<u>\$2,000.00</u>	<u>\$0.00</u>		<u>\$2,000.00</u>
<b>U S Healthworks Medical Group, PC</b>								
U S Healthworks Medical Group, PC	12/18/2018	12/18/2018	3438751-CA	Pre-employment exam for PD	\$813.00	\$0.00		\$813.00
<i>Totals for U S Healthworks Medical Group, PC:</i>					<u>\$813.00</u>	<u>\$0.00</u>		<u>\$813.00</u>
<b>US Bank - Corp Pmt System CalCard</b>								
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Storage unit rent	\$152.00	\$0.00		\$152.00
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Frame for Mayor's print	\$12.98	\$0.00		\$12.98
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Plaque correction for Mayor Haydon's gavel	\$16.31	\$0.00		\$16.31
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Office supplies, pen refills, paper	\$240.12	\$0.00		\$240.12
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fuel	\$423.00	\$0.00		\$423.00
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fuel	\$183.41	\$0.00		\$183.41
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fuel	\$539.76	\$0.00		\$539.76
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fuel	\$571.97	\$0.00		\$571.97
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Battery for radar sign	\$190.21	\$0.00		\$190.21
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Truck accessories, multimeter, coupler for irr	\$1,550.39	\$0.00		\$1,550.39
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Replacement antenna, lumber for gazebo	\$217.81	\$0.00		\$217.81
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Paint for stairs	\$47.07	\$0.00		\$47.07
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Stair repair	\$117.33	\$0.00		\$117.33
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Hitch pin, ball	\$30.42	\$0.00		\$30.42
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fuel	\$178.24	\$0.00		\$178.24
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Misc tools, masks for smoke	\$158.01	\$0.00		\$158.01
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	CA Pest Reg license annual renewal	\$120.00	\$0.00		\$120.00
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Blackout curtain, Hoyer Hall	\$97.76	\$0.00		\$97.76
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Cold patch for Mitchell Canyon	\$73.82	\$0.00		\$73.82
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Safety glasses, tools, chem tank cleaner, valve	\$756.75	\$0.00		\$756.75

## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Misc equipment	\$620.91	\$0.00		\$620.91
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Refresh kit for changing station	\$55.75	\$0.00		\$55.75
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Light pole for Keller Ridge	\$1,754.17	\$0.00		\$1,754.17
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fix stairs @ EH	\$57.15	\$0.00		\$57.15
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fuel	\$562.14	\$0.00		\$562.14
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$57.22	\$0.00		\$57.22
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vista Print - Holiday cards	\$77.82	\$0.00		\$77.82
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	O'Reilly Auto, headlight for car 1737	\$56.54	\$0.00		\$56.54
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$611.17	\$0.00		\$611.17
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$251.85	\$0.00		\$251.85
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Transunion search	\$73.40	\$0.00		\$73.40
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Lunch, training	\$12.50	\$0.00		\$12.50
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Car wash	\$12.99	\$0.00		\$12.99
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$249.28	\$0.00		\$249.28
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$452.47	\$0.00		\$452.47
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Ford keypad for car 1742, diagnostic interfa	\$174.34	\$0.00		\$174.34
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Mic clip, phone case	\$48.95	\$0.00		\$48.95
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Lunch, training	\$19.08	\$0.00		\$19.08
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$488.45	\$0.00		\$488.45
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$429.31	\$0.00		\$429.31
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Office supplies	\$83.57	\$0.00		\$83.57
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Travel, meals for Command College	\$1,047.17	\$0.00		\$1,047.17
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Vehicle Gas	\$86.25	\$0.00		\$86.25
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	EXTPartners.com, seatbelt extenders, car 17	\$34.96	\$0.00		\$34.96
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Lunch, training	\$10.75	\$0.00		\$10.75
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Lunch, training	\$21.50	\$0.00		\$21.50
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Fuel	\$357.67	\$0.00		\$357.67
US Bank - Corp Pmt System CalCard	12/18/2018	12/18/2018	Stmt end 11/23/18	Car wash	\$12.99	\$0.00		\$12.99
<i>Totals for US Bank - Corp Pmt System CalCard:</i>					<i>\$13,397.71</i>	<i>\$0.00</i>		<i>\$13,397.71</i>
<b>US Bank (CM 9690)</b>								
US Bank (CM 9690)	12/18/2018	12/18/2018	5192837	Fiscal agent fees for 1990-1 bonds	\$786.50	\$0.00		\$786.50
<i>Totals for US Bank (CM 9690):</i>					<i>\$786.50</i>	<i>\$0.00</i>		<i>\$786.50</i>
<b>US Bank Ops Center</b>								
US Bank Ops Center	12/18/2018	12/18/2018	1323982	Interest on 2014 bonds	\$18,113.29	\$0.00		\$18,113.29
<i>Totals for US Bank Ops Center:</i>					<i>\$18,113.29</i>	<i>\$0.00</i>		<i>\$18,113.29</i>
<b>Workers.com</b>								
Workers.com	12/18/2018	12/18/2018	123591	Seasonal workers week end 12/2/18	\$2,583.00	\$0.00		\$2,583.00
Workers.com	12/18/2018	12/18/2018	123048	Sick leave for seasonal empl. wk end 9/16/18	\$68.60	\$0.00		\$68.60
Workers.com	12/18/2018	12/18/2018	123641	Seasonal workers week end 12/9/18	\$3,421.04	\$0.00		\$3,421.04
<i>Totals for Workers.com:</i>					<i>\$6,072.64</i>	<i>\$0.00</i>		<i>\$6,072.64</i>
<b>GRAND TOTALS:</b>					<b>\$258,620.58</b>	<b>\$0.00</b>		<b>\$258,620.58</b>

# CASH REQUIREMENTS

**CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 12/05/18: \$85,542.45**

**TRANSACTION SUMMARY**

<b>SUMMARY BY TRANSACTION TYPE -</b>	TOTAL ELECTRONIC FUNDS TRANSFER (EFT)	85,542.45
	CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR EFT	85,542.45
	TOTAL REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES	12,405.91
	CASH REQUIRED FOR CHECK DATE 12/05/18	97,948.36

**TRANSACTION DETAIL**

**ELECTRONIC FUNDS TRANSFER** - Your financial institution will initiate transfer to Paychex at or after 12:01 A.M. on transaction date.

<u>TRANS. DATE</u>	<u>BANK NAME</u>	<u>ACCOUNT NUMBER</u>	<u>PRODUCT</u>	<u>DESCRIPTION</u>		<b>BANK DRAFT AMOUNTS &amp; OTHER TOTALS</b>
12/04/18	BANK OF AMERICA, NA	xxxxxx4799	Direct Deposit	Net Pay Allocations	66,691.75	
12/04/18	BANK OF AMERICA, NA	xxxxxx4799	Direct Deposit	Deductions with Direct Deposit	543.50	<b>67,235.25</b>
12/04/18	BANK OF AMERICA, NA	xxxxxx4799	Readychex®	Check Amounts	973.13	<b>973.13</b>
12/04/18	BANK OF AMERICA, NA	xxxxxx4799	Garnishment	Employee Deductions	83.60	<b>83.60</b>
				<b>EFT FOR 12/04/18</b>		<b>68,291.98</b>
12/05/18	BANK OF AMERICA, NA	xxxxxx4799	Taxpay®	Employee Withholdings		
				Social Security	124.54	
				Medicare	1,420.46	
				Fed Income Tax	10,109.19	
				CA Income Tax	3,959.47	
				<b>Total Withholdings</b>	<b>15,613.66</b>	
				Employer Liabilities		
				Social Security	124.54	
				Medicare	1,347.58	
				Fed Unemploy	18.30	
				CA Unemploy	143.34	
				CA Emp Train	3.05	
				<b>Total Liabilities</b>	<b>1,636.81</b>	<b>17,250.47</b>
				<b>EFT FOR 12/05/18</b>		<b>17,250.47</b>
				<b>TOTAL EFT</b>		<b>85,542.45</b>

# CASH REQUIREMENTS

**CASH REQUIRED FOR NEGOTIABLE CHECKS &/OR ELECTRONIC FUNDS TRANSFERS (EFT) FOR CHECK DATE 12/05/18: \$85,542.45**

**REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES** - Paychex does not remit these funds. You must ensure accurate and timely payment of applicable items.

<u>TRANS. DATE</u>	<u>BANK NAME</u>	<u>ACCOUNT NUMBER</u>	<u>PRODUCT</u>	<u>DESCRIPTION</u>	<u>TOTAL</u>
12/05/18	Refer to your records for account	Information	Payroll	Employee Deductions	
				1959 Surv. Ben.	10.23
				414h2 EE PD ER Cont.	74.91
				414h2 Pretax	5,941.75
				457 EE Catch Up	1,106.65
				DC ICMA Pretax	1,200.00
				FSA Dep Care Pretax	411.14
				Health Prem Pretax	2,745.15
				Nationwide Pretax	720.00
				Supp Ins Post Tax	89.57
				Supplemental Ins	106.51
				<b>Total Deductions</b>	<b>12,405.91</b>
<b>TOTAL REMAINING DEDUCTIONS / WITHHOLDINGS / LIABILITIES</b>					<b>12,405.91</b>

**PAYCHEX WILL MAKE THESE TAX DEPOSIT(S) ON YOUR BEHALF** - This information serves as a record of payment.

<u>DUE DATE</u>	<u>PRODUCT</u>	<u>DESCRIPTION</u>	
12/12/18	Taxpay@	FED IT PMT Group	13,126.31
12/12/18	Taxpay@	CA IT PMT Group	3,959.47



Agenda Date: 12-18-2018

Agenda Item: 3d

Approved: 

Gary A. Napper  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: CITY MANAGER**

**DATE: 18 DECEMBER 2018**

**SUBJECT: CANCELLATION OF WEDNESDAY, JANUARY 2, 2019 CITY COUNCIL MEETING**

## RECOMMENDATION

It is recommended the City Council, by minute motion, cancel its regular public meeting scheduled to be held on Wednesday, 02 January 2019, as caused by Tuesday, 01 January 2019 being a City-recognized holiday [New Year's Day].

## BACKGROUND

Section 2.04.010 of the *Clayton Municipal Code* specifies that regular meetings of the Clayton City Council shall be held on the first and third Tuesdays of each and every month. Application of this Code section to the upcoming 2019 holiday calendar means the first City Council meeting in January 2019 falls on New Year's Day [Tuesday, 01 January 2019]. The *Clayton Municipal Code* provides further direction should a regularly scheduled City Council meeting fall on a City-recognized holiday: "When the Tuesday set for a regular meeting shall be a legal holiday, then said meeting shall be held on the next following day at the same time and place." Therefore, the public meeting in question is Wednesday, January 2, 2019.

## RECENT HOLIDAY MEETING PRACTICES

In years past the City Council has frequently cancelled its first meeting in January of each year due to the proximity of New Year's Eve and Day. Clayton City Hall services [3<sup>rd</sup> Floor] have also been closed during the time period in which falls the Christmas/New Year's holidays by employee preference (i.e., using accrued personal paid leave time). Neighboring cities and other public agency operations are often closed that week as well as the private business sector. From past experiments, it is usually a very slow workweek at City Hall and is often unproductive for employees trying to perform City work involving communications or interface with closed public and private agencies.

Per labor agreements, City employees are off work on two paid federal holidays prior to the January 2, 2019 Council meeting (i.e., Tuesday, December 25<sup>th</sup> and Tuesday, January 1<sup>st</sup>). Sworn police officers working the holidays receive holiday in-lieu pay/time since closing municipal police operations is unacceptable.

As noted at the December 4<sup>th</sup> Council meeting, City Hall employees on 3<sup>rd</sup> Floor have elected to use accrued paid time to take the full Christmas week off through New Year's Day. Consequently, it becomes nearly impossible or impractical to prepare staff reports and an Agenda Packet for release on Friday, December 28<sup>th</sup> for a Wednesday, January 2<sup>nd</sup> City Council meeting. The cancellation of the January 2<sup>nd</sup> meeting further facilitates personal holiday and travel plans of any members of the Clayton City Council and key City staff. And finally, holding a Clayton City Council meeting on a Wednesday evening in contrast to the regular Tuesday meeting schedule may be disruptive to other stakeholders and members of the interested public.

### **RECOMMENDED CANCELLATION OF JANUARY 2ND MEETING**

Evaluating the flow and tracking of agenda items for the January 2019 meetings, it appears no critical or required action items are planned to hit for a January 2<sup>nd</sup> City Council meeting. The 15 January 2019 meeting will include Council Member Diaz's request for further consideration of the City's recent parolee housing ordinance provisions in the new year, consideration of the Regency Drive neighborhood's request for on-street parking by City permit only, a review of new State legislation enacted in 2018 requiring City action(s), and interview candidates for and appointment to the vacancy on the Planning Commission.

To provide optimum notice of meeting cancellation to interested members of the public and to our community as well as to arrange scheduling of agenda matters for the January 15<sup>th</sup> City Council meeting, the matter has been placed on this Agenda for advance notice, consideration, and action.

### **FISCAL IMPACT**

There is no direct financial impact to the City for its cancellation of City Council meetings, except nominal savings of expenses incurred for the preparation, publication and holding of a Council meeting (e.g. staff time, paper and copying expenses, meeting room utilities, contractor video taping of the meeting for live streaming and cable television replay).

City Hall and its operations will reopen for normal business hours on Wednesday, January 2<sup>nd</sup>.

If necessity or an emergency arises between cancelled meetings, a special Council meeting may always be called by the mayor with proper notice to members of the City Council, the press, and with fully-required public postings of the Agenda.

- Attachments:
1. Calendars for December 2018 and January 2019 [2 pp.]
  2. City Press Release on City Hall holiday hours [1 pg.]

# December 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4 City Council Meeting	5	6	7	8
9	10	11 Planning Commission Meeting	12	13	14	15
16	17	18 City Council Meeting	19	20	21	22
23	24	25 Christmas (City Holiday)	26	27	28	29
30	31					

◀ Dec 2018

# January 2019

Feb 2019 ▶

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		<b>1</b> New Year's Day City Hall Closed	<b>2</b> City Council Meeting	<b>3</b>	<b>4</b>	<b>5</b>
<b>6</b>	<b>7</b>	<b>8</b> Planning Commission Meeting	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
<b>13</b>	<b>14</b>	<b>15</b> City Council Meeting	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<b>20</b>	<b>21</b> Martin Luther King, Jr. Day City Hall Closed	<b>22</b> Planning Commission Meeting	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>
<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>		



## **PRESS RELEASE**

*For Immediate Release*

### **Clayton City Hall Holiday Closures (3<sup>rd</sup> Floor)**

Clayton City Hall 3<sup>rd</sup> Floor (Administration, Planning and Finance) will be closed from Monday, December 24 through Tuesday, January 1, 2019.

City Hall reopens Wednesday, January 2, 2019 at 9:00 a.m.

\*\*\*\*\*

### **Clayton Police Station Holiday Closures (2<sup>nd</sup> Floor)**

Clayton Police Administrative Offices on 2<sup>nd</sup> Floor (Police Station) will be closed Monday, December 24<sup>th</sup>, Tuesday, December 25<sup>th</sup>, Monday, December 31<sup>st</sup>, and Tuesday, Jan. 1, 2019.

► If your situation is an Emergency, **Dial 911**. Should you require a Clayton police officer for a Non-Emergency matter, please call Police Dispatch at **925.603-5993**.

\*\*\*\*\*

### **Clayton Maintenance Holiday Closures**

The City Maintenance Department will be closed for holidays on Tuesday, December 25<sup>th</sup> and Tuesday, January 1st. Should you require City Maintenance field services, please call 925.673-7326.

**HAPPY HOLIDAYS**

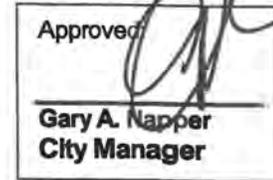




Agenda Date: 12-18-2018

Agenda Item: 3e

# STAFF REPORT



**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** Asst. to the City Manager, Laura Hoffmeister  
Maintenance Supervisor, Jim Warburton

**DATE:** December 4, 2018

**SUBJECT:** Rescind a December 4, 2018 action (Item 3(d)) and award actual low-bid contract to Waraner Bros. Tree Service in the amount of \$176,567 for the removal of seventeen (17) large Eucalyptus Trees in various open space and creekside areas of the City and Lydia Lane Right-of Way

## RECOMMENDATION

Rescind the City Council December 4, 2018 action (Item 3(d)), and approve awarding actual low-bid contract to remove seventeen (17) Eucalyptus trees in the City's open space and rights-of-way to Waraner Bros. Tree Service, as the lowest bid received.

## CONTRACT AWARD CORRECTION

At its December 4, 2018 the City Council by minute action approved awarding this bid to West Coast Arborists (WCA) as the lowest quote at \$194,050. City staff made an error in the Xcel chart on the bid summary, and inadvertently placed a higher amount than what was in the actual written submitted quote from Waraner Bros. for the Regency Drive location. Waraner's quote for Regency Drive location is actually \$132,500, not the \$191,450 that was previously listed. Therefore, the overall actual lowest bid submitted for is from Waraner Bros Tree Services at \$176,567. The current FY 18-19 adopted budget has \$180,000 allocated for this project. The Xcel attachment has been updated with the correct figures.

## BACKGROUND

There are Eucalyptus trees throughout the city located in the public landscape, open space, and the City's rights-of-way. These trees can grow to over 150 feet in height and limbs can become unstable with age and weather conditions. Dangerous branch drops from wind, rain in winter or heat during the summer months can occur. The trees that were identified to be removed are located close to private property lines and residential structures where limb drops or tree collapse could potentially cause property damage or personal injury. Over the last several years the City has received inquiries regarding safety of these trees.

The City has regularly had arborists inspect these trees with safety trimming as needed (typically about every 5 years). The last visual inspection suggested with the trees' heights, location and age it would be best to remove them rather than continuously inspect and trim. Eucalyptus trees are also a non-native invasive plant species. The stumps will be ground so as to provide mulch in the area. The removal of the trees would be funded from the

Subject: Vacate the City Council December 4, 2018 action (Item 3(d)), and approve awarding actual low-bid contract to remove seventeen (17) Eucalyptus trees in the City's open space and rights-of-way to Waraner Bros. Tree Service, as the lowest bid received.

Date: December 18, 2018

Page 2 of 3

---

Landscape Maintenance District as this project was previously reviewed and recommended by the TLC with the proposed budget which the City Council adopted in June 2018.

### **LOCATION OF TREES**

The trees proposed for removal are located in three different areas of the city.

The first location is on the west side of Lydia Lane, south of Lydia Lane Park, and has two Eucalyptus trees located along the rights-of-way trail. Several years ago two other Eucalyptus trees were removed from this location.

The second location is in the open space along the Cardinet Trail, near the end of Diablo Creek Court, with the trees located behind homes on Rachel Court. There have already been at least two trees removed in this location over the past several years due to falling limbs.

The third location is on the west and east side of Regency Drive near El Portal Drive, along the City open space and creek. There are two trees located on the west side of Regency Drive, and the other eleven on the east side of Regency Drive and behind the homes along Petar Court.

City staff conversed with several tree experts for advice on the condition of the trees in question and what action the City should take. They all agreed they should be removed because they are not a native tree, structurally not a sound tree, and a generally messy tree with bark, branch, and leaf fall.

If the City were to keep the trees it was estimated to cost between \$3,000 to \$4,000 per tree to have a tree specific sonic scan report done for each tree to ensure those kept do not have root rot or hollowed out tree trunks. The sonic scan inspection for all the trees would be \$54,000.00 to \$72,000.00. Any tree found to have issues from the sonic scan would be removed at a cost estimate of \$10,000 per tree. Any trees kept would need to be periodically inspected, scanned and safety pruned, estimated at \$6,500 to \$8,500 a tree which would be an ongoing cost every few years.

### **AWARD OF CONTRACT**

The City received three (3) bids for the removal of the seventeen (17) Eucalyptus trees after contacting eight (8) companies. This project has three major challenges:

1) the large size of the trees, requiring special large size cranes and equipment; 2) difficult access to some of the locations; and 3) the high cost for disposal of the wood.

Waraner Bros. Tree Services is the actual lowest bid received and is recommended for contract award.

### **FISCAL IMPACT**

The current FY 18-19 adopted budget has \$180,000 allocated for this project. The actual lowest bid received is \$176,567 and within the adopted budget amount. The bid does

Subject: Vacate the City Council December 4, 2018 action (Item 3(d)), and approve awarding actual low-bid contract to remove seventeen (17) Eucalyptus trees in the City's open space and rights-of-way to Waraner Bros. Tree Service, as the lowest bid received.

Date: December 18, 2018

Page 3 of 3

---

include stump grinding rather than chemical spraying to eliminate regrowth. Grinding is preferable as it allows the material to become natural on-site mulch for the habitat. This project was originally anticipated to be completed in June; however retirement by the former Maintenance Supervisor resulted in other staff having to complete the bid process.

According to Waraner Bros. Tree Service, depending on weather conditions, the work would be planned for January 2019.

**Attachments:**

1. Corrected Bid Comparisons
2. Location Diagrams

Landscape Maintenance District Eucalyptus Tree Removal			
<b>adopted budget \$180,000</b>	<b>Warner Bros (Ed- Clayton)</b>	WCA - West Coast Arborist (Santa Clara)	Hamilton (Martinez)
Lydia Lane - 2 trees	\$ 21,000	\$ 21,800	\$ 32,000
grind	\$ 2,200	\$ 750	\$ 3,000
	<b>\$ 23,200</b>	<b>\$ 22,550</b>	<b>\$ 35,000</b>
Diablo Trail - 2 trees	\$ 18,667	\$ 18,800	\$ 35,000
grind	\$ 2,200	\$ 750	\$ 3,500
	<b>\$ 20,867</b>	<b>\$ 19,550</b>	<b>\$ 38,500</b>
Regency Drive 13 trees	\$ 120,000	\$ 148,200	\$ 115,000
grind	12,500	3,750	12,000
	<b>132,500</b>	<b>\$ 151,950</b>	<b>127,000</b>
<b>17 Eucyptus Trees total</b>	<b>176,567</b>	<b>\$ 194,050</b>	<b>\$ 200,500</b>



Two Trees

Two Trees

Lydia Lane and Behind Rachel Ranch Ct



Two Trees

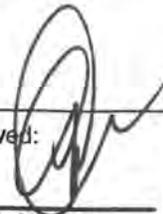
Eleven Trees

Regency Drive – El Portal



Agenda Date: 12-18-2018  
Agenda Item: 3F

# STAFF REPORT

Approved:   
\_\_\_\_\_  
Gary A. Napper  
City Manager

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: Asst. to the City Manager, Laura Hoffmeister**  
**Maintenance Supervisor, Jim Warburton** 

**DATE: December 18, 2018**

**SUBJECT: RESOLUTION ACCEPTING THE CLAYTON CITY HALL HVAC REPLACEMENT PROJECT (CIP No. 10444) AS COMPLETE, AND ORDERING THE FILING OF A NOTICE OF COMPLETION.**

---

## RECOMMENDATION

Adopt Resolution.

## BACKGROUND

The low-bid contractor, Servi-Tech Controls, Inc., has completed replacement of the Clayton Hall HVAC Project (CIP No. 10444) and has requested acceptance of the work. The City's contract Consulting Engineer on this project (Diseno Group) and City Maintenance Department personnel also completed inspection of the new improvements and each recommend acceptance of the work as complete.

## FISCAL IMPACT

On July 18 2017, the City Council awarded a low-bid contract budget in the amount of \$255,198.00 for the inspection and installation of the Clayton City Hall HVAC system which included a new Boiler, Air Handler, AC units, Controls, and associated equipment for completion of the installation of the above listed equipment. Source of funds was the Clayton Financing Authority and a portion of FY 2016 General Fund excess. The project was completed within the allocated budget amount of \$255,198.00.

## CONCLUSION

The project is complete and the work performed has matches the project's specifications. Therefore, Staff recommends approval of this Resolution accepting the work as complete, ordering the filing of a Notice of Completion and authorize payment of all retained funds 35 days after filing of the Notice.

Attachments: Resolution  
Notice of Completion

RESOLUTION NO. \_\_ - 2018

**A RESOLUTION ACCEPTING THE INSTALLATION OF THE CLAYTON CITY HALL HVAC REMOVAL AND REPLACEMENT PROJECT (CIP #10444) AS COMPLETE AND ORDERING THE FILING OF A NOTICE OF COMPLETION**

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

**WHEREAS**, on July 18, 2017 the City Council of Clayton, California did award a low-bid contract to Servi-Tech Controls, Inc. for the replacement of a new Clayton City Hall HVAC (City Hall HVAC Removal and Replacement Project CIP #10444); and

**WHEREAS**, Servi-Tech Controls, Inc. has now represented its work is complete and it is requesting acceptance by the City; and

**WHEREAS**, the City Council must accept the work as complete and order the filing of a Notice of Completion prior to release of the retained funds; and

**WHEREAS**, the City's consultant Mechanical Engineer (Diseno Group) has inspected the work, declares the contract and related project specifications have been fulfilled, and City Staff now requests the City Council accept the work and authorize the filing of a Notice of Completion;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Clayton, California does hereby accept as complete, as of the date of adoption of this Resolution, the installation of the Clayton City Hall HVAC Replacement Project, hereby authorizes the City Clerk to file a Notice of Completion with the County Recorder, and further authorizes the City's release of the contract retention after the required 35 day waiting period.

**PASSED, APPROVED AND ADOPTED** by the City Council of Clayton, California at a regular public meeting thereof held on the 18<sup>th</sup> day of December 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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 its regular public meeting held on December 18, 2018.

\_\_\_\_\_  
Janet Calderon, City Clerk

Recorded at the request of:

City of Clayton  
6000 Heritage Trail  
Clayton, CA 94517

**NOTICE OF ACCEPTANCE  
AND COMPLETION OF PUBLIC WORKS**

NOTICE IS HEREBY GIVEN that the City of Clayton did, on or about July 18 2017, contract with Servi-Tech Controls, Inc 2480 S. Cherry Ave, Fresno, CA 93706, for the removal and installation of The City Hall HVAC, in accordance with the plans and specifications prepared by the City of Clayton.

NOTICE IS FURTHER GIVEN that the Clayton Maintenance Department has inspected said work of the Contractor and reported the work complies with the approved plans and specifications and recommended its acceptance as complete; also that the City Council of the City of Clayton, California, by adopting Resolution No. \_\_\_-2018 on December 18, 2018, accepted said public work as complete.

I hereby certify that the foregoing is true and correct and that the aforesaid action of the City Council of the City of Clayton, in accepting said public work as completed, was duly entered on the minutes of said Council's meeting of December 18, 2018. I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 18, 2018, at Clayton, California.

\_\_\_\_\_  
Janet Calderon, City Clerk



Agenda Date: 12-18-2018

Agenda Item: 3g

Approved

Gary A. Napper  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: SCOTT ALMAN, CITY ENGINEER**

**DATE: December 18, 2018**

**SUBJECT: ADOPT A RESOLUTION APPROVING THE NOTICE OF COMPLETION OF THE COLLECTOR STREET REHABILITATION PROJECT (CIP No. 10425) PERFORMED BY VSS INTERNATIONAL, INC, AND AUTHORIZE THE CITY CLERK TO RECORD THE PROJECT'S NOTICE OF COMPLETION.**

## **RECOMMENDATION**

It is recommended the City Council adopt a Resolution approving the Notice of Completion of the Collector Street Rehabilitation Project (CIP No. 10425) performed by VSS International, Inc., and authorize the City Clerk to record the project's Notice of Completion.

## **BACKGROUND**

The approved 2017-18 Capital Improvement Program included CIP Project #10425, the City's Collector Street Rehabilitation Project. This project accomplishes street maintenance and rehabilitation on collector streets that are eligible for state or federal transportation funds. The 2018 Collector Street Rehabilitation Project rehabilitated Keller Ridge Drive between Eagle Peak and the first intersection with Kelok Way. This project is funded by a combination of Gas Tax (HUTA), Measure J (LSM), OBAG I Federal grant funds and Cal Recycle grant funds for the City's first use of rubberized paving materials. The project maintained and rehabilitated Keller Ridge Drive (different segments of the street receiving differing treatments) such that its Pavement Condition Index (PCI) will elevate to the "maintenance only" range above PCI of 80.

One sealed bid for this project was received and opened by the City Clerk on May 17, 2018. That bid at \$798,000 was from VSS International. The bid amount exceeded the project estimate. The limited number and very high bid was a result of a very competitive construction environment fueled by a shortage of skilled labor and high demand for materials, due in part to the disaster recovery efforts in the North Bay caused by last year's wildfires. In discussion with the City Manager, it was determined the infrastructure bid climate would not improve and this long-awaited CIP project should be awarded to the sole bidder and constructed as planned. Additional local transportation funds were available to gap-fund the total required project budget without sacrificing other improvement plans.

The City Council awarded the contract of \$798,000 to VSS International, Inc., at its June 5, 2018 meeting and the project was constructed during summer 2018.

**DISCUSSION**

The contractor, VSS International, Inc., has completed construction of the Collector Street Rehabilitation Project (CIP No. 10425). The City Engineer has inspected the work and determined the completed project meets the project specifications and is recommending City Council acceptance of the project and the filing of a Notice of Completion.

**FISCAL IMPACT**

The approved 2017-18 Capital Improvement Budget established a project budget for the Collector Street Rehabilitation Project – Keller Ridge (CIP# 10425) at \$589,000. The single bid received exceeded the project estimate and caused an increase in the total construction project budget (including design, engineering, project specifications bidding and field inspection expenses) from the budgeted \$589,000 to \$1,008,432.

The approved, adjusted, project budget of \$1,008,432 included the following revenues and expenditures:

Revenue:	303-5240-00	CalRecycle Grant	\$ 25,775	
	303-5281-00	Federal Grant OBAG I	\$385,000	
	303-6002-00	Measure J (CCTA)	\$241,443	
	303-6004-00	Gas Tax (H.U.T.A.)	<u>\$393,406</u>	
			\$1,008,432	
Expenditures:	303-7551-00	Planning/Design	\$ 78,226	7.7%
	303-7552-00	Construction/Execution	\$885,206	87.7%
	303-7553-00	Monitoring/Inspections	\$ 35,000	3.4%
	303-7554-00	Close-out/Punch List	<u>\$ 10,000</u>	1.2%
			\$1,008,432	

Actual expenditures are projected to total \$899,128 by the completion of the project, which is 10.8% (\$109,304) under budget as outlined below:

	303-7551-00	Planning/Design	\$ 81,128	9.0%
	303-7552-00	Construction/Execution	\$798,000	88.7%
	303-7553-00	Monitoring/Inspections	\$ 15,000	1.6%
	303-7554-00	Close-out/Punch List	<u>\$ 5,000</u>	0.7%
			\$899,128	

**CONCLUSION**

The project has been completed and the work performed meets the project specifications. Therefore, staff recommends approval of this Resolution accepting the work as complete, ordering the filing of a Notice of Completion and authorizing the payment of all retained funds 35 days after filing of the notice.

**RESOLUTION NO. XX-2018**

**A RESOLUTION APPROVING THE NOTICE OF COMPLETION OF THE COLLECTOR STREET REHABILITATION PROJECT (CIP No. 10425) PERFORMED BY VSS INTERNATIONAL, INC., AND AUTHORIZE THE CITY CLERK TO RECORD THE PROJECT'S NOTICE OF COMPLETION.**

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

**WHEREAS**, on June 5, 2018 the City Council of Clayton, California did award a low-bid contract to VSS International, Inc., for the construction of the City's Collector Street Rehabilitation Project (CIP #10425); and

**WHEREAS**, VSS International, Inc., represents it has completed construction of the work in conformance with the project specifications and the project is now ready for acceptance by the City; and

**WHEREAS**, the City Council must accept the work as complete and order the filing of a Notice of Completion prior to release of the retained funds; and

**WHEREAS**, the City Engineer has inspected the completed work and determined the completed work is in compliance with the project specifications; and

**WHEREAS**, in its accompanying report City staff recommends the City Council adopt this Resolution approving the Notice of Completion of the Collector Street Rehabilitation Project (CIP No. 10425) performed by VSS International, Inc., and authorize the City Clerk to record the project's Notice of Completion;

**NOW THEREFORE, BE IT RESOLVED** that the City Council of the City of Clayton, California does hereby accept as complete, as of the date of adoption of this Resolution, construction of the Collector Street Rehabilitation Project (CIP No. 10425), hereby authorizes the City Clerk to file a Notice of Completion with the County Recorder, and further authorizes the payment of all retained funds after the required 35 day waiting period.

**PASSED, APPROVED and ADOPTED** by the City Council of Clayton, California at a regular public meeting thereof held on the 18<sup>th</sup> day of December 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

---

Tujia Catalano, Mayor

ATTEST:

---

Janet Calderon, City Clerk



Agenda Date: 12-18-2018

Agenda Item: 3h

Approved:

Gary A. Naegele  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: SCOTT ALMAN, CITY ENGINEER**

**DATE: December 18, 2018**

**SUBJECT: ADOPT A RESOLUTION APPROVING THE NOTICE OF COMPLETION OF THE 2018 NEIGHBORHOOD STREETS PROJECT (CIP No. 10436) PERFORMED BY SIERRA NEVADA CONSTRUCTION, AND AUTHORIZE THE CITY CLERK TO RECORD THE PROJECT'S NOTICE OF COMPLETION.**

## RECOMMENDATION

It is recommended that the City Council adopt a Resolution approving the Notice of Completion of the 2018 Neighborhood Streets Project (CIP No. 10436) performed by Sierra Nevada Construction, and authorize the City Clerk to record the project's Notice of Completion.

## BACKGROUND

The approved 2017-18 Capital Improvement Program included CIP Project #10436, the City's 2018 Neighborhood Street Project. This project accomplished street maintenance and rehabilitation on local streets that are not eligible for state or federal transportation funds. This project is funded by Gas Tax, Measure J, RMRA (SB1) and Cal Recycle grant funds for use of rubberized paving materials. The objective of the project is to elevate all of Clayton's local roads to a Pavement Condition Index of 80 PCI or greater (100 PCI = brand new).

The streets selected for inclusion in the project were approved by City Council public action at its February 20, 2018 meeting. The overall street selection included those streets designated as "RMRA" streets by Council action at its September 19, 2017 public meeting and reported as such to the California Transportation Commission (CTC) to be eligible for RMRA funds.

Five sealed bids for this project were received and opened by the City Clerk on May 10, 2018. The five bids received ranged from the low bid of \$784,007, to a high of \$1,010,000. The low bidder at \$784,007 was Sierra Nevada Construction. Although five bids were received, all of the bid amounts exceeded the project estimate. The high bids were a result of the very competitive construction environment fueled by a shortage of skilled labor and high demand for materials, due in part to the recovery efforts in the North Bay caused by last

year's wildfires. In discussion with the City Manager, it was determined that the infrastructure bid climate would not improve in the foreseeable future and that this CIP project should be awarded to the low bidder and constructed as planned.

City Council awarded the low-bid contract of \$784,007 to Sierra Nevada Construction at the May 15, 2018 meeting and the project was constructed during late summer 2018.

**DISCUSSION**

The low-bid contractor, Sierra Nevada Construction, has completed construction of the 2018 Neighborhood Streets Project (CIP No. 10436). The City Engineer has inspected the work and determined that the completed project meets the project specifications and is recommending City Council acceptance of the project and the filing of a Notice of Completion.

**FISCAL IMPACT**

The approved 2017-18 Capital Improvement Budget established the project budget for the 2018 Neighborhood Street Project (CIP# 10436) at \$610,556. The bids received exceeded the project estimate causing an increase in the actual construction project budget from originally budgeted \$610,556 to a revised total project budget of \$994,007 per the adopted FY 2018-19 CIP Budget.

The approved, adjusted, project budget of \$994,007.00 included the following revenues and expenditures:

Revenue:

303-5240-00	CalRecycle Grant	\$ 60,778
303-6002-00	Measure J (LSM)	\$622,793
303-6002-00	Measure J (28a Co-op)	\$ 86,419
303-6004-00	Gas Tax (H.U.T.A.)	\$159,662
303-6031-00	Gas Tax (R.M.R.A.)	\$ 64,355
		<u>\$994,007</u>

Expenditures:

303-7551-00	Planning/Design	\$ 50,000	5.0%
303-7552-00	Construction/Execution	\$899,007	90.4%
303-7553-00	Monitoring/Inspections	\$ 35,000	3.5%
303-7554-00	Close-out/Punch List	\$ 10,000	1.1%
		<u>\$994,007</u>	

Actual expenditures are projected to total \$842,369 by the completion of the project, which is 15.3% (\$151,638) under budget as outlined below:

303-7551-00	Planning/Design	\$ 38,117	4.5%
303-7552-00	Construction/Execution	\$784,252	93.1%
303-7553-00	Monitoring/Inspections	\$ 15,000	1.8%
303-7554-00	Close-out/Punch List	\$ 5,000	0.6%
		<u>\$842,369</u>	

**CONCLUSION**

The project has been completed and the work performed meets the project specifications. Therefore, staff recommends approval of this resolution accepting the work as complete, ordering the filing of a Notice of Completion and authorizing the payment of all retained funds 35 days after filing of the notice.

Attachments: 1. Resolution [2 pp.]

**RESOLUTION NO. XX-2018**

**A RESOLUTION APPROVING THE NOTICE OF COMPLETION OF THE 2018 NEIGHBORHOOD STREETS PROJECT (CIP No. 10436) PERFORMED BY SIERRA NEVADA CONSTRUCTION, AND AUTHORIZE THE CITY CLERK TO RECORD THE PROJECT'S NOTICE OF COMPLETION.**

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

**WHEREAS**, on May 15, 2018 the City Council of Clayton, California did award a low-bid contract to Sierra Nevada Construction, Inc., for its construction of the City's 2018 Neighborhood Streets Project (CIP #10436); and

**WHEREAS**, Sierra Nevada Construction, Inc., represents it has completed construction of the work in conformance with the project specifications and the project is now ready for acceptance by the City; and

**WHEREAS**, the City Council must accept the work as complete and order the filing of a Notice of Completion prior to release of the retained funds; and

**WHEREAS**, the City Engineer has inspected the completed work and determined the completed work is in compliance with the project specifications; and

**WHEREAS**, in its accompanying report City staff recommends the City Council adopt this Resolution approving the Notice of Completion of the City's 2018 Neighborhood Streets Project (CIP No. 10436) performed by Sierra Nevada Construction, and authorize the City Clerk to record the project's Notice of Completion;

**NOW THEREFORE, BE IT RESOLVED** that the City Council of the City of Clayton, California does hereby accept as complete, as of the date of adoption of this Resolution, construction of the City's 2018 Neighborhood Streets Project (CIP No. 10436), hereby authorizes the City Clerk to file a Notice of Completion with the County Recorder, and further authorizes the payment of all retained funds after the required 35 day waiting period.

**PASSED, APPROVED and ADOPTED** by the City Council of Clayton, California at a regular public meeting thereof held on the 18<sup>th</sup> day of December 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

---

Tujia Catalano, Mayor

ATTEST:

---

Janet Calderon, City Clerk



Agenda Date: 12-18-2018

Agenda Item: 3i

Approved:   
\_\_\_\_\_  
Gary A. Nappes  
City Manager

# STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: Maintenance Department**

**DATE: December 18, 2018**

**SUBJECT: Adopt a Resolution authorizing purchase of a used 2015 Ford F250 Truck for City Maintenance Department, declaring an existing 2000 Ford F350 as a vehicle surplus to the City's needs, and authorize the City Manager to dispose of the surplus vehicle for trade-in value**

---

## RECOMMENDATION

Adopt a Resolution authorizing the purchase a used 2015 Ford F250 Quad Cab from Yuba City Toyota for use in the City Maintenance Department. In related action, declare an 18-year old Ford F350 as a service vehicle now surplus to the City's needs and authorize the City Manager to dispose of the surplus vehicle for trade-in value on the used 2015 Ford F250:

1. Net purchase price of F250 with trade-in from Yuba City Toyota	\$35,912.00
2. Quote from Lehr to outfit F250 with safety lights	\$2,003.70
3. Quote from Bills Ace Truck Box to retrofit with full length truck boxes	<u>\$1,871.73</u>
Total:	<b>\$39,787.43</b>

## BACKGROUND

The City's Maintenance fleet is aging and the existing Year 2000 Ford F350 proposed for replacement is one of the oldest in the fleet. This truck is a dual rear wheel one ton truck that is much wider than a normal service vehicle. Due to its width, significant and repetitive truck damage has occurred over the years to the rear fenders, interior bench seat and unsightly dents to the hood and front grill. The current millage on this truck is 106,000.

### **PROPOSED VEHICLE PURCHASE**

The used Ford F250 identified for purchase has only 28,266 miles on the diesel engine and its generation model was repowered by Ford to be more capable of heavier hauling than the older 2000 Ford F350. The newer 2015 Ford F250 truck for the City fleet will enhance worker safety as its exterior lamps have the brighter LED lights; the City's vehicle fleet image will further improve as the existing Ford F350 body is very beat up with dents and worn/missing paint.

The trade-in value on our existing Ford F350 offered by this dealer (\$6,000) is higher than the prices offered by other competing dealers (e.g. \$3,500). Maintenance staff also received quotes of used Ford trucks from other dealers and this recommended package has the best value for the City expense.

The purchase price of a new 2019 Ford F250 would be in the range of \$62,000 to \$65,000, plus retrofit expenses of the added light bar and utility boxes.

### **FISCAL IMPACT**

As a non-budgeted expense, the vehicle replacement proposal will cost a net \$39,787.43. The City's Capital Equipment Replacement Fund (CERF) presently has a cash equity balance of \$147,500, which will be reduced to \$107,712 should this proposal be approved.

The CERF is replenished each budget cycle by internal service charges to the various departments using the City fleet, and no further vehicle or capital equipment acquisitions are proposed for this fiscal year.

#### Attachments:

1. Proposed City Resolution [2 pp.]
2. Purchase price of truck with trade in from Yuba City Toyota [3 pp.]
3. Purchase price of a new 2019 Ford F250 [1 pg.]
4. Quote from Lehr to outfit with safety lights [1 pg.]
5. Quote from Bills Ace Truck Box for full length truck boxes [1 pg.]
6. Pictures of existing 2000 F350 dual rear wheel truck [3 pp.]

**Resolution No. – 2018**

**A RESOLUTION APPROVING THREE CONTRACTS FOR THE PURCHASE AND OUTFITTING OF A USED 2015 FORD F250, DECLARING AN EXISTING 2000 FORD F350 AS SURPLUS TO THE CITY'S NEEDS, AUTHORIZING THE DISPOSAL OF THE SURPLUS TRUCK FOR ITS TRADE IN VALUE, AND ALLOCATING \$39,787.39 FROM THE CITY'S CERF FUND TO ACQUIRE AND RETROFIT THE USED TRUCK**

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

**WHEREAS**, the City Maintenance Department routinely and regularly uses trucks to perform public services for and to the Clayton community; and

**WHEREAS**, for visibility, employee and public safety purposes, City trucks are necessarily equipped with safety lights; and

**WHEREAS**, monies are allocated and allotted for the purchase of necessary City vehicles and work trucks for City Maintenance operations through the Capital Equipment Replacement Fund (CERF); and

**WHEREAS**, City Maintenance supervisors have identified a pressing need to replace a year 2000 Ford F350 with 106,000 miles as a trade in for a used Ford F250 with only xxx miles on the diesel engine, and to do so by using CERF monies collected for such purposes (Account No. 502-7485-00);

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

Section 1. Approves and authorizes the trade in of an existing 2000 Ford F350 towards the purchase of a new-to-fleet used 2015 Ford F250 for the net amount of \$35,912.00 from Yuba City Toyota.

Section 2. Approves and authorizes a contract with Lehr in the amount of \$2,003.70 for the purchase and installation of safety warning LED lights on the 2015 Ford F250.

Section 3. Approves and authorizes a contract with Bill's Ace Truck Box in the amount of \$1,871.73 for the purchase and installation of two full bed length side tool boxes on the 2015 Ford F250.

Section 4. Approves and authorizes the allocation of \$39,787.43 from the Fiscal Year 2018-2019 Capital Equipment Replacement Fund (CERF) (Account No. 502-7485-00) for the three (3) noted contracts related to the acquisition and retrofit of a new-to-fleet used 2015 Ford F250 for use by the City of Clayton Maintenance Department.

Section 5. Does herewith declare the existing 2000 Ford F350 truck as surplus to the City's needs and authorizes its City Manager to dispose of said vehicle for its trade in value with Yuba City Toyota.

**PASSED, APPROVED AND ADOPTED** by the City Council of Clayton California at a regular public meeting thereof held on the 18th day of December 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

---

Tuija Catalano, Mayor

ATTEST:

---

Janet Calderon, City Clerk



No Accident or Damage Reported

2-Owner

Personal Use

Service History

### Price & Payment

# \$38,295

**GREAT VALUE** **\$3,115 below**  
\$41,410 CARFAX Value

was \$39,995 on 09/28/2018 [Show Price History](#)

## \$635/mo est.

10% down / 60 months [Edit](#)

### Dealer Info

#### Yuba City Toyota

4.4 ★★★★★ [44 Verified Reviews](#)

955 Harter Pkwy  
Yuba City, CA 95993

[\(833\) 288-1945](tel:(833)288-1945)  
 (833) 288-1945

### Vehicle Info

Price	\$38,295
Mileage	28,266 miles
Location	Yuba City, CA
Exterior Color	White
Interior Color	Gray
Drive Type	4WD
Transmission	Automatic
Body Style	Pickup

### CARFAX Snapshot

- No accidents reported to CARFAX
- No damage reported to CARFAX
- 2 Previous owners
- 9 Service history records
- Personal vehicle

Engine 8 Cyl 6.7 L  
 Fuel Diesel  
 MPG City/Hwy 0/0  
 VIN 1FT7W2BT9FEB35585  
 Stock # U6528



28,367 Last reported odometer reading

[View FREE CARFAX Report](#)

### Seller Description

The F-250 has a track record of being very tough and durable. This unit is designed to handle any icy road condition that Mother Nature can throw at you. Your passengers will feel safe with stable bra...

### Dealer Ratings & Reviews

4.4



44 Verified Reviews

5 Star	67%
4 Star	14%
3 Star	9%
2 Star	5%
1 Star	5%

### Dealer Ratings & Reviews

- All Reviews
- Sales Reviews Only
- Service Reviews Only

Sales Reviews First



by 2013  
 TOYOTA  
 VENZA  
 LE/XLE/LIMITED

Owner on  
 Nov 2018

Verified Service

Always  
 prompt,  
 efficient and  
 priced fair.

=====

YUBA CITY TOYOTA

Price..... 38,589.64  
 Taxable A.M.O..... 0.00  
 Doc Charge..... 80.00  
 Dealer Smog Fee..... 0.00  
 Sales Tax..... 3,190.25  
 Non-Tax A.M.O..... 0.00  
 Service Contract..... 0.00  
 Subtotal..... 41,859.89  
 DMV Fees..... 15.00  
 State Emissions Charge 8.00  
 State Tire Fee..... 0.00  
 Electronic Veh Reg.... 30.00  
 Total Insurance..... 0.00  
 Total..... 41,912.89

Trade..... 6,000.00  
 Payoff..... 0.00  
 Net Trade..... 6,000.00  
 Cash Down..... 0.00  
 Deferred Down..... 0.00  
 Rebate..... 0.00  
 Total Down..... 6,000.00  
 APR..... 0.00  
 Term..... 1  
 Monthly Payment..... 35,912.89

Amount Financed..... 35,912.89  
 Finance Charge..... 0.00  
 Total of Payments..... 35,912.89  
 Total Sale Price..... 41,912.89

Item ===== Term == C/D ===== Total  
 Svc. Cont. 1 0.00 0.00  
 Mo. Pmt 1 0.00 35912.89

\*\*\* Buyer \*\*\*

\*\*\* 2nd Buyer \*\*\*

Soc. Sec. #:  
 Home Phone #:  
 Work Phone #:  
 County:  
 Drv. Lic. #:  
 E-mail:

\*\*\* Purchase \*\*\*

Stock # U6528  
 Year 2015  
 Make FORD  
 Model F250  
 Body Style PK  
 Color WHITE  
 Trim STEEL  
 Key1 #  
 Key2 #  
 Weight 9,000  
 License 58339H2  
 Odometer 28,266  
 I.D. 1FT7W2BT9FEB35585  
 Cylinders 8  
 Vehicle Type USED

\*\*\* Trade 1 \*\*\*

\*\*\* Trade 2 \*\*\*

\*\*\* Bank \*\*\*

\*\*\* Insurance \*\*\*

## Future Ford of Concord

2285 Diamond Blvd., Concord, CA 94520  
 Concord, CA 94520  
<https://www.futurefordofconcord.com>

Sales: 888-735-7302  
 Service: 888-505-2371

### 2019 Ford F-250SD XLT



**Body Style:** 4D Crew Cab  
**Model Code:** W2B  
**Engine:** 6.7L Power Stroke® V8 Turbo Diesel engine  
**Transmission:** 6-Speed Automatic  
**Drive Type:** 4WD  
**Ext. Color:** Blue  
**Int. Color:** Medium Earth Gray  
**MPG:**  
**VIN #:** 1FT7W2BT8KEC88856  
**Stock #:** F21579

**Asking Price:**

**\$64,210**

**Ford Credit Retail**

**Bonus Customer**

**Cash -\$500**

**F-Super Duty**

**Retail Customer**

**Cash -\$1,000**

**Net Cost: \$62,710**

**You Save: \$1,500**

**Conditional**

**Incentives:**

**2018 First**

**Responder Bonus**

**Cash -\$500**

**2018 College**

**Student Purchase**

**Program -\$500**

**2018 Military**

**Appreciation Bonus**

**Cash -\$500**

#### Standard Equipment

##### • MECHANICAL

- 3.73 Axle Ratio
- GVWR: 10,000 lb Payload Package
- 50-State Emissions System
- Electronic Transfer Case
- Part-Time Four-Wheel Drive
- 157 Amp Alternator
- 78-Amp/Hr 750CCA Maintenance-Free Battery w/Run Down Protection
- Class V Towing Equipment -inc: Harness, Hitch, Brake Controller and Trailer Sway Control



# Sales Quote

Page: 1

661 Garcia Avenue Pittsburg, CA 94565  
Phone: 925-370-2144 Fax: 925-370-2087

Quote Number: 15002  
Document Date: 12/11/2018  
Terms:  
Payment Method:

Sell City of Clayton  
To: Jim Warburton  
8000 Heritage Trail  
Clayton, CA 94517  
Phone: 925-250-5803

Ship City of Clayton  
To: Jim Warburton  
8000 Heritage Trail  
Clayton, CA 94517  
Phone:

Ship Via Installation  
Location: Lehr - Pittsburg  
Blanket PO:

Customer ID 10020  
SalesPerson Mary Pagfiero

### Vehicle Information:

Item No.	Description	Category	Quantity	Unit Price	Total Price
IONSMA	ION SURFACE MOUNT SUPER LED-AMBER GRILLE LIGHTS	WHELENPR	2	95.00	190.00
VTX609R	VERTEX SUPER-LED LIGHT RED REAR CORNERS	WHELENPR	2	77.30	154.60
DBKT4	"L" ANGLE MOUNTING BRACKET KIT	WHELEN	1	16.80	16.80
TAM83	TRAFFIC ADVISOR 8 LAMP TIR3 SUPER LED	WHELEN	1	627.20	627.20
INSTALL	INSTALL MATERIALS	OTHER	1	30.00	30.00
	INSTALLATION CHARGES TO INSTALL LIGHTING, TRAFFIC ADVISOR W/CONTROLLER	LABOR	1	825.00	825.00
F	Shipping Charges	OTHER	1	8.00	8.00

Amount Subject to Sales Tax 1843.60  
Amount Exempt from Sales Tax 8.00

Subtotal: \$1,851.60  
Total Sales Tax: \$152.10  

---

Total: \$2,003.70

VINE HILL HARDWARE, INC.      **BILLS ACE TRUCKBOX**  
**BILL'S ACE HARDWARE**  
**3550 PACHECO BLVD**  
**MARTINEZ, CA 94553 ACCT#228-6150**  
**PHONE: (925) 228-6136**

\*\*\*\*\* YELP US \*\*\*\*\*  
 WE LOVE TO HEAR FROM OUR CUSTOMERS!

CITY OF CLAYTON  
 6000 HERITAGE TRAIL

CUST # 19550  
 TERMS: DUE ON THE 10TH

EST # 908240  
 DATE : 12/11/18  
 CLERK: MATTISONU  
 TERM # 586

CLAYTON CA 94517-1249

TIME :11:00

\*\*\*\*\*

\* ESTIMATE \*

\*\*\*\*\*

Valid for 7 days

QUANTITY	UM	ITEM	DESCRIPTION	SUG. PRICE	PRICE/PER	EXTENSION
2	EA	813057	72" LONG HIGH-SIDE BOX #272 MFG part# 272-3-02 UPC # 272.3.02	899.99	809.99 /EA	1,619.98
1	EA	INSTALL	INSTALLATION MFG part# INSTALL UPC # I		110.00 /EA	110.00*N
TRUCKBOX SALES TAX			1619.98	141.75		
Tbx Labor / Service						

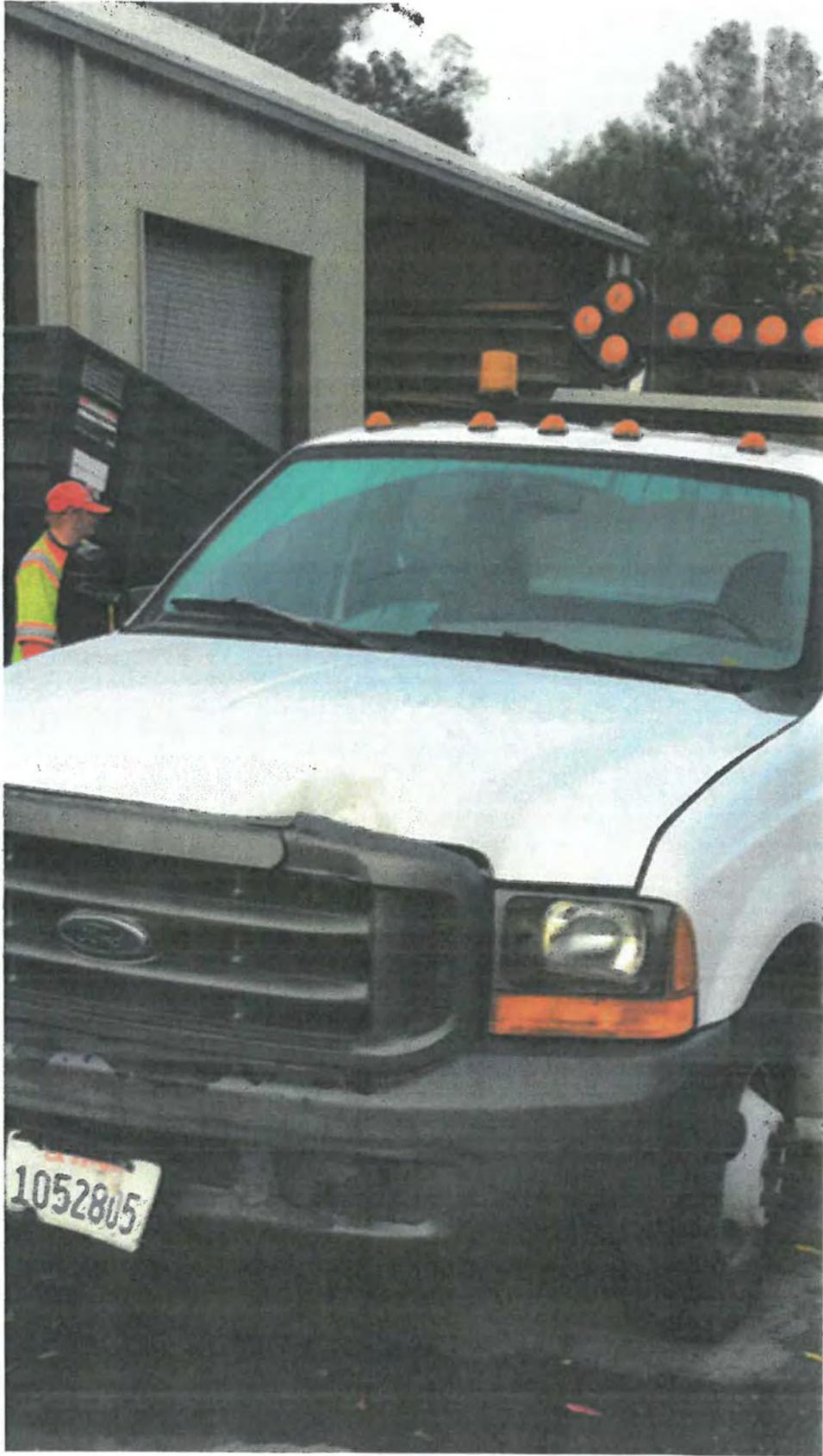
\*\* ESTIMATE \*\* ESTIMATE \*\*

(J WARBURTON )

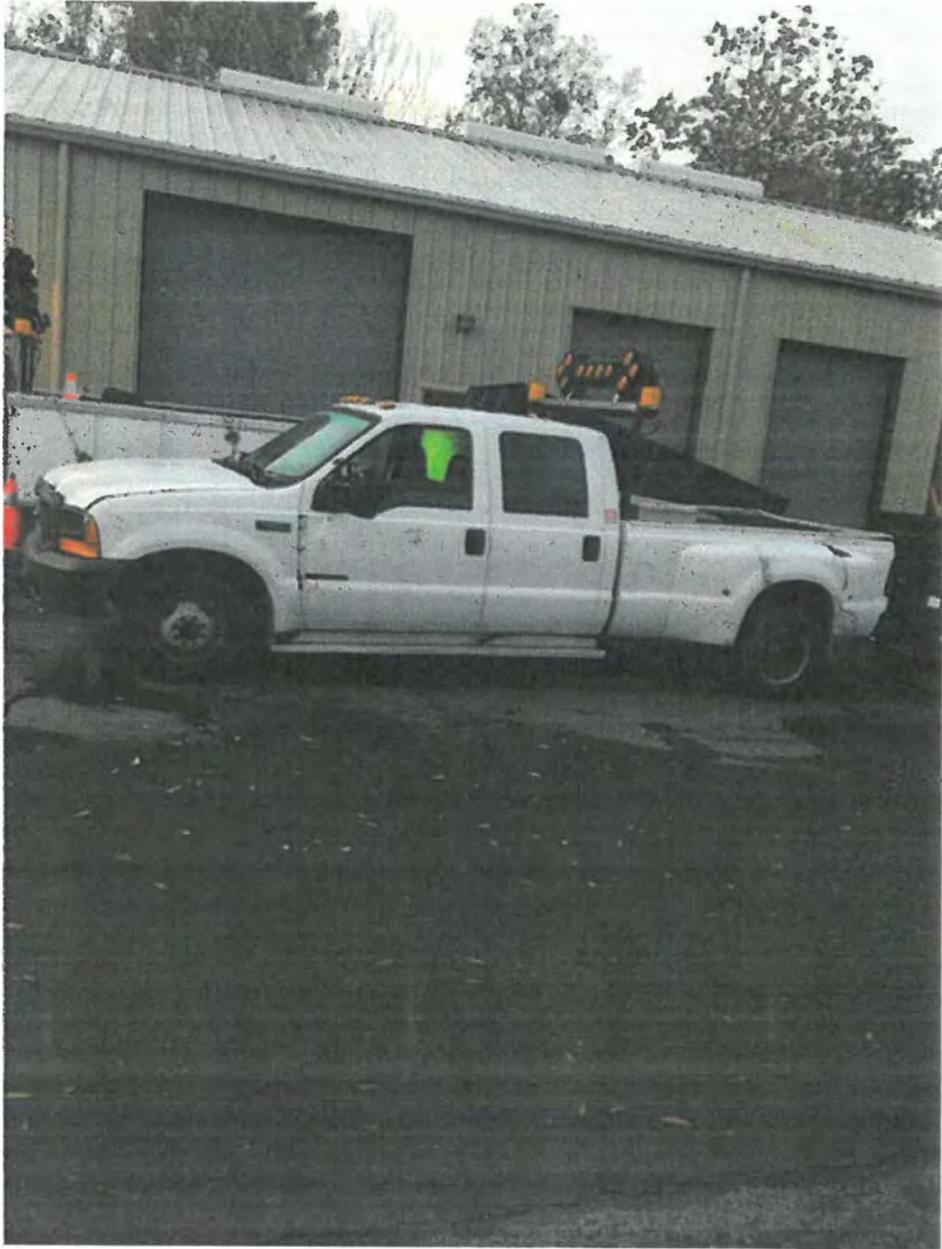
TAXABLE	1619.98
NON-TAXABLE	110.00
SUB-TOTAL	1729.98
TAX AMOUNT	141.75
TOTAL ESTIMATE	1871.73

X

Received By





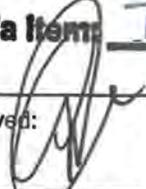




Agenda Date: 12-18-2018

Agenda Item: 7a

Approved:

  
Gary A. Napper  
City Manager

# AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MAG*

DATE: DECEMBER 18, 2018

SUBJECT: PUBLIC HEARING TO CONSIDER THE INTRODUCTION OF AN ORDINANCE TO AMEND CHAPTER 17.92 (INCLUSIONARY HOUSING REQUIREMENTS) OF THE CLAYTON MUNICIPAL CODE (ZOA-02-18)

---

## RECOMMENDATION

It is recommended the City Council consider all information provided and submitted, open the Public Hearing and take and consider all public testimony, and if determined to be appropriate, take the following actions:

- 1) Following closure of the Public Hearing, subject to any changes by the City Council, adopt a motion to have the City Clerk read Ordinance No. 484 by title and number only and waive further reading; and
- 2) Following the City Clerk's reading, by motion approve Ordinance No. 484 for Introduction to amend the Clayton Municipal Code Chapter 17.92 (Inclusionary Housing Requirements) for the purpose of including rental housing projects into this local housing requirement as allowed for by AB 1505 (ZOA-02-18) (**Attachment 1**).

## BACKGROUND

On August 16, 2016, the City Council adopted Ordinance No. 464 implementing inclusionary requirements for affordable housing on new homeownership or for-sale housing developments. The current threshold identified in both Clayton's State HCD-certified 2015-

2023 Housing Element and as adopted by that Ordinance, residential projects containing ten or more units shall provide ten percent of the units as affordable housing units (**Attachment 2**).

Ordinance No. 464 specifically precluded residential rental housing projects due to State law and prevailing rulings in two specific court cases. Rental housing was excluded from consideration in Clayton's Inclusionary Housing Ordinance because of the decision in *Palmer/Sixth Street Properties v. City of Los Angeles (2009)*, which determined that cities may no longer require developers to construct affordable housing units. The court had concluded the City of Los Angeles's inclusionary housing ordinance conflicted with and was preempted by the vacancy decontrol provisions of the Costa-Hawkins Rental Housing Act, which allows residential landlords to set the initial rents at the commencement of a tenancy.

That court case was followed by an outcome in the case of the *California Building Industry Association (CBIA) v. City of San Jose (2015)*. In this particular case, the outcome of the court's decision impacted inclusionary housing ordinances statewide and resulted in a finding that inclusionary housing ordinances do not constitute an unjust taking of property. The result of the court's decision upheld existing inclusionary housing ordinances; it allowed jurisdictions to adopt inclusionary housing ordinances but only for homeownership or for-sale development projects. When the City Council adopted Clayton's Inclusionary Housing Ordinance, the court's decision in *Palmer/Sixth Street Properties v. City of Los Angeles* was still relevant; therefore, rental housing units were excluded due to the conflict with the Costa-Hawkins Rental Housing Act.

### **NEW STATE LAW**

On September 29, 2017, Governor Brown signed a comprehensive package of 15 housing-related bills as the Legislature's response to address California's housing supply shortage. One of these bills, AB 1505 (**Attachment 3**), known as the "Palmer fix," restores the authority of cities and counties to require the inclusion of affordable housing in new rental housing projects, thereby superseding the court's decision in *Palmer/Sixth Street Properties v. City of Los Angeles*. AB 1505 authorizes cities and counties to adopt ordinances that require, as a local condition of development of residential rental units, to include a certain percentage of residential rental units affordable to moderate-, low-, very low-, and extremely low-income. AB 1505 also requires cities and counties to provide alternative means of compliance that may include in lieu fees, land dedication, off-site construction, or acquisition or rehabilitation of existing units.

On April 17, 2018, staff engaged a policy discussion before the City Council to determine if rental housing units/projects should be considered to be incorporated into the City's existing inclusionary housing requirements due to the changes brought about by the passage of AB 1505 (**Attachment 4**). At that time the Council provided direction to staff to draft an amendment to the City's Inclusionary Housing Ordinance to include rental housing projects, as allowed for by AB 1505, for local application of the same standards required for

homeownership projects, and apply it to all housing types as defined and counted by the State Department of Housing and Community Development (HCD). In response to that direction, staff is now returning to the City Council with those changes reflected in the draft Ordinance.

On May 22, 2018, the Planning Commission heard and considered the proposed amendments to the Zoning Ordinance and recommended approval to the City Council (4-0, with one Commissioner absent) (**Attachment 5**).

It should be noted, as identified in the Ordinance, staff will subsequently initiate a policy discussion with the City Council concerning an eventually-proposed Resolution (based on direction received) regarding the appropriate amount for an affordable housing in lieu fee as well as to determine the appropriate affordability ratio of very low-, low-, and moderate-income units to achieve compliance with the City's inclusionary housing requirements. The in lieu fee can be requested to be paid for all on-site units as well as the required fractional units at the request of a developer with review and approval by the City Council.

### **OVERVIEW AND DISCUSSION**

State law requires that local governments identify and plan for the existing and projected housing needs of all economic segments of the community in its Housing Elements. The law acknowledges that, in order for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems that provide opportunities for, and do not unduly constrain, housing development of all types and variations (Government Code Section 65580).

State law also requires the HCD to forecast statewide housing needs and allocate the anticipated need to regions throughout the state. For the Bay Area, HCD provides the regional need to the Association of Bay Area Governments (ABAG), which then allocates the Regional Housing Needs Assessment (RHNA) to the cities and counties within the ABAG region. ABAG allocates housing production goals for cities and counties based on their projected share of the region's household growth, the state of the local housing market, land inventories and vacancies, and the jurisdiction's housing replacement needs.

For the 2014-2022 projection period, ABAG has allocated the City of Clayton a total of 141 new housing units which are broken down as follows by income category: 51 extremely low- and very low-income units, 25 low-income units, 31 moderate-income units, and 34 above moderate-income units. Clayton's number of newly constructed housing units for this Housing Element cycle is as follows: two low-income units, which were constructed as accessory dwelling units and eight above moderate-income units for a total of ten housing units.

Below is a table reflecting the City's current status in addressing its RHNA allocation:

	<b>RHNA</b>	<b>Number of Permits Issued</b>
Very Low-Income Units	51	0
Low-Income Units	25	2
Moderate-Income Units	31	0
Above Moderate-Income Units	34	8
<b>TOTAL</b>	<b>141</b>	<b>10</b>

Given the City's RHNA allocation and the State's clear and repetitive declarations of housing being an issue of statewide concern, coupled with the Legislature's push for local governments to identify actions that will make sites available for affordable housing as well as assist in the development of such housing, the City identified a goal (Goal I) in its State HCD-certified Housing Element to provide for adequate sites and promote the development of new housing to accommodate Clayton's fair share housing allocation. The City also adopted Policy I.2, which states:

*"The City shall actively support and participate in the development of extremely low-, very low-, low-, and moderate-income housing to meet Clayton's fair share housing allocation. To this end, the City shall help facilitate the provision of affordable housing through the granting of regulation concessions and available financial assistance".*

To meet Goal I and Policy I.2, Implementation Measure I.2.1 was identified to require residential projects of ten or more units to develop an Affordable Housing Plan, which requires a minimum of ten percent of the units to be built or created as affordable housing units. To promote the goal of actively supporting and participating in the provision of housing for all economic segments, the City Council adopted the current Inclusionary Housing Ordinance, which facilitates the fulfillment of Implementation Measure I.2.1 (**Attachment 6**). The adoption of the Inclusionary Housing Ordinance implements Measure I.2.1 by codifying the requirements and providing details regarding the process and standards for the City and developers to follow. Adoption of the Inclusionary Housing Ordinance to incorporate residential rental units, as allowed for by AB 1505, will further the City's goal of accommodating its fair share housing allocation and will help fulfill Housing Element Policy I.2.

**AB 1505**

As indicated earlier, the passage of AB 1505 once again allows cities and counties, as a condition of development of residential units, to require the development to include a certain percentage of units be affordable to and occupied by moderate-, low-, very low-, or extremely low- income households (**Attachment 7**). The law also requires cities that adopt inclusionary housing ordinances to provide alternative means for compliance such as an in lieu fee, dedication of land, the construction of affordable units off-site, or the acquisition and rehabilitation of existing units.

It is further noted AB 1505 does provide HCD with the authority to review a jurisdiction's inclusionary housing ordinance if the jurisdiction requires, as a condition of development, more than 15 percent of the total number of units to be affordable to households at 80 percent or less of the area median income. However, HCD is only granted this authority if the jurisdiction has: 1) failed to meet at least 75 percent of its share of the RHNA for above moderate-income households over at least a five year period; or 2) the jurisdiction has failed to submit its annual Housing Element progress report for at least two consecutive years. If HCD determines any of the two aforementioned conditions exist, then HCD may request an economic feasibility study demonstrating the Ordinance does not unduly constrain the production of housing.

From staff's perspective, HCD's pronounced threshold (for an economic feasibility study of 15 percent of the total number of units to be affordable to households at 80 percent or less of area median income) is significant because it infers the economic feasibility for developers is manageable up to and around this threshold. Therefore, local developers have little substance to an assertion or claim of an economic hardship meeting the City's current and proposed inclusionary housing requirements. Since the City's current inclusionary housing requirements fall under the State's economic feasibility threshold it further infers the proposed requirements are not unduly burdensome as to place an obstacle or governmental constraint in preventing housing production. Only if the desire to require affordability to extremely low-income households or require a significant ratio of very low-income households would a feasibility study be advisable and possibly trigger a review of the City's Inclusionary Housing Ordinance by HCD.

#### ***Proposed Ordinance Amendments***

The majority of the amendments to the proposed Ordinance are to incorporate rental housing units in addition to the previously established for-sale housing units as well as to specify the Ordinance applies to dwelling units defined and counted by HCD (**Attachment 8**). In addition, very-low income units were added to the proposed Ordinance as an option for rental housing, pursuant to a ratio eventually to be considered by the City Council. Previously, due to income constraints and the associated costs to upkeep and maintain a home, very-low income units had been previously excluded as an option because the Ordinance was strictly for homeownership.

Other proposed changes are to provide more discretion to the City Council regarding the approval process as it pertains to the use of alternatives in lieu of constructing the affordable housing units onsite as well as to clarify the Community Development Director only has the authority to approve Inclusionary Housing Plans that include the construction of the required affordable housing units onsite and in the identified ratio.

Lastly, the Ordinance will specify, in accordance with case law (*Latinos Unidos del Valle de Napa Y Solano v. County of Napa*), the Affordable Housing Units provided under Density Bonus law would be counted toward the required number of Inclusionary Housing Units.

***Project Impacts***

Currently in the City's development project pipeline, there is one project this Ordinance could impact, which is the Clayton Senior Housing project, an 81-unit senior apartment complex to be located on the eastern portion of High Street behind the United States Post Office and fronting onto old Marsh Creek Road, south of the AT&T switch station building.

The Clayton Senior Housing project is requesting a 35 percent Density Bonus, as allowed for under State law and the Clayton Municipal Code, which is proposed to produce seven units dedicated to very-low income households. However, the decision in the court case *Latinos Unidos v. County of Napa* clarified that jurisdictions are required to count the units granted under the Density Bonus to also be counted toward the inclusionary housing unit requirements; meaning the project will be meeting the inclusionary housing requirements by default. The project is proposing seven very-low income units and the requirements under the existing inclusionary housing ordinance would be 5.9 units; therefore, the amendments to the Ordinance would not result in any additional impacts beyond what was already contemplated under the Density Bonus Law.

Nonetheless, if the Clayton Senior Housing project proposal is modified and the developer removes or amends the request for the use of a density bonus, then this Ordinance could require the project to provide affordable housing units.

***Building Industry Association Comment Letter***

Prior to the April 17, 2018 hearing where the City Council considered and discussed the policy direction on whether to include rental housing projects in the Inclusionary Housing Ordinance, a letter was sent to the City from the Building Industry Association (BIA) (**Attachment 9**). The letter encouraged Clayton to provide developers with a by-right in lieu fee option as well as to grandfather residential development projects currently in the City's project pipeline.

**ENVIRONMENTAL**

Approval of the Ordinance will not result in a significant adverse environmental impact as these changes were considered as part of the November 18, 2014 City Council adoption of the IS/ND for the 2015-2023 Housing Element, which was prepared pursuant to the California Environmental Quality Act (CEQA). The IS/ND concluded there was no substantial evidence to suggest the 2015-2023 Housing Element document would have a significant effect on the environment and anticipated impacts have not changed nor is there new information that would alter those findings.

## **OPTIONS**

1. The City Council could choose to not take action on the proposed Ordinance, thereby resulting in only a partial implementation of its 2015-2023 Housing Element (Implementation Measure I.1.2). Staff believes the City has fulfilled its State requirements under the 2015-2023 Housing Element with the current Ordinance because AB 1505 allows, but does not require, jurisdictions to include rental housing within its inclusionary housing ordinances. If the Council does not take action, staff does not anticipate any non-compliance or certification issues with its Housing Element; however, by not including rental housing within the Ordinance, it could become the favored housing type over for-sale because it would not require the set aside of below market rate units or the payment of an in lieu fee. In addition, this does not preclude any action that could be taken by the State at a future time, such as during the next state-mandated Housing Element cycle.

## **FISCAL IMPACTS**

None.

## **ATTACHMENTS**

1. Ordinance No. 484 with the following Exhibit:
  - a. Exhibit A – Clayton Municipal Code Section 17.92 – Inclusionary Housing Requirements [pp. 12]
2. Ordinance 464 [pp. 13]
3. AB 1505 [pp. 4]
4. Excerpt from the April 17, 2018 City Council Staff Report and Minutes [pp. 8]
5. Excerpt from May 22, 2018 Planning Commission Staff Report and Minutes [pp. 9]
6. Excerpt from Clayton's State-certified 2015-2023 Housing Element [pp. 4]
7. HCD Income Limits for 2018 [pp. 1]
8. Clayton Municipal Code Section 17.92 Redlines [pp. 8]
9. Letter from the BIA, dated April 17, 2018 [pp. 2]

# ATTACHMENT 1

## ORDINANCE NO. 484

### AN ORDINANCE AMENDING CHAPTER 17.92 OF THE CLAYTON MUNICIPAL CODE REGARDING INCLUSIONARY HOUSING REQUIREMENTS

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

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

**WHEREAS**, the City of Clayton desires to include rental housing within its Inclusionary Housing Requirements Ordinance as allowed for by Assembly Bill 1505 (Government Code Sections 65850 and 65850.01); and

**WHEREAS**, Implementation Measure I.2.1 of the Housing Element of the Clayton General Plan encourages the City to adopt an Inclusionary Housing Ordinance with desired targets of five percent low income and five percent very low income units for residential projects of ten units or more; and

**WHEREAS**, as noted in the City's Housing Element (2015-2023), there is a significant need for more affordable housing within the City, including for the following reasons:

(1) The State Legislature, through California Government Code Section 65580, declares the availability of housing of vital statewide importance and local governments have a responsibility to use powers vested in them to facilitate the adequate provision for the housing needs of all economic segments of the community;

(2) Rental units in Contra Costa County are not affordable to people with extremely low incomes, such as those who depend on General Assistance, Temporary Assistance to Needy Families, or Supplemental Security Income. Over 2,000 households within Contra Costa County are on a waiting list for Section 8 assistance, and not all affordable housing units qualify for Section 8 housing assistance. In addition, many persons or families cannot accumulate the money required to move into an apartment (i.e., first and last months' rent plus security deposit);

(3) The high cost of housing makes it difficult to find housing that is affordable for those working minimum wage jobs. For example, based on 2000 Census data, twenty-seven percent of low and very-low income households owning their home and twenty-seven percent of low and very-low income households renting their home overpaid for housing costs;

(4) Only households earning above moderate incomes could afford a home priced at or around median. Homeownership is out of reach in Clayton for most lower-income households. For example, moderate income households within the City could not afford the 2017 median home price of \$615,000. Recent appreciation in real estate prices has increased these concerns as through November 2018 the median sales price of a single family home sold in Clayton is \$832,000 and a townhouse-condo median sale price is \$613,000;

(5) The City has a significant need for new affordable housing. The Association of Bay Area Governments (ABAG) has allocated the following Regional Housing Needs Allocation (RHNA) to the City for the period 2014 to 2022: 51 extremely low- and very low-income units, 25 low-income units, 31 moderate-income units and 34 above moderate-income units; and

**WHEREAS**, the legal landscape surrounding the development of affordable housing in California is continually evolving; and

**WHEREAS**, the court in *Palmer/Sixth Street Properties v. City of Los Angeles* (2009) 175 Cal.App.4th 1396 determined that cities may no longer require developers to construct affordable housing units for rent; and

**WHEREAS**, the court in *California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435 clarified that cities may require developers to construct affordable housing units for sale; and

**WHEREAS**, on August 16, 2016, the City Council adopted an Inclusionary Housing Requirements Ordinance requiring for-sale or homeownership projects of ten or more units to set aside ten percent of the units as affordable or by alternative means such as off-site development, payment of in lieu fee, and/or land dedication; and

**WHEREAS**, the State of California on September 19, 2017 passed into law Assembly Bill 1505, returning the authority to cities and counties to require the inclusion of affordable housing in new rental housing projects, thereby superseding the court's decision in *Palmer/Sixth Street Properties v. City of Los Angeles*; and

**WHEREAS**, on November 18, 2014, the City Council of the City of Clayton adopted an IS/ND for the 2015-2023 Housing Element, which was prepared pursuant to the California Environmental Quality Act (CEQA). The IS/ND concluded there was no substantial evidence to suggest the 2015-2023 Housing Element document would have a significant effect on the environment; and

**WHEREAS**, on May 22, 2018, the Planning Commission considered all information provided and submitted, took and considered all public testimony, and recommended the City Council approve the ordinance amending Chapter 17.92 – Inclusionary Housing Requirements of City of Clayton Municipal Code; and

**WHEREAS**, the City Council wishes to adopt this Inclusionary Housing Ordinance to further satisfy Housing Element Implementation Measure I.2.1 in compliance with applicable state and local laws; and

**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.** Chapter 17.92 of the Clayton Municipal Code is hereby amended to read in full as set forth in the attached Exhibit A, incorporated by this reference.

**Section 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 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. 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 5. Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. This Ordinance shall be published or posted as required by law.

The foregoing Ordinance was introduced at a noticed public hearing at a regular public meeting of the City Council of the City of Clayton held on December 18, 2018.

**Passed, adopted, and ordered posted** by the City Council of the City of Clayton at a regular public meeting thereof held on January 15, 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 noticed public hearing of a regular meeting of the City Council of the City of Clayton held on December 18, 2018, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on January 15, 2015.

\_\_\_\_\_  
Janet Calderon, City Clerk

# EXHIBIT A

## Chapter 17.92 - INCLUSIONARY HOUSING REQUIREMENTS

Sections:

### 17.92.000 - Intent

It is the intent of this Chapter to establish standards and procedures that facilitate the development and availability of housing affordable to a range of households with varying income levels to implement the City's Housing Element and as mandated by Government Code Section 65580. The purpose of this Chapter is to encourage the development and availability of such housing by ensuring the addition of affordable housing units to the City's housing stock is in proportion with the overall increase in new housing units.

### 17.92.010 - Definitions

Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:

- A. "Affordable Housing Costs" means
  - 1. For Very Low-Income Households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.
  - 2. For Low-Income Households, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit.
  - 3. For Moderate Income Households, Affordable Housing Cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit.
- B. "Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a Residential Development. The term "Developer" also means the owner or owners for any such property for which such approvals are sought.
- C. "Director" means the City's Director of Community Development.
- D. "Discretionary Approval" means any entitlement or approval, including but not limited to a use permit, variance, design approval, and subdivision map.
- E. "Inclusionary Housing Agreement" means a legally binding, written agreement between a Developer and the City, in form and substance satisfactory to the Director and City Attorney, setting forth those provisions necessary to ensure that the requirements of this Chapter, whether through the provision of Inclusionary Units or through an alternative method, are satisfied.
- F. "Affordable Housing Plan" means the plan referenced in Section 17.92.050.
- G. "Inclusionary Housing Fund" shall have the meaning set forth in Section 17.92.080(A).
- H. "Inclusionary Units" means a dwelling unit developed pursuant to an Inclusionary Housing Agreement that will be offered for-sale or rent to Very Low, Low, and Moderate Income Households, at an Affordable Housing Cost, pursuant to this Chapter.

- I. "Low Income Households" means households who are not very low income households but whose gross income does not exceed the qualifying limits for lower income families as established from time to time pursuant to Section 8 of the United States Housing Act for Contra Costa County as set forth in Title 25 of the California Code of Regulations, Section 6932, or its successor provision and adjusted for family size and other factors by the United States Department of Housing and Urban Development.
- J. "Low Income Units" means Inclusionary Units restricted to occupancy by Low Income Households at an Affordable Housing Cost.
- K. "Moderate Income Households" means households who are not low income households but whose gross income does not exceed one hundred and twenty percent (120%) of the median income for Contra Costa County, adjusted for family size and other factors by the U.S. Department of Housing and Urban Development, as published annually in Title 25 of the California Code of Regulations, Section 6932, or its successor provision.
- L. "Moderate Income Units" means Inclusionary Units restricted to occupancy by Moderate Income Households at an Affordable Housing Cost.
- M. "Residential Development" means the construction of new projects requiring any specific plan, development agreement, planned unit development permit, tentative map, minor subdivision, conditional use permit, site plan review or building permit for which an application has been submitted to the City and which would create one or more additional dwelling units as defined and counted by the State Department of Housing and Community Development (HCD) to be offered for-sale or rent by the construction or alteration of structures. All new construction projects creating one or more additional dwelling units to be offered for-sale or rent on contiguous parcels of land by a single Developer shall constitute a single Residential Development subject to the requirements of this Ordinance, and any accompanying regulations, regardless of whether such projects are constructed all at once, serially, or in phases. The term "Residential Development" shall include the conversion of rental units to for-sale units.
- N. "Unrestricted Units" means those dwelling units in a Residential Development that are not Inclusionary Units.
- O. "Very Low Income Households" means households whose gross income does not exceed the qualifying limits for very low income families as established from time to time pursuant to Section 8 of the United States Housing Act for Contra Costa County as set forth in Title 25 of the California Code of Regulations, Section 6932, or its successor provision and adjusted for family size and other factors by the United States Department of Housing and Urban Development, adjusted for family size and other factors by the United States Department of Housing and Urban Development.
- P. "Very Low Income Units" means Inclusionary Units restricted to occupancy by Very Low Income Households at an Affordable Housing Cost.

#### **17.92.020 - Applicability**

This Chapter shall apply to all Residential Developments, except as provided below.

- A. Residential Developments proposed to contain less than ten (10) dwelling units.
- B. Residential Developments that obtained a current, valid building permit prior to the effective date of the ordinance adding this Chapter.

- C. Any dwelling unit or Residential Development which is damaged or destroyed by fire or natural catastrophes so long as the use of the reconstructed building and number of dwelling units remain the same, and the cost of such rehabilitation constitutes no more than fifty percent (50%) of the of its reasonable market value at the time of destruction or damage.

#### **17.92.030 - Inclusionary Unit Requirement**

- A. If the Residential Development includes ten (10) or more units, a minimum of ten percent (10%) of all newly constructed dwelling units in the Residential Development shall be developed, offered to, and sold or rented to Very Low, Low, and Moderate Income Households, in a ratio determined pursuant to Section 17.92.060, at an Affordable Housing Cost.
- B. The Inclusionary Unit requirement set forth in this Section may be reduced as follows: If only Low Income Units are provided in lieu of any Moderate Income units, a credit of 1.5 units to every 1 unit shall be provided. However, the credits may only be applied to the extent such credit equals a whole number.
- C. In the event the calculation for the number of Inclusionary Units results in a fraction of an Inclusionary Unit, the Developer shall have the option of either: (i) providing a full Inclusionary Unit at Affordable Housing Costs; or (ii) making an in lieu payment to the Inclusionary Housing Fund in an amount equal to the percentage represented by the fractional unit multiplied by the applicable in lieu fee.
- D. The number of Inclusionary Units required for a particular project will be determined at the time a land use application is filed by the Developer for a Residential Development with the City. If a change in the subdivision design results in a change in the total number of units, the number of Inclusionary Units required will be recalculated to coincide with the final approved project.
- E. For purposes of calculating the number of Inclusionary Units required by this Section, any additional units authorized as a density bonus under Chapter 17.90 and California Government Code Section 65915(b)(1) or (b)(2) will not be counted in determining the required number of Inclusionary Units.
- F. The number of Affordable Housing Units that are provided in order to secure a density bonus under Chapter 17.90 and California Government Code Section 65915(b)(1) or (b)(2) will be counted toward the required number of Inclusionary Housing Units.

#### **17.92.040 - Alternatives**

In lieu of including the Inclusionary Units in the Residential Development pursuant to Section 17.92.030, the requirements of this Chapter may be satisfied through the following alternatives set forth in this Section.

- A. Off-Site. As an alternative to providing Inclusionary Units upon the same site as the Residential Development, the Developer may elect, with the City Council's approval, which may be granted or denied in its sole discretion to construct Inclusionary Units off-site subject to the following requirements:
  1. If the Developer constructs units off-site, the percentage of required Inclusionary Units shall be increased to fifteen percent (15%).
  2. The site of the Inclusionary Units has a General Plan designation that authorizes residential uses and is zoned for Residential Development at a density to

accommodate at least the number of otherwise required Inclusionary Units, including the additional five percent (5%) for development off-site, within the Residential Development. The Developer shall obtain all required Discretionary Approvals and complete all necessary environmental review of such site.

3. The site is suitable for development of the Inclusionary Units in terms of configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria.
  4. Environmental review for the site has been completed for the presence of hazardous materials and geological review for the presence of geological hazards and all such hazards are or shall be mitigated to the satisfaction of the City prior to acceptance of the site by the City.
  5. The construction schedule for the off-site Inclusionary Units shall be included in the Affordable Housing Plan and the Inclusionary Housing Agreement.
  6. Construction of the off-site Inclusionary Units shall be completed prior to or concurrently with the Residential Development.
  7. Unless otherwise noted, all requirements applicable to on-site Inclusionary Units shall apply to off-site Inclusionary Units.
- B. In Lieu Fee. For Residential Developments proposing ten (10) units, the Developer may elect, by right, at the Developer's sole discretion to pay a fee in lieu of developing an Inclusionary Unit on-site. The amount of the in lieu fee to be paid by Developer pursuant to this Section shall be the applicable in lieu fee set forth in the fee schedule adopted by the City Council. For all Residential Developments proposing eleven (11) units or more, the Developer may request within the proposed Inclusionary Housing Plan to pay a fee in lieu of all or some of the Inclusionary Units otherwise required by the Ordinance in lieu of developing Inclusionary Units on-site. Developer's request may be approved or denied by the Council in its sole discretion. The fee shall be charged for each unit or fraction of a unit as set forth in Section 17.92.030(C), and the fee shall be paid as follows:
1. The amount of the fee to be paid by Developer pursuant to this subsection shall be the fee schedule established by Resolution of the City Council, and as adjusted from time to time by Resolution of the City Council.
  2. One-half (1/2) of the in-lieu fee required by this subsection shall be paid (or a letter of credit posted) prior to issuance of a building permit for all or any part of the Residential Development. The remainder of the fee shall be paid before a certificate of occupancy is issued for any unit in the Residential Development.
  3. The fees collected shall be deposited in the Inclusionary Housing Fund.
  4. No certificate of occupancy shall be issued for any corresponding Unrestricted Units in a Residential Development unless fees required under this Section have been paid in full to the City.
- C. Land Dedication. In lieu of building Inclusionary Units, a Developer may request to dedicate land to the City suitable for the construction of Inclusionary Units that the City Council reasonably determines to be equivalent or greater value than is produced by applying the City's in lieu fee to the Developer's inclusionary obligation and otherwise meets the following standards and requirements:

1. Marketable title to the site is transferred to the City, or an affordable housing developer approved by the City, prior to the commencement of construction of the Residential Development pursuant to an agreement between the Developer and the City and such agreement is in the best interest of the City.
2. The site has a General Plan designation that authorizes residential uses and is zoned for Residential Development at a density to accommodate at least the number of otherwise required Inclusionary Units within the Residential Development, and conforms to City development standards.
3. The site is suitable for development of the Inclusionary Units in terms of configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the site.
4. Infrastructure to serve the dedicated site, including but not limited to streets and public utilities, must be available at the property line and have adequate capacity to serve the maximum allowable Residential Development pursuant to zoning regulations.
5. Environmental review of the site has been completed for the presence of hazardous materials and geological review for the presence of geological hazards and all such hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.
6. The City shall not be required to construct restricted income units on the site dedicated to the City, but may sell, transfer, lease, or otherwise dispose of the dedicated site. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited into the Inclusionary Housing Fund.

#### **17.92.050 - Procedures**

- A. At the times and in accordance with the standards and procedures set forth herein, Developer shall:
  1. Submit an Inclusionary Housing Plan, setting forth in detail the manner in which the provisions of this Chapter will be implemented for the proposed Residential Development. If land dedication or off-site units are proposed, the Inclusionary Housing Plan shall include information necessary to establish site location, suitability, development, constraints, and the number of Inclusionary Units assigned pursuant to this Chapter. Inclusionary Housing Plans that satisfy the express requirements of Section 17.92.030 may be approved by the Director. Inclusionary Housing Plans that include alternatives as set for the in Section 17.92.040 must be approved by the City Council.
  2. Execute and cause to be recorded an Inclusionary Housing Agreement, unless Developer is complying with this Chapter pursuant to Section 17.92.040(B) (in lieu fee) or Section 17.92.040(C) (land dedication).
- B. No Discretionary Approval shall be issued for all or any portion of a Residential Development subject to this Chapter until the Developer has submitted an Inclusionary Housing Plan.

- C. No building permit shall be issued for the Residential Development, or any portion thereof, subject to this Chapter unless the City Council has approved the Inclusionary Housing Plan and the Inclusionary Housing Agreement (if required) is recorded.
- D. No certificate of occupancy shall be issued for the Residential Development, or any portion thereof, subject to this Chapter unless the approved Inclusionary Housing Plan has been fully implemented.
- E. The City Manager or designee may establish and amend policies for the implementation of this Chapter.

#### **17.92.060 - Standards**

- A. Inclusionary Units shall be reasonably dispersed throughout the Residential Development; shall be proportional, in number of bedrooms, to the Unrestricted Units. If the Residential Development offers a variety of unit plans with respect to design, materials and optional interior amenities, the Inclusionary Units shall be identical with the Residential Development's base-plan in terms of design, appearance, materials, finished quality and interior amenities. If multiple floor plans with the same number of bedrooms are proposed, the Inclusionary Units may be the units with the smaller floor plans.
- B. All Inclusionary Units in a Residential Development shall be constructed concurrently with or prior to the construction of the Unrestricted Units. In the event the City approves a phased project, the Inclusionary Units required by this Chapter shall be constructed and occupied in proportion to the number of units in each phase of the Residential Development. In no case shall an Affordable Housing Unit be the final dwelling unit issued a Certificate of Occupancy of a Residential Development or its approved phase(s).
- C. Inclusionary Units shall be sold to Low and Moderate Income Households or rented to Very Low, Low, and Moderate Income Households at a ratio established pursuant to a Resolution adopted by the City Council, and shall be provided at the applicable Affordable Housing Cost.
- D. The number of bedrooms must be the same as those in the Unrestricted Units, except that if the Unrestricted Units provide more than four (4) bedrooms, the Inclusionary Units need not provide more than four (4) bedrooms.
- E. Inclusionary Units shall prohibit subsequent rental occupancy (for for-sale units) or subletting (for rental units), unless approved for hardship reasons by the City Manager or designee. Such hardship approval shall include provision for United States military personnel who are required to leave the country for active military duty.
- F. Prior the development of any units in a Residential Development, a deed restriction or other enforceable obligation approved by the City Attorney shall be recorded limiting the Developer and any successors, whenever an Inclusionary Unit is sold or leased, to sell such unit to persons meeting the income eligibility requirements for Low and Moderate Income Households or to rent such unit to persons meeting the income eligibility requirements for Very Low, Low, and Moderate Income Households as applicable for a period of fifty-five (55) years.

#### **17.92.070 - Enforcement**

- A. The provisions of this Chapter shall apply to all Developers and their agents, successors and assigns proposing a Residential Development. All Inclusionary Units shall be sold or leased in accordance with this Chapter. It shall be a misdemeanor to violate any provision of this Chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for

any person to sell or rent to another person an Inclusionary Unit under this Chapter at a price exceeding the maximum allowed under this Chapter or to sell or rent an Inclusionary Unit to a Household not qualified under this Chapter. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller or lessor of an Inclusionary Unit to obtain occupancy of housing for which he or she is not eligible.

- B. Any individual who sells, rents, or sublets an Inclusionary Unit in violation of the provisions of this Chapter shall be required to forfeit all monetary amounts so obtained. Recovered funds shall be deposited into the Inclusionary Housing Fund.
- C. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including but not limited to: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; (2) civil actions for injunctive relief or damages; (3) actions to recover from any violator of this Chapter civil fines, restitution to prevent unjust enrichment, and/or enforcement costs; and (4) any other action, civil or criminal, authorized by law or by any regulatory document, restriction, or agreement under this Chapter.
- D. In any action to enforce this Chapter or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.
- E. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any person, owner, Developer or household from the requirements of this Chapter.
- F. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it would otherwise be entitled under law or equity.

#### **17.92.080 - General Provisions**

##### **A. Inclusionary Housing Fund**

There is hereby established a separate fund of the City, to be known as the Inclusionary Housing Fund. All monies collected pursuant to 17.92.040, 17.92.060 and 17.92.070 shall be deposited in the Inclusionary Housing Fund. Additional monies from other sources may be deposited in the Inclusionary Housing Fund. The monies deposited in the Inclusionary Housing Fund shall be subject to the following conditions:

1. Monies deposited into the Inclusionary Housing Fund must be used to increase and improve the supply of housing affordable to Very Low, Low, and Moderate Income Households in the City. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this Section.
2. The fund shall be administered, subject to the approval by the City Manager, by the Director of Community Development, or his or her designee, who may develop procedures to implement the purposes of the Inclusionary Housing Fund consistent with the requirements of this Chapter and through the adopted budget of the City.
3. Monies deposited in accordance with this Section shall be used in accordance with the City's Housing Element, or subsequent plan adopted by the City Council to construct, rehabilitate, or subsidize affordable housing or assist other government entities, private organizations, or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development

loan funds, participation leases, or other public-private partnership arrangements. The Inclusionary Housing Fund may be used for the benefit of both rental and owner-occupied housing. In no case is the City obligated to actually construct affordable housing units on its own.

#### B. Administrative Fees

The City Council may by Resolution establish reasonable fees and deposits, which shall fund the City's costs associated with the administration and monitoring of the Inclusionary Units and administration of the Inclusionary Housing Fund.

#### C. Appeal

Within ten (10) calendar days after the date of any decision of the Director under this Chapter, an appeal may be filed with the City Clerk. Within ninety (90) calendar days of the request for an appeal is filed or a later time as agreed to by the appellant, the City Council shall consider the appeal. The City Council's decision shall be final.

#### D. Waiver

1. Notwithstanding any other provision of this Chapter, the requirements of this Chapter may be waived, adjusted, or reduced if a Developer shows, based on substantial evidence, that there is no reasonable relationship between the impact of a proposed Residential Development and the requirements of this Chapter, or that applying the requirements of this Chapter would take property in violation of the United States or California Constitutions.
2. Any request for a waiver, adjustment, or reduction under this Section shall be submitted to the City concurrently with the Affordable Housing Plan required by Section 17.92.050. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.
3. The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan, and is subject to the appeal process in subsection (C) above.
4. In making a determination on an application for waiver, adjustment, or reduction, the Developer shall bear the burden of presenting substantial evidence to support the claim. The City may assume each of the following when applicable:
  - (i) That the Developer will provide the most economical Inclusionary Units feasible, meeting the requirements of this Chapter and any implementing regulations.
  - (ii) That the Developer is likely to obtain housing subsidies when such funds are reasonably available.

The waiver, adjustment or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this Section.

# ATTACHMENT 2

## ORDINANCE NO. 464

### AN ORDINANCE ADDING CHAPTER 17.92 TO THE CLAYTON MUNICIPAL CODE REGARDING INCLUSIONARY HOUSING REQUIREMENTS (ZOA-04-15)

#### THE CITY COUNCIL

#### City of Clayton, California

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

**WHEREAS**, the City of Clayton currently does not have a formal Inclusionary Housing Ordinance; and

**WHEREAS**, Implementation Measure I.2.1 of the Housing Element of the Clayton General Plan encourages the City to adopt an Inclusionary Housing Ordinance with desired targets of five percent low income and five percent very low income units for residential projects of ten units or more; and

**WHEREAS**, as noted in the City's Housing Element (2015-2023), there is a significant need for more affordable housing within the City, including for the following reasons:

(1) The State Legislature, through California Government Code Section 65580, declares the availability of housing of vital statewide importance and local governments have a responsibility to use powers vested in them to facilitate the adequate provision for the housing needs of all economic segments of the community.

(2) Rental units in Contra Costa County are not affordable to people with extremely low incomes, such as those who depend on General Assistance, Temporary Assistance to Needy Families, or Supplemental Security Income. Over 2,000 households within Contra Costa County are on a waiting list for Section 8 assistance, and not all affordable housing units qualify for Section 8 housing assistance. In addition, many persons or families cannot accumulate the money required to move into an apartment (i.e., first and last months' rent plus security deposit);

(3) The high cost of housing makes it difficult to find housing that is affordable for those working minimum wage jobs. For example, based on 2000 Census data, twenty-seven percent of low and very-low income households owning their home and twenty-seven percent of low and very-low income households renting their home overpaid for housing costs;

(4) Only households earning above moderate incomes could afford a home priced at or around median. Homeownership is out of reach in Clayton for most lower-income households. For example, moderate income households within the City could not afford the 2013 median home price of \$595,000. Recent appreciation in real estate prices has increased these concerns;

(5) The City has a significant need for new affordable housing. The Association of Bay Area Governments (ABAG) has allocated the following Regional Housing Needs Allocation (RHNA) to the City for the period 2014 to 2022: 51 extremely low- and very

low-income units, 25 low-income units, 31 moderate-income units and 34 above moderate-income units; and

**WHEREAS**, the legal landscape surrounding the development of affordable housing in California is continually evolving; and

**WHEREAS**, the court in *Palmer/Sixth Street Properties v. City of Los Angeles* (2009) 175 Cal.App.4th 1396 determined that cities may no longer require developers to construct affordable housing units for rent; and

**WHEREAS**, the court in *California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435 clarified that cities may require developers to construct affordable housing units for sale; and

**WHEREAS**, on November 18, 2014, the City Council of the City of Clayton adopted an IS/ND for the 2015-2023 Housing Element, which was prepared pursuant to the California Environmental Quality Act (CEQA). The IS/ND concluded there was no substantial evidence to suggest the 2015-2023 Housing Element document would have a significant effect on the environment; and

**WHEREAS**, on June 28, 2016, the Planning Commission considered all information provided and submitted, took and considered all public testimony, and recommended the City Council approve the ordinance amending the City of Clayton Municipal Code by adding Chapter 17.92 – Inclusionary Housing Requirements; and

**WHEREAS**, the City Council wishes to adopt this Inclusionary Housing Ordinance to satisfy Housing Element Implementation Measure I.2.1 in compliance with applicable state and local laws.

**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.** Chapter 17.92 is hereby added to the Clayton Municipal Code to read in full as set forth in the attached Exhibit A, incorporated by this reference.

**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 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. 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 5. Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. This Ordinance shall be published or posted as required by law.

The foregoing Ordinance was introduced at a noticed public hearing at a regular public meeting of the City Council of the City of Clayton held on July 19, 2016.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on August 16, 2016, by the following vote:

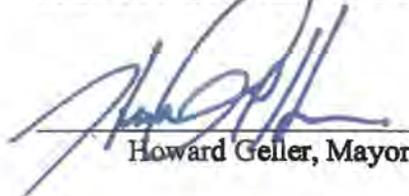
**AYES:** Mayor Geller, Vice Mayor Diaz, Councilmembers Haydon, Pierce, and Shuey.

**NOES:** None.

**ABSENT:** None.

**ABSTAIN:** None.

THE CITY COUNCIL OF CLAYTON, CA

  
Howard Geller, Mayor

ATTEST

  
Janet Brown, City Clerk

APPROVED AS TO FORM

  
Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

  
Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a noticed public hearing of a regular meeting of the City Council of the City of Clayton held on July 19, 2016, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on August 16, 2016.

going Ordinance was duly introduced at a noticed public City Council of the City of Clayton held on July 19, 2016, rdered posted at a regular meeting of the City Council held

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

## Chapter 17.92

### INCLUSIONARY HOUSING REQUIREMENTS

**Sections:**

17.92.000	<b>Intent</b>
17.92.010	<b>Definitions</b>
17.92.020	<b>Applicability</b>
17.92.030	<b>Inclusionary Unit Requirement</b>
17.92.040	<b>Alternatives</b>
17.92.050	<b>Procedures</b>
17.92.060	<b>Standards</b>
17.92.070	<b>Enforcement</b>
17.92.080	<b>General Provisions</b>

#### 17.92.000 INTENT

It is the intent of this Chapter to establish standards and procedures that facilitate the development and availability of housing affordable to a range of households with varying income levels to implement the City's Housing Element and as mandated by Government Code Section 65580. The purpose of this Chapter is to encourage the development and availability of such housing by ensuring the addition of affordable housing units to the City's housing stock is in proportion with the overall increase in new housing units.

#### 17.92.010 DEFINITIONS

Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:

(a) **"Affordable Housing Costs"** means

(1) For Very Low-Income Households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For Low-Income Households, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit.

(3) For Moderate Income Households, Affordable Housing Cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit.

(b) **"Developer"** means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a Residential Development. The term "Developer" also means the owner or owners for any such property for which such approvals are sought.

(c) **"Director"** means the City's Director of Community Development.

(d) **“Discretionary Approval”** means any entitlement or approval, including but not limited to a use permit, variance, design approval, and subdivision map.

(e) **“Inclusionary Housing Agreement”** means a legally binding, written agreement between a Developer and the City, in form and substance satisfactory to the Director and City Attorney, setting forth those provisions necessary to ensure that the requirements of this Chapter, whether through the provision of Inclusionary Units or through an alternative method, are satisfied.

(f) **“Affordable Housing Plan”** means the plan referenced in Section 17.92.050:

(g) **“Inclusionary Housing Fund”** shall have the meaning set forth in Section 17.92.080(a).

(h) **“Inclusionary Units”** means a dwelling unit developed pursuant to an Inclusionary Housing Agreement that will be offered for sale to Low and Moderate Income Households, at an Affordable Housing Cost, pursuant to this Chapter.

(i) **“Low Income Households”** means households who are not very low income households but whose gross income does not exceed the qualifying limits for lower income families as established from time to time pursuant to Section 8 of the United States Housing Act for Contra Costa County as set forth in Title 25 of the California Code of Regulations, Section 6932, or its successor provision and adjusted for family size and other factors by the United States Department of Housing and Urban Development.

(j) **“Low Income Units”** means Inclusionary Units restricted to occupancy by Low Income Households at an Affordable Housing Cost.

(k) **“Moderate Income Households”** means households who are not low income households but whose gross income does not exceed one hundred and twenty percent (120%) of the median income for Contra Costa County, adjusted for family size and other factors by the U.S. Department of Housing and Urban Development, as published annually in Title 25 of the California Code of Regulations, Section 6932, or its successor provision.

(l) **“Moderate Income Units”** means Inclusionary Units restricted to occupancy by Moderate Income Households at an Affordable Housing Cost.

(m) **“Residential Development”** means the construction of new projects requiring any specific plan, development agreement, planned unit development permit, tentative map, minor subdivision, conditional use permit, site plan review or building permit for which an application has been submitted to the City and which would create one or more additional dwelling units to be offered for sale by the construction or alteration of structures. All new construction projects creating one or more additional dwelling units to be offered for sale on contiguous parcels of land by a single Developer shall constitute a single Residential Development subject to the requirements of this Ordinance, and any accompanying regulations, regardless of whether such projects are constructed all at once, serially, or in phases. The term “Residential Development” shall include the conversion of rental units to for-sale units.

(n) **“Unrestricted Units”** means those dwelling units in a Residential Development that are not Inclusionary Units.

(o) "Very Low Income Households" means households whose gross income does not exceed the qualifying limits for very low income families as established from time to time pursuant to Section 8 of the United States Housing Act for Contra Costa County as set forth in Title 25 of the California Code of Regulations, Section 6932, or its successor provision and adjusted for family size and other factors by the United States Department of Housing and Urban Development, adjusted for family size and other factors by the United States Department of Housing and Urban Development.

#### **17.92.020 APPLICABILITY**

This Chapter shall apply to all Residential Developments, except as provided below.

(a) Residential Developments proposed to contain less than ten (10) dwelling units.

(b) Residential Developments that obtained a current, valid building permit prior to the effective date of the ordinance adding this Chapter.

(c) Any dwelling unit or Residential Development which is damaged or destroyed by fire or natural catastrophes so long as the use of the reconstructed building and number of dwelling units remain the same, and the cost of such rehabilitation constitutes no more than fifty percent (50%) of the of its reasonable market value at the time of destruction or damage.

#### **17.92.030 INCLUSIONARY UNIT REQUIREMENT**

(a) For-Sale Units: If the Residential Development includes ten (10) or more units for sale, a minimum of ten percent (10%) of all newly constructed for sale dwelling units in the Residential Development shall be developed, offered to and sold to Low and Moderate Income Households, in a ratio determined pursuant to Section 17.92.060, at an Affordable Housing Cost.

(b) The Inclusionary Unit requirement set forth in this Section may be reduced as follows: If only Low Income Units are provided in lieu of any Moderate Income units, a credit of 1.5 units to every 1 unit shall be provided. However, the credits may only be applied to the extent such credit equals a whole number.

(c) In the event the calculation for the number of Inclusionary Units results in a fraction of an Inclusionary Unit, the Developer shall have the option of either: (i) providing a full Inclusionary Unit at Affordable Housing Costs; or (ii) making an in lieu payment to the Inclusionary Housing Fund in an amount equal to the percentage represented by the fractional unit multiplied by the applicable in lieu fee.

(d) The number of Inclusionary Units required for a particular project will be determined at the time a land use application is filed by the Developer for a Residential Development with the City. If a change in the subdivision design results in a change in the total number of units, the number of Inclusionary Units required will be recalculated to coincide with the final approved project.

(e) For purposes of calculating the number of Inclusionary Units required by this Section, any additional units authorized as a density bonus under Chapter 17.90 and California Government Code Section 65915(b)(1) or (b)(2) will not be counted in determining the required number of Inclusionary Units.

#### **17.92.040 ALTERNATIVES**

In lieu of including the Inclusionary Units in the Residential Development pursuant to Section 17.92.030, the requirements of this Chapter may be satisfied through the following alternatives set forth in this Section.

(a) **Off-Site.** As an alternative to providing Inclusionary Units upon the same site as the Residential Development, the Developer may elect, by right, at the Developer's sole discretion to construct Inclusionary Units off-site subject to the following requirements:

(1) If the Developer constructs units off-site, the percentage of required Inclusionary Units shall be increased to fifteen percent (15%).

(2) The site of the Inclusionary Units has a General Plan designation that authorizes residential uses and is zoned for Residential Development at a density to accommodate at least the number of otherwise required Inclusionary Units, including the additional five percent (5%) for development off-site, within the Residential Development. The Developer shall obtain all required Discretionary Approvals and complete all necessary environmental review of such site.

(3) The site is suitable for development of the Inclusionary Units in terms of configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria.

(4) Environmental review for the site has been completed for the presence of hazardous materials and geological review for the presence of geological hazards and all such hazards are or shall be mitigated to the satisfaction of the City prior to acceptance of the site by the City.

(5) The construction schedule for the off-site Inclusionary Units shall be included in the Affordable Housing Plan and the Inclusionary Housing Agreement.

(6) Construction of the off-site Inclusionary Units shall be completed prior to or concurrently with the Residential Development.

(7) Unless otherwise noted, all requirements applicable to on-site Inclusionary Units shall apply to off-site Inclusionary Units.

(b) **In Lieu Fee.** For Residential Developments proposing ten (10) units, the Developer may elect, by right, at the Developer's sole discretion to pay a fee in lieu of developing an Inclusionary Unit on-site. The amount of the in-lieu fee to be paid by Developer pursuant to this Section shall be the applicable in-lieu fee set forth in the fee schedule adopted by the City Council. For all Residential Developments proposing eleven (11) units or more, the Developer may request to pay a fee in lieu of all or some of the Inclusionary Units otherwise required by the Ordinance in lieu of developing Inclusionary Units on-site. The fee shall be charged for each unit or fraction of a unit as set forth in Section 17.92.030(c), and the fee shall be paid as follows:

(1) The amount of the fee to be paid by Developer pursuant to this subsection shall be the fee schedule established by Resolution of the City Council, and as adjusted from time to time by Resolution of the City Council.

(2) One-half (1/2) of the in-lieu fee required by this subsection shall be paid (or a letter of credit posted) prior to issuance of a building permit for all or any part of the Residential Development. The remainder of the fee shall be paid before a certificate of occupancy is issued for any unit in the Residential Development.

(3) The fees collected shall be deposited in the Inclusionary Housing Fund.

(4) No certificate of occupancy shall be issued for any corresponding Unrestricted Units in a Residential Development unless fees required under this Section have been paid in full to the City.

(c) **Land Dedication.** In lieu of building Inclusionary Units, a Developer may request to dedicate land to the City suitable for the construction of Inclusionary Units that the City Council reasonably determines to be equivalent or greater value than is produced by applying the City's in lieu fee to the Developer's inclusionary obligation and otherwise meets the following standards and requirements:

(1) Marketable title to the site is transferred to the City, or an affordable housing developer approved by the City, prior to the commencement of construction of the Residential Development pursuant to an agreement between the Developer and the City and such agreement is in the best interest of the City.

(2) The site has a General Plan designation that authorizes residential uses and is zoned for Residential Development at a density to accommodate at least the number of otherwise required Inclusionary Units within the Residential Development, and conforms to City development standards.

(3) The site is suitable for development of the Inclusionary Units in terms of configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the site.

(4) Infrastructure to serve the dedicated site, including but not limited to streets and public utilities, must be available at the property line and have adequate capacity to serve the maximum allowable Residential Development pursuant to zoning regulations.

(5) Environmental review of the site has been completed for the presence of hazardous materials and geological review for the presence of geological hazards and all such hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.

(6) The City shall not be required to construct restricted income units on the site dedicated to the City, but may sell, transfer, lease, or otherwise dispose of the dedicated site. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited into the Inclusionary Housing Fund.

**17.92.050 PROCEDURES**

(a) At the times and in accordance with the standards and procedures set forth herein, Developer shall:

(1) Submit an Inclusionary Housing Plan for approval by the Director, setting forth in detail the manner in which the provisions of this Chapter will be implemented for the proposed Residential Development. If land dedication or off-site units are proposed, the Inclusionary Housing Plan shall include information necessary to establish site location, suitability, development, constraints, and the number of Inclusionary Units assigned pursuant to this Chapter.

(2) Execute and cause to be recorded an Inclusionary Housing Agreement, unless Developer is complying with this Chapter pursuant to Section 17.92.040(b) (in lieu fee) or Section 17.92.040(c) (land dedication).

(b) No Discretionary Approval shall be issued for all or any portion of a Residential Development subject to this Chapter until the Developer has submitted an Inclusionary Housing Plan.

(c) No building permit shall be issued for the Residential Development, or any portion thereof, subject to this Chapter unless the City Council has approved the Inclusionary Housing Plan and the Inclusionary Housing Agreement (if required) is recorded.

(d) No certificate of occupancy shall be issued for the Residential Development, or any portion thereof, subject to this Chapter unless the approved Inclusionary Housing Plan has been fully implemented.

(e) The City Manager or designee may establish and amend policies for the implementation of this Chapter.

**17.92.060 STANDARDS**

(a) Inclusionary Units shall be reasonably dispersed throughout the Residential Development; shall be proportional, in number of bedrooms, to the Unrestricted Units. If the Residential Development offers a variety of unit plans with respect to design, materials and optional interior amenities, the Inclusionary Units shall be identical with the Residential Development's base-plan in terms of design, appearance, materials, finished quality and interior amenities. If multiple floor plans with the same number of bedrooms are proposed, the Inclusionary Units may be the units with the smaller floor plans.

(b) All Inclusionary Units in a Residential Development shall be constructed concurrently with or prior to the construction of the Unrestricted Units. In the event the City approves a phased project, the Inclusionary Units required by this Chapter shall be constructed and occupied in proportion to the number of units in each phase of the Residential Development. In no case shall an Affordable Housing Unit be the final dwelling unit issued a Certificate of Occupancy of a Residential Development or its approved phase(s).

(c) Inclusionary Units shall be sold to Low and Moderate Income Households at a ratio established pursuant to a Resolution adopted by the City Council, and shall be provided at the applicable Affordable Housing Cost.

(d) The number of bedrooms must be the same as those in the Unrestricted Units, except that if the Unrestricted Units provide more than four (4) bedrooms, the Inclusionary Units need not provide more than four (4) bedrooms.

(e) Inclusionary Units shall prohibit subsequent rental occupancy, unless approved for hardship reasons by the City Manager or designee. Such hardship approval shall include provision for United States military personnel who are required to leave the country for active military duty.

(f) Prior the development of any units in a Residential Development, a deed restriction or other enforceable obligation approved by the City Attorney shall be recorded limiting the Developer and any successors, whenever an Inclusionary Unit is sold, to sell such unit to persons meeting the income eligibility requirements for Low and Moderate Income Households as applicable for a period of fifty-five (55) years.

#### **17.92.070 ENFORCEMENT**

(a) The provisions of this Chapter shall apply to all Developers and their agents, successors and assigns proposing a Residential Development. All Inclusionary Units shall be sold in accordance with this Chapter. It shall be a misdemeanor to violate any provision of this Chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for any person to sell or rent to another person an Inclusionary Unit under this Chapter at a price exceeding the maximum allowed under this Chapter or to sell an Inclusionary Unit to a Household not qualified under this Chapter. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller or lessor of an Inclusionary Unit to obtain occupancy of housing for which he or she is not eligible.

(b) Any individual who sells an Inclusionary Unit in violation of the provisions of this Chapter shall be required to forfeit all monetary amounts so obtained. Recovered funds shall be deposited into the Inclusionary Housing Fund.

(c) The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including but not limited to: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; (2) civil actions for injunctive relief or damages; (3) actions to recover from any violator of this Chapter civil fines, restitution to prevent unjust enrichment, and/or enforcement costs; and (4) any other action, civil or criminal, authorized by law or by any regulatory document, restriction, or agreement under this Chapter.

(d) In any action to enforce this Chapter or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

(e) Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any person, owner, Developer or household from the requirements of this Chapter.

(f) The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it would otherwise be entitled under law or equity.

**17.92.080 GENERAL PROVISIONS**

**(a) Inclusionary Housing Fund**

There is hereby established a separate fund of the City, to be known as the Inclusionary Housing Fund. All monies collected pursuant to 17.92.040, 17.92.060 and 17.92.070 shall be deposited in the Inclusionary Housing Fund. Additional monies from other sources may be deposited in the Inclusionary Housing Fund. The monies deposited in the Inclusionary Housing Fund shall be subject to the following conditions:

(1) Monies deposited into the Inclusionary Housing Fund must be used to increase and improve the supply of housing affordable to Very Low, Low, and Moderate, Income Households in the City. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this Section.

(2) The fund shall be administered, subject to the approval by the City Manager, by the Director of Community Development, or his or her designee, who may develop procedures to implement the purposes of the Inclusionary Housing Fund consistent with the requirements of this Chapter and through the adopted budget of the City.

(3) Monies deposited in accordance with this Section shall be used in accordance with the City's Housing Element, or subsequent plan adopted by the City Council to construct, rehabilitate, or subsidize affordable housing or assist other government entities, private organizations, or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases, or other public-private partnership arrangements. The Inclusionary Housing Fund may be used for the benefit of both rental and owner-occupied housing. In no case is the City obligated to actually construct affordable housing units on its own.

**(b) Administrative Fees**

The City Council may by Resolution establish reasonable fees and deposits, which shall fund the City's costs associated with the administration and monitoring of the Inclusionary Units and administration of the Inclusionary Housing Fund.

**(c) Appeal**

Within ten (10) calendar days after the date of any decision of the Director under this Chapter, an appeal may be filed with the City Clerk. Within ninety (90) calendar days of the request for an appeal is filed or a later time as agreed to by the appellant, the City Council shall consider the appeal. The City Council's decision shall be final.

(d) Waiver

(1) Notwithstanding any other provision of this Chapter, the requirements of this Chapter may be waived, adjusted, or reduced if a Developer shows, based on substantial evidence, that there is no reasonable relationship between the impact of a proposed Residential Development and the requirements of this Chapter, or that applying the requirements of this Chapter would take property in violation of the United States or California Constitutions.

(2) Any request for a waiver, adjustment, or reduction under this Section shall be submitted to the City concurrently with the Affordable Housing Plan required by Section 17.92.050. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.

(3) The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan, and is subject to the appeal process in subsection (c) above.

(4) In making a determination on an application for waiver, adjustment, or reduction, the Developer shall bear the burden of presenting substantial evidence to support the claim. The City may assume each of the following when applicable:

(i) That the Developer will provide the most economical Inclusionary Units feasible, meeting the requirements of this Chapter and any implementing regulations.

(ii) That the Developer is likely to obtain housing subsidies when such funds are reasonably available.

(5) The waiver, adjustment or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this Section.


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

**AB-1505 Land use: zoning regulations.** (2017-2018)

SHARE THIS:



Date Published: 09/29/2017 09:00 PM

## Assembly Bill No. 1505

### CHAPTER 376

An act to amend Section 65850 of, and to add Section 65850.01 to, the Government Code, relating to land use.

[ Approved by Governor September 29, 2017. Filed with Secretary of State September 29, 2017. ]

### LEGISLATIVE COUNSEL'S DIGEST

AB 1505, Bloom. Land use: zoning regulations.

The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances regulating zoning within its jurisdiction, as specified.

This bill would additionally authorize the legislative body of any county or city to adopt ordinances to require, as a condition of development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, moderate-income, lower income, very low income, or extremely low income households or by persons and families of low or moderate income, as specified, and would declare the intent of the Legislature in adding this provision.

This bill would also authorize the Department of Housing and Community Development, within 10 years of the adoption or amendment of an ordinance by a county or city after September 15, 2017, that requires as a condition of the development of residential rental units that more than 15% of the total number of units rented in the development be affordable to, and occupied by, households at 80% or less of the area median income, to review that ordinance if the county or city meets specified conditions. The bill would authorize the department to request, and require that the county or city provide, evidence that the ordinance does not unduly constrain the production of housing by submitting an economic feasibility study that meets specified standards. If the department finds that economic feasibility study does not meet these standards, or if the county or city fails to submit the study within 180 days, the bill would require the county or city to limit any requirement to provide rental units in a development affordable to households at 80% or less of the area median income to no more than 15% of the total number of units in the development. The bill would require the department to report any findings made pursuant to these provisions to the Legislature. The bill would also declare that these provisions regarding department review of certain land use ordinances address a matter of statewide concern.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 65850 of the Government Code is amended to read:

**65850.** The legislative body of any county or city may, pursuant to this chapter, adopt ordinances that do any of the following:

- (a) Regulate the use of buildings, structures, and land as between industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.
- (b) Regulate signs and billboards.
- (c) Regulate all of the following:
  - (1) The location, height, bulk, number of stories, and size of buildings and structures.
  - (2) The size and use of lots, yards, courts, and other open spaces.
  - (3) The percentage of a lot which may be occupied by a building or structure.
  - (4) The intensity of land use.
- (d) Establish requirements for offstreet parking and loading.
- (e) Establish and maintain building setback lines.
- (f) Create civic districts around civic centers, public parks, public buildings, or public grounds, and establish regulations for those civic districts.
- (g) Require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code. The ordinance shall provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

**SEC. 2.** Section 65850.01 is added to the Government Code, to read:

**65850.01.** (a) The Department of Housing and Community Development, hereafter referred to as "the department" in this section, shall have the authority to review an ordinance adopted or amended by a county or city after September 15, 2017, that requires as a condition of the development of residential rental units that more than 15 percent of the total number of units rented in a development be affordable to, and occupied by, households at 80 percent or less of the area median income if either of the following apply:

- (1) The county or city has failed to meet at least 75 percent of its share of the regional housing need allocated pursuant to Sections 65584.04, 65584.05, and 65584.06, as applicable for the above-moderate income category specified in Section 50093 of the Health and Safety Code, prorated based on the length of time within the planning period pursuant to paragraph (1) of subdivision (f) of Section 65588, over at least a five-year period. This determination shall be made based on the annual housing element report submitted to the department pursuant to paragraph (2) of subdivision (a) of Section 65400.
  - (2) The department finds that the jurisdiction has not submitted the annual housing element report as required by paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years.
- (b) Based on a finding pursuant to subdivision (a), the department may request, and the county or city shall provide, evidence that the ordinance does not unduly constrain the production of housing by submitting an economic feasibility study. The county or city shall submit the study within 180 days from receipt of the department's request. The department's review of the feasibility study shall be limited to determining whether or not the study meets the following standards:
- (1) A qualified entity with demonstrated expertise preparing economic feasibility studies prepared the study.
  - (2) If the economic feasibility study is prepared after September 15, 2017, the county or city has made the economic feasibility study available for at least 30 days on its Internet Web site. After 30 days, the county or city shall include consideration of the economic feasibility study on the agenda for a regularly scheduled meeting of the legislative body of the county or city prior to consideration and approval. This paragraph applies when an economic feasibility study is completed at the request of the department or prepared in connection with the ordinance.

(3) The study methodology followed best professional practices and was sufficiently rigorous to allow an assessment of whether the rental inclusionary requirement, in combination with other factors that influence feasibility, is economically feasible.

(c) If the economic feasibility study requested pursuant to subdivision (b) has not been submitted to the department within 180 days, the jurisdiction shall limit any requirement to provide rental units in a development affordable to households at 80 percent of the area median income to no more than 15 percent of the total number of units in a development until an economic feasibility study has been submitted to the department and the department makes a finding that the study meets the standards specified in paragraphs (1), (3), and, if applicable, (2), of subdivision (b).

(d) (1) Within 90 days of submission, the department shall make a finding as to whether or not the economic feasibility study meets the standards specified in paragraphs (1), (3), and, if applicable, (2), of subdivision (b).

(2) If the department finds that the jurisdiction's economic feasibility study does not meet the standards in paragraphs (1), (3), and, if applicable, (2), of subdivision (b), the jurisdiction shall have the right to appeal the decision to the Director of Housing and Community Development or his or her designee. The director or his or her designee shall issue a final decision within 90 days of the department's receipt of the appeal unless extended by mutual agreement of the jurisdiction and the department.

(3) If in its final decision the department finds that jurisdiction's economic feasibility study does not meet the standards in paragraphs (1), (3), and, if applicable, (2), of subdivision (b), the jurisdiction shall limit any requirement to provide rental units in a development affordable to households at 80 percent of the area median income to no more than 15 percent of the total number of units in a development until such time as the jurisdiction submits an economic feasibility study that supports the ordinance under review and the department issues a finding that the study meets the standards in paragraphs (1), (3), and, if applicable, (2), of subdivision (b).

(e) The department shall not request to review an economic feasibility study for an ordinance more than 10 years from the date of adoption or amendment of the ordinance, whichever is later.

(f) The department shall annually report any findings made pursuant to this section to the Legislature. The report required by this subdivision shall be submitted in compliance with Section 9795.

(g) The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section shall apply to an ordinance proposed or adopted by any city, including a charter city.

**SEC. 3.** The Legislature finds and declares all of the following:

(a) Inclusionary housing ordinances have provided quality affordable housing to over 80,000 Californians, including the production of an estimated 30,000 units of affordable housing in the last decade alone.

(b) Since the 1970s, over 170 jurisdictions have enacted inclusionary housing ordinances to meet their affordable housing needs.

(c) While many of these local programs have been in place for decades, a 2009 appellate court decision has created uncertainty and confusion for local governments regarding the use of this tool to ensure the inclusion of affordable rental units in residential developments.

(d) It is the intent of the Legislature to reaffirm the authority of local jurisdictions to include within these inclusionary housing ordinances requirements related to the provision of rental units.

(e) The Legislature declares its intent in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to supersede the holding and dicta in the court decision of *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396 to the extent that the decision conflicts with a local jurisdiction's authority to impose inclusionary housing ordinances pursuant to subdivision (g) of Section 65850 of the Government Code, as added pursuant to Section 1 of this act.

(f) In no case is it the intent of the Legislature in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to enlarge, diminish, or modify in any way the existing authority of local jurisdictions to establish, as a condition of development, inclusionary housing requirements, beyond reaffirming their applicability to rental units.

(g) This act does not modify or in any way change or affect the authority of local jurisdictions to require, as a condition of the development of residential units, that the development include a certain percentage of residential for-sale units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households.

(h) It is the intent of the Legislature to reaffirm that existing law requires that the action of any legislative body of any city, county, or city and county to adopt a new inclusionary housing ordinance be taken openly and that their deliberations be conducted openly consistent with the requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

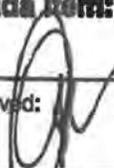
(i) Except as provided in subdivision (e), in no case is it the intent of the Legislature in adding subdivision (g) to Section 65850 of the Government Code, pursuant to Section 1 of this act, to enlarge, diminish, or modify in any way the existing rights of an owner of residential real property under Sections 1954.50 to 1954.535, inclusive, of the Civil Code and Sections 7060 to 7060.7, inclusive, of the Government Code.

# ATTACHMENT 4



Agenda Date: 4-17-2018

Agenda Item: 8a

Approved:   
Gary A. Napper  
City Manager

## AGENDA REPORT

**TO:** HONORABLE MAYOR AND COUNCIL MEMBERS

**FROM:** MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR 

**DATE:** APRIL 17, 2018

**SUBJECT:** POLICY DISCUSSION OF INCORPORATING RENTAL HOUSING UNITS INTO THE CITY'S EXISTING INCLUSIONARY HOUSING LAW (REF. AB 1505; 2017 STATUTES) (ZOA-02-18)

### RECOMMENDATION

It is recommended the City Council discuss and provide policy direction on the incorporation of rental housing units into the City's existing Inclusionary Housing Ordinance.

### BACKGROUND

On August 16, 2016, the City Council adopted an Ordinance implementing inclusionary requirements for affordable housing on new homeownership or for-sale housing developments; the current threshold is ten percent affordable housing units on residential projects having ten or more new units. The Ordinance specifically precluded rental units due to State law and pending the outcomes of two specific court cases (Attachment 1 and 2). Rental housing was excluded from consideration in Clayton's Inclusionary Housing Ordinance because of the decision in *Palmer/Sixth Street Properties v. City of Los Angeles (2009)*, which determined that cities may no longer require developers to construct affordable housing units. The court had concluded the City of Los Angeles's inclusionary housing ordinance conflicted with and was preempted by the vacancy decontrol provisions of the Costa-Hawkins Rental Housing Act, which allows residential landlords to set the initial rents at the commencement of a tenancy.

This court case was followed by an outcome in the case of the *California Building Industry Association (CBIA) v. City of San Jose (2015)*. In this particular case, the outcome of the court's decision impacted inclusionary housing ordinances statewide and resulted in a

finding that inclusionary housing ordinances do not constitute an unjust taking of property. The result of the court's decision upheld existing inclusionary housing ordinances; it allowed jurisdictions to adopt inclusionary housing ordinances but only for homeownership or for-sale development projects. When the City Council adopted Clayton's Inclusionary Housing Ordinance, the court's decision in *Palmer/Sixth Street Properties v. City of Los Angeles* was still relevant; therefore rental housing units were excluded due to the conflict with the Costa-Hawkins Rental Housing Act.

On September 29, 2017, Governor Brown signed a comprehensive package of 15 housing-related bills as the legislature's response to address California's housing supply shortage. One of these bills, AB 1505 (**Attachment 3**), known as the "Palmer fix," restores the authority of cities and counties to require the inclusion of affordable housing in new rental housing projects, thereby superseding the court's decision in *Palmer/Sixth Street Properties v. City of Los Angeles*. AB 1505 authorizes cities and counties to adopt ordinances that require, as a local condition of development of residential rental units, to include a certain percentage of residential rental units affordable to moderate, low, very low, and extremely low income. AB 1505 also requires cities and counties to provide alternative means of compliance that may include in lieu fees, land dedication, off-site construction, or acquisition or rehabilitation of existing units.

## **DISCUSSION**

State law requires that local governments identify and plan for the existing and projected housing needs of all economic segments of the community in its Housing Elements. The law acknowledges that, in order for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems that provide opportunities for, and do not unduly constrain, housing development of all types and variations.

State law also requires the State Department of Housing and Community Development (HCD) to forecast statewide housing needs and allocate the anticipated need to regions throughout the state. For the Bay Area, HCD provides the regional need to the Association of Bay Area Governments (ABAG), which then distributes the Regional Housing Needs Assessment (RHNA) to the cities and counties within the ABAG region. ABAG allocates housing production goals for cities and counties based on their projected share of the region's household growth, the state of the local housing market and vacancies, and the jurisdiction's housing replacement needs.

For the 2014-2022 projection period, ABAG has allocated the City of Clayton a total of 141 new housing units which are broken down as follows by income category: 51 extremely low- and very low-income units, 25 low-income units, 31 moderate-income units, and 34 above moderate-income units. Given the City's RHNA allocation and the State legislature's push for local governments to identify actions that will make sites available for affordable housing as well as assist in the development of such housing, the City identified a goal

(Goal 1) in its certified Housing Element to provide for adequate sites and promote the development of new housing to accommodate Clayton's fair share housing allocation. The City also adopted Policy I.2, which states, *"The City shall actively support and participate in the development of extremely low-, very low-, low-, and moderate-income housing to meet Clayton's fair share housing allocation. To this end, the City shall help facilitate the provision of affordable housing through the granting of regulation concessions and available financial assistance"*.

To meet Goal 1 and Policy I.2, Implementation Measure I.2.1 was identified to require residential projects of ten or more units to develop an Affordable Housing Plan, which requires a minimum of 10% of the units to be built or created as affordable housing units. To promote the goal of actively supporting and participating in the provision of housing for all economic segments, the City Council adopted the current Inclusionary Housing Ordinance, which facilitates the fulfillment of Implementation Measure I.2.1 (Attachment 4). The adoption of the Inclusionary Housing Ordinance fully implements Measure I.2.1 by providing details regarding the process and standards for the City and developers to follow.

#### **POLICY QUESTIONS AND IMPACTS**

***Does the City Council wish to expand the City's Inclusionary Housing Ordinance to incorporate new rental housing projects as allowed for by AB 1505? If the Council does wish to include rental housing projects in the City's Inclusionary Housing Ordinance, would this apply to all rental housing units as defined by HCD, including assisted living units?***

The passage of AB 1505 by the State legislature raises the above policy questions for City Council consideration. Amending the City's Inclusionary Housing Ordinance to include rental housing units would further the goals and policies contained within the City's Housing Element; however, this amendment would affect housing projects currently within the City's project pipeline and would also affect any future housing projects containing ten or more rental housing units.

The projects that would be directly and immediately impacted, assuming approval of these projects by the City are: 1) A proposed Clayton Senior Housing project, the 81-unit senior apartments to be located on the eastern portion of High Street behind the United States Post Office and fronting onto old Marsh Creek Road, south of the AT&T switch station building; and 2) The proposed Grand Oak Assisted Living Facility and Memory Care project located on City-owned vacant property in the Town Center.

The 81-unit Clayton Senior Housing project is currently requesting a 35 percent Density Bonus, as allowed under State law and the Clayton Municipal Code, which is proposed to produce seven units dedicated to very-low income households; however, in order to determine the number of inclusionary units, the additional housing units authorized by the

Density Bonus would not be counted in determining the required number of inclusionary units. Therefore, if the Inclusionary Housing Ordinance was implemented as currently written but amended to include rental housing, this would require the developer of the Clayton Senior Housing project to incorporate a minimum of 5.9 affordable units (calculated off the maximum base density, not including the Density Bonus) available only to moderate and/or low income households in addition to the seven units already required under the Density Bonus law. Further, the developer could also elect to select one of the alternatives such as the in-lieu fee rather than provide the affordable units onsite.

While the prospective developer of the Grand Oak project has not formally submitted an application to the City, the project has been mentioned as part of this discussion since the developer has currently entered into an Exclusive Negotiation Agreement with the City and has made a preliminary submittal for staff review and feedback in addition to the onset of the required community outreach process.

Unless directed differently by the Council, the application of the Inclusionary Housing Ordinance to include rental housing would apply to all housing types as defined and counted by HCD. HCD defines permitted units as, *"A house, an apartment, mobile home, a group of rooms, or a single room occupied as separate living quarters... Separate living quarters are those in which occupants live separately from any other individuals in the building and which have direct access from outside the building or through a common hall."* More specifically, HCD's counting of senior housing includes individual units that would allow for eating and living separately from the broader community but does not include beds or quarters in an institution or hospital. For example and confirmed with HCD, assisted living units would count as housing units but the memory care units would not be included because those units do not have the amenities for separate eating and living, such as a kitchen area. Staff supports applying the HCD definition of "housing unit" due to the definition's linkage with the City's RHNA numbers, and by the State's ever-increasing prescriptive and aggressive stance on local governments to provide an adequate and affordable supply of housing.

It should be noted that AB 1505 does provide HCD with the authority to review a jurisdiction's inclusionary housing ordinance if the jurisdiction requires, as a condition of development, more than 15 percent of the total number of units to be affordable to households at 80 percent or less of the area median income. However, HCD is only granted this authority if the jurisdiction has: 1) failed to meet at least 75 percent of its share of the Regional Housing Needs Allocation for above-moderate income households over at least a five year period; or 2) the jurisdiction has failed to submit its annual Housing Element progress report for at least two consecutive years. If HCD determines any of the two aforementioned conditions exist, then HCD may request an economic feasibility study demonstrating the ordinance does not unduly constrain the production of housing.

From staff's perspective, HCD's threshold (for an economic feasibility study of 15 percent of the total number of units to be affordable to households at 80 percent or less of area median income) is significant because it infers the economic feasibility for developers is manageable

up to and around this threshold. Therefore, local developers have little substance to an assertion or claim of an economic hardship meeting the City's current and proposed inclusionary housing requirements. Since the City's current inclusionary housing requirements fall under the State's economic feasibility threshold it further infers the proposed requirements are not overly burdensome as to place an obstacle or governmental constraint in preventing housing production. Only if the City Council desired to require affordability to extremely low- or very low-income households would a feasibility study be advisable and possibly trigger a review of the City's Inclusionary Housing Ordinance by HCD.

#### **STAFF RECOMMENDATION**

By motion, direct staff to initiate the process to modify the City's Inclusionary Housing Ordinance to incorporate rental housing for local application of the same standards as required for homeownership projects, and apply it to all housing types as defined and counted by the State Department of Housing and Community Development.

#### **FISCAL IMPACTS**

None.

#### **ATTACHMENTS**

1. Excerpt from the July 19, 2016 City Council Staff Report and Minutes [pp. 13]
2. CMC Section 17.92 [pp. 9]
3. AB 1505 [pp. 4]
4. Excerpt from the City's Certified 2015-2023 Housing Element [pp. 4]

## 8. ACTION ITEMS

- (a) Policy discussion and direction concerning whether to incorporate rental housing units/projects into the City's existing inclusionary housing law (ref. AB 1505).  
(Community Development Director)

Community Development Director Mindy Gentry presented the staff report noting in August 2016 the City Council adopted an inclusionary housing Ordinance for home ownership and for-sale units only, with the current threshold requiring 10% of the units to be affordable for projects containing ten or more units. The Ordinance precluded rental units due to State law and the outcomes of two specific court cases, *Palmer/Sixth Street Properties v. Los Angeles* and *California Building Industry Association v. City of San Jose*. The *Palmer/Sixth Street Properties v. City of Los Angeles* determined cities may no longer require developers to construct affordable housing units. The court had concluded inclusionary housing ordinances conflicted with and were preempted by vacancy decontrol provisions of the Costa-Hawkins Rental Housing Act, which allows residential landlords to set the initial rents. The *California Building Industry v. City of San Jose* resulted in a determination that inclusionary housing ordinances do not constitute an unjust taking of property. The court's decision allowed jurisdictions to adopt inclusionary housing ordinances but only for homeownership development projects due to the *Palmer v. City of Los Angeles* still being relevant.

Ms. Gentry stated on September 29, 2017 Governor Brown signed into law AB1505, also known as the "Palmer Fix". This law restores the authority to cities and counties to require the inclusion of affordable housing in new rental housing projects, thereby superseding the court decision in the Palmer case. AB1505 also requires alternative means of compliance such as off-site development, an in lieu fee, land dedication, acquisition or rehab of units.

Ms. Gentry noted the City's housing element contains a policy requiring projects with ten or more units to develop an affordable housing plan, requiring 10% or more of the units to be built or created as affordable housing. To promote the goal of actively supporting and participating in the provision of housing for all economic segments, the City Council adopted the current inclusionary housing ordinance, which facilitates the fulfillment of one of the city's housing elements implementation measures. In light of the City previously adopting an inclusionary housing ordinance in compliance with the Housing Element and the passage of AB1505, it raises a policy question: Does the City Council wish to expand the City's Inclusionary Housing Ordinance to incorporate new rental housing projects as allowed for by AB1505? If so, would this apply to all rental housing units as defined by HCD, including assisted living units?

Ms. Gentry identified proposed projects that would be immediately impacted should the City Council include assisted living units: Clayton Senior Housing project on old Marsh Creek/High Street, and Grand Oak Assisted Living Facility and Memory Care project on Main Street. The Clayton Senior Housing project has been deemed complete by staff for processing, however, the project does not have vested rights, therefore the proposed Ordinance would be applicable to the project. This project is requesting a 35% Density Bonus as allowed under State law and Clayton Municipal Code; with seven units dedicated to very-low income households. In *Latinos Unidos v. County of Napa* it clarified jurisdictions are required to count the units granted under the Density Bonus to also be counted toward the inclusionary housing unit requirements. This means the Clayton Senior Housing project will be meeting the inclusionary housing requirements by default. The project proposing 7 very-low income units as required by the Density Bonus law and as the current inclusionary housing Ordinance is written, the project would be required to produce 5.9 units.

Ms. Gentry added unless directed differently by the City Council, the proposed inclusionary housing ordinance would include rental housing and apply to all housing types counted by HCD defined as a house, apartment, mobile home, a group of rooms, or a single room occupied as separate living quarters are those that live separately from any other individuals in the building and which have direct access from outside the building through a common wall. More specifically, HCDs counting of senior housing includes individual units that would allow eating and living separately from the broader community but does not include beds or quarters in an institution or hospital. For example and confirmed by HCD, assisted living units would count as housing units but the memory care units would not be included as those units do not have the amenities for separate eating and living, such as a kitchen area. This determination would have an impact on the proposed Grand Oak Assisted Living Facility and Memory Care on the city-owned parcel in the Town Center. Staff supports applying the HCD definition of "housing unit" due to the definition linkage with the City's RHNA numbers and by the State's ever-increasing prescriptive and aggressive stance on local governments to provide an adequate and affordable supply of housing. It should be noted AB1505 provides HCD the authority to review jurisdictions inclusionary housing ordinance, if the jurisdiction requires, as a condition of development, more than 15% of the total number of units to be affordable to households at 80% or less of the area median income. From staff's perspective, HCD's threshold is significant because it infers the economic feasibility for developers is manageable up to and around this threshold. Therefore, local developers have little substance to an assertion or claim of economic hardship to meet the City's current and proposed inclusionary housing requirements.

Ms. Gentry noted the City received a letter from the Building Industry Association encouraging Clayton to provide all residential developers a by-right in-lieu fee option and grandfather residential development projects currently in the city's application pipeline. Staff is recommending the City retain control over the provision of affordable housing units and decide if they should be constructed on-site or if an alternative such as a payment in-lieu-of fee would be appropriate. This would minimize the City collecting in-lieu fees, thereby removing the burden of constructing affordable housing from the city and placing it onto developers.

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

Councilmember Catalano indicated Clayton is subject to RHNA requirements to produce a certain amount of affordable housing and housing element obligations. We support and participate in affordable housing production and it is a good reminder that when we talk about affordable housing that the levels of the area median income are helping teachers and public employees. By not doing this I think we are engineering the type of housing that is built in Clayton by steering toward rental housing away from ownership housing. As noted by Ms. Gentry, current projects are not going to have to do anything additional.

Councilmember Pierce added higher inclusionary standards really costs more for a developer as the cost of land, materials, the labor, is expensive and soon the majority of the housing is subsidized and drives up the median price. If Clayton had redevelopment funding and had another means it would be helpful, but Clayton does not. Councilmember Pierce wants to be as accommodating as possible, working with developers who are willing to come to Clayton. While Clayton needs more affordable housing, Clayton needs more housing overall in order to drive the price down. It seems that HCD has finally made the decision that assisted living units actually count. Ms. Gentry advised she personally called HCD to confirm that assisted living units do count.

Councilmember Pierce inquired if Clayton was able to count the units located in Diamond Terrace? Ms. Gentry advised the individual she spoke with if there is a separate eating and living area away from a common area then it counted.

Mayor Haydon understood this proposed ordinance will bring the city into compliance to include rentals and not have a negative impact on the proposed developments official submitted.

**It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to direct staff to initiate the process to modify the City's Inclusionary Housing Ordinance to incorporate rental housing for local application of the same standards required for homeownership projects, and apply it to all housing types as defined and counted by the State Department of Housing and Community Development. (Passed; 5-0 vote).**

9. **COUNCIL ITEMS** – limited to requests and directives for future meetings.  
None.

10. **CLOSED SESSION**

Mayor Haydon announced the City Council will adjourn into Closed Session for the following noticed items (8:47 pm):

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

**Report out of Closed Session (9:18 p.m.)**

Mayor Haydon reported the City Council received information from and provided direction to its labor negotiator. There is no public action to report.

11. **ADJOURNMENT**– on call by Mayor Haydon, the City Council adjourned its meeting at 9:18 p.m.

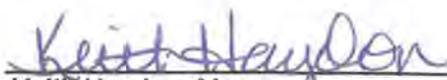
The next regularly scheduled meeting of the City Council will be May 1, 2018.

# # # # #

Respectfully submitted,

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

APPROVED BY THE CLAYTON CITY COUNCIL

  
\_\_\_\_\_  
Keith Haydon, Mayor

# # # # #

# ATTACHMENT 5

## PLANNING COMMISSION STAFF REPORT

**Meeting Date:** May 22, 2018

**Item Number:** 5.a.

**From:** Mindy Gentry   
Community Development Director

**Subject:** Ordinance to Amend the Inclusionary Housing Requirements  
(ZOA-02-18)

**Applicant:** City of Clayton

---

### REQUEST

The City of Clayton is requesting a public hearing for the Planning Commission to consider and make a recommendation to the City Council on a City-initiated Ordinance, amending Title 17 "Zoning", Chapter 17.92 (Inclusionary Housing Requirements) of the Clayton Municipal Code (CMC) for the purpose of incorporating rental housing projects as allowed for by Assembly Bill (AB) 1505 (ZOA-02-18) (Attachment A).

### PROJECT INFORMATION

**Location:** Citywide

**Environmental:** Approval of the Ordinance will not result in a significant adverse environmental impact as these changes were considered as part of the November 18, 2014 City Council adoption of the IS/ND for the 2015-2023 Housing Element, which was prepared pursuant to the California Environmental Quality Act (CEQA). The IS/ND concluded there was no substantial evidence to suggest the 2015-2023 Housing Element document would have a significant effect on the environment and anticipated impacts have not changed nor is there new information that would alter those findings.

**Public Notice:** On May 10, 2018, a public hearing notice was published in the Contra Costa Times and on May 11, 2018 a public hearing notice was posted at designated locations in the City.

### BACKGROUND

On August 16, 2016, the City Council adopted an Ordinance implementing inclusionary requirements for affordable housing on new homeownership or for-sale housing developments; the current threshold is ten percent affordable housing units on residential projects having ten or more new units (Attachment B). The Ordinance specifically precluded residential rental housing projects due to State law and pending the outcomes of two specific court cases. Rental housing was excluded from consideration in Clayton's Inclusionary Housing Ordinance because of the decision in *Palmer/Sixth Street Properties v. City of Los Angeles (2009)*, which determined that cities may no longer require developers to construct affordable housing units. The court had concluded the City of Los Angeles's inclusionary housing

ordinance conflicted with and was preempted by the vacancy decontrol provisions of the Costa-Hawkins Rental Housing Act, which allows residential landlords to set the initial rents at the commencement of a tenancy.

This court case was followed by an outcome in the case of the *California Building Industry Association (CBIA) v. City of San Jose (2015)*. In this particular case, the outcome of the court's decision impacted inclusionary housing ordinances Statewide and resulted in a finding that inclusionary housing ordinances do not constitute an unjust taking of property. The result of the court's decision upheld existing inclusionary housing ordinances; it allowed jurisdictions to adopt inclusionary housing ordinances but only for homeownership or for-sale development projects. When the City Council adopted Clayton's Inclusionary Housing Ordinance, the court's decision in *Palmer/Sixth Street Properties v. City of Los Angeles* was still relevant; therefore rental housing units were excluded due to the conflict with the Costa-Hawkins Rental Housing Act.

On September 29, 2017, Governor Brown signed a comprehensive package of 15 housing-related bills as the legislature's response to address California's housing supply shortage. One of these bills, AB 1505 (**Attachment C**), known as the "Palmer fix," restores the authority of cities and counties to require the inclusion of affordable housing in new rental housing projects, thereby superseding the court's decision in *Palmer/Sixth Street Properties v. City of Los Angeles*. AB 1505 authorizes cities and counties to adopt ordinances that require, as a local condition of development of residential rental units, to include a certain percentage of residential rental units affordable to moderate, low, very low, and extremely low income. AB 1505 also requires cities and counties to provide alternative means of compliance that may include in-lieu fees, land dedication, off-site construction, or acquisition or rehabilitation of existing units.

On April 17, 2018, staff brought forth a policy discussion before the City Council to determine if rental housing units/projects should be considered to be incorporated into the City's existing inclusionary housing requirements (**Attachment D**). The Council provided direction to staff to draft an amendment to the City's Inclusionary Housing Ordinance to include rental housing projects, as allowed for by AB 1505, for local application of the same standards required for homeownership projects, and apply it to all housing types as defined and counted by State Department of Housing and Community Development (HCD).

### **OVERVIEW AND DISCUSSION**

State law requires that local governments identify and plan for the existing and projected housing needs of all economic segments of the community in its Housing Elements. The law acknowledges that, in order for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems that provide opportunities for, and do not unduly constrain, housing development of all types and variations.

State law also requires the HCD to forecast statewide housing needs and allocate the anticipated need to regions throughout the state. For the Bay Area, HCD provides the regional need to the Association of Bay Area Governments (ABAG), which then distributes the Regional Housing Needs Assessment (RHNA) to the cities and counties within the ABAG region. ABAG allocates housing production goals for cities and counties based on their projected share of the region's household growth, the state of the local housing market and vacancies, and the jurisdiction's housing replacement needs.

For the 2014-2022 projection period, ABAG has allocated the City of Clayton a total of 141 new housing units which are broken down as follows by income category: 51 extremely low- and very low-income units, 25 low-income units, 31 moderate-income units, and 34 above moderate-income units. Given the City's RHNA allocation and the State legislature's push for local governments to identify actions that will make sites available for affordable housing as well as assist in the development of such housing, the City identified a goal

(Goal I) in its certified Housing Element to provide for adequate sites and promote the development of new housing to accommodate Clayton's fair share housing allocation. The City also adopted Policy I.2, which states:

*"The City shall actively support and participate in the development of extremely low-, very low-, low-, and moderate-income housing to meet Clayton's fair share housing allocation. To this end, the City shall help facilitate the provision of affordable housing through the granting of regulation concessions and available financial assistance".*

To meet Goal I and Policy I.2, Implementation Measure I.2.1 was identified to require residential projects of ten or more units to develop an Affordable Housing Plan, which requires a minimum of 10% of the units to be built or created as affordable housing units. To promote the goal of actively supporting and participating in the provision of housing for all economic segments, the City Council adopted the current Inclusionary Housing Ordinance, which facilitates the fulfillment of Implementation Measure I.2.1 (Attachment E). The adoption of the Inclusionary Housing Ordinance fully implements Measure I.2.1 by providing details regarding the process and standards for the City and developers to follow. Adoption of the Inclusionary Housing Ordinance to incorporate residential rental units will only further the City's goal of accommodating its fair share housing allocation and will help fulfill Housing Element Policy I.2.

#### **AB 1505**

As indicated earlier, the passage of AB 1505 once again allows cities and counties, as a condition of development of residential units, that the development to include a certain percentage of units be affordable to and occupied by moderate-, low-, very low-, or extremely low- income households. The law also requires cities that adopt inclusionary housing ordinances to provide alternative means for compliance such as an in-lieu fee, dedication of land, the construction of affordable units off-site, or the acquisition and rehabilitation of existing units.

It should be noted that AB 1505 does provide HCD with the authority to review a jurisdiction's Inclusionary housing ordinance if the jurisdiction requires, as a condition of development, more than 15 percent of the total number of units to be affordable to households at 80 percent or less of the area median income. However, HCD is only granted this authority if the jurisdiction has: 1) failed to meet at least 75 percent of its share of the RHNA for above-moderate income households over at least a five year period; or 2) the jurisdiction has failed to submit its annual Housing Element progress report for at least two consecutive years. If HCD determines any of the two aforementioned conditions exist, then HCD may request an economic feasibility study demonstrating the Ordinance does not unduly constrain the production of housing.

From staff's perspective, HCD's threshold (for an economic feasibility study of 15 percent of the total number of units to be affordable to households at 80 percent or less of area median income) is significant because it infers the economic feasibility for developers is manageable up to and around this threshold. Therefore, local developers have little substance to an assertion or claim of an economic hardship meeting the City's current and proposed inclusionary housing requirements. Since the City's current Inclusionary housing requirements fall under the State's economic feasibility threshold it further infers the proposed requirements are not overly burdensome as to place an obstacle or governmental constraint in preventing housing production. Only if the desire to require affordability to extremely low- or very low-income households would a feasibility study be advisable and possibly trigger a review of the City's Inclusionary Housing Ordinance by HCD.

#### ***Proposed Ordinance Amendments***

The majority of the amendments to the proposed Ordinance are to incorporate rental housing units in addition to the previously established for-sale housing units as well as to specify that the Ordinance applies to dwelling units defined and counted by HCD (Attachment F).

Other proposed changes are to provide more discretion to the City Council regarding the approval process as it pertains to the use of alternatives in lieu of constructing the affordable housing units onsite as well as to clarify the Community Development Director only has the authority to approve Inclusionary Housing Plans that include the construction of the required affordable housing units onsite.

Lastly, the Ordinance will specify, in accordance with case law (*Latinos Unidos del Valle de Napa Y Solano v. County of Napa*), the units provided under Density Bonus law would be counted toward the required number of Inclusionary Housing Units.

#### *Project Impacts*

Currently in the City's project pipeline, there are two housing projects that could possibly be affected by the proposed amendments: 1) Clayton Senior Housing project, an 81-unit senior apartment complex to be located on the eastern portion of High Street behind the United States Post Office and fronting onto old Marsh Creek Road, south of the AT&T switch station building; and 2) The Grand Oak Assisted Living Facility and Memory Care project to be located on City-owned vacant property in the Town Center.

The Clayton Senior Housing project is requesting a 35 percent Density Bonus, as allowed for under State law and the Clayton Municipal Code, which is proposed to produce seven units dedicated to very-low income households. However, the decision in the court case *Latinos Unidos v. County of Napa* clarified that jurisdictions are required to count the units granted under the Density Bonus to also be counted toward the inclusionary housing unit requirements; meaning the project will be meeting the inclusionary housing requirements by default. The project is proposing seven very-low income units and the requirements under the existing inclusionary housing ordinance is 5.9 units; therefore the amendments to the Ordinance would not result in any additional impacts beyond what was already contemplated under the Density Bonus Law.

While the prospective developer of the Grand Oak project has not formally submitted an application to the City, the project has been mentioned as part of this discussion since the developer has currently entered into an Exclusive Negotiation Agreement with the City and has made a preliminary submittal for staff review and feedback in addition to the onset of the required community outreach process. This project is proposed as a 95-unit assisted living and memory care facility located on the vacant 1.6-acre City-owned parcel in the Town Center.

HCD defines permitted units as, "A house, an apartment, mobile home, a group of rooms, or a single room occupied as separate living quarters... Separate living quarters are those in which occupants live separately from any other individuals in the building and which have direct access from outside the building or through a common hall." More specifically, HCD's counting of senior housing includes individual units that would allow for eating and living separately from the broader community but does not include beds or quarters in an institution or hospital. After confirming with HCD, the assisted living units would be subject to the proposed Ordinance since they are considered to be a dwelling unit by HCD, but the memory care units would not be subjected to the Ordinance because HCD does not include beds or quarters in an institution or hospital nor do the memory care units provide areas for separate living and eating. Therefore, assuming approval of the Ordinance, as part of its application, the developer of the Grand Oak project would have to submit an Affordable Housing Plan for the assisted living unit component of the project.

#### *Building Industry Associate Comment Letter*

Prior to the April 17, 2018 hearing where the City Council considered and discussed the policy direction on whether to include rental housing projects in the Inclusionary Housing Ordinance, a letter was sent to the City from the Building Industry Association (BIA) (**Attachment G**). The letter encouraged Clayton to provide developers with a by-right in-lieu fee option as well as to grandfather residential development projects currently in the City's project pipeline. The Ordinance is being proposed with more discretion

being forwarded to the City Council regarding the use of alternatives and none of the projects in the pipeline have vested rights or will not be impacted by the proposed amendments.

**RECOMMENDATION**

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 02-18, recommending City Council approval of an Ordinance amending the City's Inclusionary Housing Requirements (Attachment A).

**ATTACHMENTS**

- A. Planning Commission Resolution No. 02-18, with attachment:
  - Exhibit 1 – Draft Ordinance Amending Chapter 17.92 – Inclusionary Housing Requirements
- B. Clayton Municipal Code Section 17.92
- C. Assembly Bill 1505
- D. Excerpt of the Staff Report and Minutes from the April 17, 2018 City Council Meeting
- E. Excerpt from the City's Certified 2015-2023 Housing Element
- F. Redline Changes to Clayton Municipal Code Section 17.92
- G. Comment Letter from the Building Industry Association

**Minutes**  
**Clayton Planning Commission Meeting**  
**Tuesday, May 22, 2018**

**1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**

Chair Carl Wolfe called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present: Chair Carl Wolfe  
Vice Chair Bassam Altwal  
Commissioner Peter Cloven  
Commissioner William Gall

Absent: Commissioner A. J. Chippero

Staff: Community Development Director Mindy Gentry  
Assistant Planner Milan Sikela, Jr.

**2. ADMINISTRATIVE**

- 2.a. Review of agenda items.
- 2.b. Declaration of Conflict of Interest.
- 2.c. Chair Carl Wolfe to report at the City Council meeting of June 5, 2018.

**3. PUBLIC COMMENT**

None.

**4. MINUTES**

- 4.a. Approval of the minutes for the April 24, 2018 Planning Commission meeting.

**Commissioner Gall moved and Commissioner Cloven seconded a motion to approve the minutes, as submitted. The motion passed 4-0.**

**5. PUBLIC HEARINGS**

- 5.a. **ZOA-02-18, Municipal Code Amendment, City of Clayton.** A request by the City for the Planning Commission to consider and make a recommendation to the City Council regarding amendments to the Clayton Municipal Code Section 17.92 (Inclusionary Housing Requirements) to incorporate rental housing projects.

Director Gentry presented the staff report.

Vice Chair Altwal inquired what is the in-lieu contribution?

Director Gentry responded that the adopted Clayton General Plan Housing Element requires that projects with 10 or more units shall provide 10% of those units as affordable housing units. The City Council will be reviewing and taking formal action on a resolution in order to address the ratio of what percentage of those units would be low income units and what percentage would be very low income units.

Commissioner Cloven inquired if a developer decides to pay the affordable housing in-lieu fee instead of providing the units, how is the in-lieu fee managed?

Director Gentry responded that it would be up to the discretion of the City Council to accept the payment of an in-lieu fee rather than requiring the provision of units on-site or some other alternative mechanism. The way that the affordable housing requirements are currently written, the in-lieu fee would go into a fund specifically established for the provision of affordable housing.

Commissioner Cloven inquired about how many affordable housing units were provided toward our Regional Housing Needs Assessment (RHNA) as part of the Diamond Terrace project?

Director Gentry responded that the Diamond Terrace project was constructed so long ago, it is unclear whether RHNA numbers were counted back then. The RHNA numbers we use today are only applicable to current development.

Commissioner Cloven inquired if the same controls apply to rental projects as would apply to homeownership units such as a condominium or townhouse?

Director Gentry responded that a deed restriction would be in place requiring those units to be set aside for a certain area median income level.

The public hearing was opened.

Jason Reyes, representative of the Grand Oak project, requested that the Planning Commission exempt Residential Care Facilities for the Elderly (RCFE) from the requirements of Assembly Bill (AB) 1505.

The public hearing was closed.

Commissioner Cloven indicated the following:

- The RHNA requirements are quite clear on how the City needs to comply with State housing requirements.
- We would be hurting ourselves by not recommending approval of the Ordinance to include rental units in order for the City to be compliant with the RHNA and State housing requirements.
- Low income housing does not necessarily mean Section 8; it means teachers who teach at local schools but cannot afford to live in Clayton.

Commissioner Gall concurred with Commissioner Cloven's comments.

Vice Chair Altwal concurred with Commissioner Cloven's comments and inquired if the Planning Commission could require a certain percentage of the units of the Grand Oak project be as affordable as low income households?

Director Gentry responded that the issue arises when you could have the base rent be affordable but, as needed services incrementally increased such as medication administration, bathing, and incontinent care, it creates a difficult scenario where a tenant would be forced out because the tenant cannot afford the services as a result of needing a higher level of care. That is the operational dilemma that Mr. Reyes, representative of the Grand Oaks project, is concerned about.

Vice Chair Altwal indicated that, since it is a State and RHNA requirement, he agrees that the Planning Commission recommend approval of the Ordinance.

Commissioner Cloven indicated that Mr. Reyes asked for an exemption for RCFEs; has there been this type of exemption granted for RCFEs in other jurisdictions.

Director Gentry responded that AB 1505 is so new that there is no information available on how this issue has been handled in other jurisdictions. As the Commissioners are aware, the Planning Commission is only making a recommendation to the City Council with the City Council ultimately making the final decision.

Commissioner Cloven indicated that he supports recommending City Council approval of the Ordinance as written.

The public hearing was re-opened.

Marci Longchamps inquired why does Clayton have to be the first jurisdiction to implement these requirements?

Director Gentry responded that, in 2016, the City Council directed staff to draft inclusionary housing requirements in order to be compliant with the City's Housing Element. The City's Housing Element has to be certified and adopted by the State which, as part of the State's certification and adoption, the State mandates certain requirements and legislative measures that the City has to comply with, including inclusionary housing requirements. If the City fails to meet the inclusionary housing requirements that are outlined in the goals and implementation measures within the City's Housing Element, the State could rescind the certification and adoption. Without a certified and adopted Housing Element, it could result in a multitude of different lawsuits against the City.

Ms. Longchamps inquired how many cities in Contra Costa County are passing these types of regulations that are similar to this Ordinance?

Director Gentry indicated that, numerous cities throughout California have inclusionary housing ordinances and each jurisdiction will be choosing to update their regulations as they see fit in compliance with AB 1505.

James Gamble indicated the following:

- This ordinance is part of Agenda 21.
- Look at other communities in the area where high density housing is being developed around heavy transit areas.

James Jacques indicated that he disagreed with the representative of the Grand Oaks project asking for RCFEs to be exempt from the requirements of AB 1505.

The public hearing was closed.

**Commissioner Cloven moved and Vice Chair Altwal seconded a motion to adopt Resolution No. 02-18, recommending City Council approval of an Ordinance amending the City's Inclusionary Housing Requirements. The motion passed 4-0.**

- 5.b. ZOA-08-16, Municipal Code Amendment, City of Clayton.** A request by the City for the Planning Commission to consider and make a recommendation to the City Council regarding amendments to the Clayton Municipal Code to conditionally allow parolee homes in the following General Plan land use designations: Multifamily Low Density, Multifamily Medium Density, and Multifamily High Density.

Director Gentry presented the staff report.

Commissioner Gall inquired what would happen after the City's parolee home moratorium expires on October 3, 2018?

Director Gentry responded that, after the parolee home moratorium expires on October 3, 2018, there would be no codified requirements established in the City's Municipal Code to regulate parolee homes which would allow parolee homes to potentially be located anywhere in Clayton.

Commissioner Cloven had the following questions:

- So the City could possibly be in legal jeopardy if we established a ban on parolee homes? Director Gentry responded "yes."
- So it is in our best interest to establish codified provisions which regulate parolee homes? Director Gentry responded "yes" and added that the City cannot establish regulations that are so prohibitive that, by default, it prevents these types of uses from locating in Clayton.
- Is my understanding correct that the parolee homes would still have to be reviewed individually before the Planning Commission on a case-by-case basis under the guise of a use permit? Director Gentry responded "yes."
- In the instance that we were to review a use permit for a parolee home, what latitude do we have to require certain things like a management plan? A management plan is one of the requirements in the draft Ordinance.
- Could we require that there be a person living at the parolee home for supervisory purposes who is not a parolee? That is one possibility that could be considered on a case-by-case basis and included as a condition of approval.



### 8.0 GOALS AND POLICIES

#### Adequate Sites and New Construction

---

**GOAL I** Provide for adequate sites and promote the development of new housing to accommodate Clayton's fair share housing allocation.

---

**POLICY I.1** The City shall designate and zone sufficient land to accommodate Clayton's projected fair share housing allocation as determined by the Association of Bay Area Governments.

**Implementation Measure I.1.1.** To ensure that adequate sites are available through the planning period to meet the City's Regional Housing Needs Allocation (RHNA), the City will continue to maintain an inventory of sites available and appropriate for residential development for households at all income levels. In keeping with state "no net loss" provisions (Government Code Section 65863), if development projects are approved at densities lower than anticipated in the sites inventory, the City will evaluate the availability of sites appropriate for lower-income housing and, if necessary, shall rezone sufficient sites to accommodate the RHNA.

**Responsibility:** Community Development Department

**Time Frame:** Ongoing, as development projects are proposed.

**Funding:** General Fund

**Implementation Measure I.1.2.** The City will amend the Multi-Family High Density (MHD) General Plan land use designation or otherwise amend the General Plan and/or Zoning Ordinance as needed to meet state requirements specific to sites rezoned to accommodate the City's lower-income RHNA from the 2007–2014 planning period, specifically to allow multi-family housing by-right on these sites at a minimum density of 20 units per acre.

The City's 2007–2014 Housing Element identified a shortfall of land that provided for residential development at a density deemed appropriate for affordable housing to accommodate 84 units to meet the extremely low-, very low-, and low-income RHNA. State law (Government Code Section 65583.2(h) and (i)) requires that land rezoned or redesignated to meet a shortfall meet the following criteria:

- Require a minimum density of at least 20 units per acre.
- Accommodate at least 16 units per site.
- Allow multi-family housing by-right (without a use permit).

- At least 50 percent of rezoned sites must be designated for residential uses only.

In 2012, the City in good faith established the Multi-Family High Density General Plan Land Use and Zoning District designations and made specified General Plan Map and Zoning Map changes in an attempt to accommodate the City’s lower-income RHNA shortfall from the 2007–2014 planning period. The City was advised by HCD that these efforts fell short of state law; therefore, the City’s land use regulations will be appropriately revised to comply with the above stated criteria.

**Responsibility:** City Council, Planning Commission, Community Development Department

**Time Frame:** By January 31, 2016.

**Funding:** General Fund

**POLICY I.2** The City shall actively support and participate in the development of extremely low-, very low-, low-, and moderate-income housing to meet Clayton’s fair share housing allocation. To this end, the City shall help facilitate the provision of affordable housing through the granting of regulatory concessions and available financial assistance.

**Implementation Measure I.2.1.** For residential projects of 10 or more units, developers will be required to develop an Affordable Housing Plan that requires a minimum of 10 % of the units to be built or created as affordable housing units. The City has established the following guidelines to provide direction for the review of Affordable Housing Plans associated with individual development projects and to provide direction for the preparation of an Affordable Housing Plan.

The plan shall be approved in conjunction with the earliest stage of project entitlement, typically with the City Council approval of the development agreement or other primary land use entitlement.

The Affordable Housing Plan shall specify and include the following:

- The number of dwelling units that will be developed as affordable to very low-, low-, moderate-, and above moderate-income households shall be a minimum of 10% of the total project. The number of affordable units shall be rounded up to a whole number. It is the City’s desire that at least 5 percent of all project units be built as very low-income housing units and at least 5 percent of all project units be built as low-income housing units.
- The number of affordable ownership and rental units to be produced. Such split shall be approved by the City Council based on housing needs, market

conditions, and other relevant factors. The split of ownership and rental units shall be addressed within the plan for each individual project.

- Program options within project-specific Affordable Housing Plans may include, but are not limited to, the following:
  - Actual production (on-site or off-site) of affordable units (including ownership and rental opportunities in the form of corner units, halfplexes, duplexes, cottages, creative alternative housing products, etc.).
  - Land dedication (on-site and off-site).
  - Payment of in-lieu fees.
- The timing for completion of affordable housing obligations. For projects proposing to construct affordable housing units, the City generally supports construction of affordable dwellings concurrent with the construction of market-rate housing when feasible. For projects providing alternative contributions (land dedication, funds, etc.), timing of such contributions shall be identified in the plan, with the expectation that the City will pursue construction of affordable units generally concurrent with construction of project market-rate housing.
- At the City Council's discretion, land or other contributions provided by developers as specified within project Affordable Housing Plans may be utilized to augment City efforts and the efforts of its nonprofit partners to provide affordable housing opportunities to all income levels throughout the community. The City will pursue supplemental funding to allow affordability to households earning less than 50 percent of area median income.
- In order to ensure the production and preservation of housing affordable to the City's workforce, no productive, reasonable program or incentive option will be excluded from consideration within project-specific Affordable Housing Plans. Possible incentives may include, but are not limited to:
  - Density bonuses
  - Fee waivers or deferrals (as reasonably available)
  - Expedited processing/priority processing
  - Reduced parking standards
  - Technical assistance with accessing funding

- Modifications to development standards (on a case-by-case basis)

**Responsibility:** City Council, Planning Commission, Community Development Department

**Time Frame:** Ongoing, as projects of 10 or more units are processed through the Community Development Department. The City will monitor the implementation of this program to ensure that it does not cause a constraint to the development of housing in the City of Clayton and will make necessary revisions to the program if needed to avoid such a constraint.

**Funding:** General Fund

**POLICY I.3** The City shall encourage the development of second dwelling units on new and existing single-family-zoned lots.

**Implementation Measure I.3.1.** The City shall continue to promote the development of second dwelling units by publicizing information in the general application packet and posting information on the City's website. The City will aim to approve two second dwelling units per year during the planning period.

**Responsibility:** Community Development Department

**Time Frame:** Ongoing, 2015–2023

**Funding:** General Fund

**POLICY I.4** The City shall aggressively promote mixed-use or second-story residential units above commercial uses in the Town Center.

**Implementation Measure I.4.1.** To encourage development of mixed-use projects in the Town Center, the City has adopted the Clayton Town Center Specific Plan which provides detailed policy direction, standards, and guidelines that encourage mixed-use and second-story residential development. The City will continue to promote development opportunities in the Town Center, circulate a development handbook that describes the permitting process for mixed-use projects, and offer incentives such as density bonuses to incentivize mixed-use projects. The City will aim to facilitate the development of at least one mixed-use project within the planning period.

**Responsibility:** City Council, Planning Commission, Community Development Department

**Time Frame:** Annually and upon receiving development inquiries for mixed-use development.

**Funding:** General Fund

## Section 6932. 2018 Income Limits

## ATTACHMENT 7

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									
<b>Alameda County</b> 4-Person Area Median Income: <b>\$104,400</b>	Extremely Low	24400	27900	31400	34850	37650	40450	43250	46050
	Very Low Income	40700	46500	52300	58100	62750	67400	72050	76700
	Low Income	62750	71700	80650	89600	96800	103950	111150	118300
	<b>Median Income</b>	<b>73100</b>	<b>83500</b>	<b>93950</b>	<b>104400</b>	<b>112750</b>	<b>121100</b>	<b>129450</b>	<b>137800</b>
	Moderate Income	87700	100250	112750	125300	135300	145350	155350	165400
<b>Alpine County</b> 4-Person Area Median Income: <b>\$94,900</b>	Extremely Low	18150	20750	23350	25900	29420	33740	38060	42380
	Very Low Income	30250	34600	38900	43200	46700	50150	53600	57050
	Low Income	46100	52650	59250	65800	71100	76350	81600	86900
	<b>Median Income</b>	<b>66450</b>	<b>75900</b>	<b>85400</b>	<b>94900</b>	<b>102500</b>	<b>110100</b>	<b>117700</b>	<b>125250</b>
	Moderate Income	79750	91100	102500	113900	123000	132100	141250	150350
<b>Amador County</b> 4-Person Area Median Income: <b>\$73,600</b>	Extremely Low	15500	17700	20780	25100	29420	33740	38060	42380
	Very Low Income	25800	29450	33150	36800	39750	42700	45650	48600
	Low Income	41250	47150	53050	58900	63650	68350	73050	77750
	<b>Median Income</b>	<b>51500</b>	<b>58900</b>	<b>66250</b>	<b>73600</b>	<b>79500</b>	<b>85400</b>	<b>91250</b>	<b>97150</b>
	Moderate Income	61800	70650	79450	88300	95350	102450	109500	116550
<b>Butte County</b> 4-Person Area Median Income: <b>\$62,600</b>	Extremely Low	13200	16460	20780	25100	29420	33740	37550	41320
	Very Low Income	21950	25050	28200	31300	33850	36350	38850	41350
	Low Income	35100	40100	45100	50100	54150	58150	62150	66150
	<b>Median Income</b>	<b>43800</b>	<b>50100</b>	<b>56350</b>	<b>62600</b>	<b>67600</b>	<b>72600</b>	<b>77600</b>	<b>82650</b>
	Moderate Income	52550	60100	67600	75100	81100	87100	93100	99150
<b>Calaveras County</b> 4-Person Area Median Income: <b>\$72,300</b>	Extremely Low	15200	17400	20780	25100	29420	33740	38060	42380
	Very Low Income	25350	28950	32550	36150	39050	41950	44850	47750
	Low Income	40500	46300	52100	57850	62500	67150	71750	76400
	<b>Median Income</b>	<b>50600</b>	<b>57850</b>	<b>65050</b>	<b>72300</b>	<b>78100</b>	<b>83850</b>	<b>89650</b>	<b>95450</b>
	Moderate Income	60700	69400	78100	86750	93700	100650	107550	114500
<b>Colusa County</b> 4-Person Area Median Income: <b>\$59,900</b>	Extremely Low	12600	16460	20780	25100	29420	33740	37140	39550
	Very Low Income	21000	24000	27000	29950	32350	34750	37150	39550
	Low Income	33550	38350	43150	47900	51750	55600	59400	63250
	<b>Median Income</b>	<b>41950</b>	<b>47900</b>	<b>53900</b>	<b>59900</b>	<b>64700</b>	<b>69500</b>	<b>74300</b>	<b>79050</b>
	Moderate Income	50350	57500	64700	71900	77650	83400	89150	94900
<b>Contra Costa County</b> 4-Person Area Median Income: <b>\$104,400</b>	Extremely Low	24400	27900	31400	34850	37650	40450	43250	46050
	Very Low Income	40700	46500	52300	58100	62750	67400	72050	76700
	Low Income	62750	71700	80650	89600	96800	103950	111150	118300
	<b>Median Income</b>	<b>73100</b>	<b>83500</b>	<b>93950</b>	<b>104400</b>	<b>112750</b>	<b>121100</b>	<b>129450</b>	<b>137800</b>
	Moderate Income	87700	100250	112750	125300	135300	145350	155350	165400
<b>Del Norte County</b> 4-Person Area Median Income: <b>\$59,900</b>	Extremely Low	12600	16460	20780	25100	29420	33740	37140	39550
	Very Low Income	21000	24000	27000	29950	32350	34750	37150	39550
	Low Income	33550	38350	43150	47900	51750	55600	59400	63250
	<b>Median Income</b>	<b>41950</b>	<b>47900</b>	<b>53900</b>	<b>59900</b>	<b>64700</b>	<b>69500</b>	<b>74300</b>	<b>79050</b>
	Moderate Income	50350	57500	64700	71900	77650	83400	89150	94900

# ATTACHMENT 8

## Chapter 17.92 - INCLUSIONARY HOUSING REQUIREMENTS

### Sections:

#### 17.92.000 - Intent

It is the intent of this Chapter to establish standards and procedures that facilitate the development and availability of housing affordable to a range of households with varying income levels to implement the City's Housing Element and as mandated by Government Code Section 65580. The purpose of this Chapter is to encourage the development and availability of such housing by ensuring the addition of affordable housing units to the City's housing stock is in proportion with the overall increase in new housing units.

#### 17.92.010 - Definitions

Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:

- A. "Affordable Housing Costs" means
  - 1. For Very Low-Income Households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.
  - 2. For Low-Income Households, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit.
  - 3. For Moderate Income Households, Affordable Housing Cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit.
- B. "Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a Residential Development. The term "Developer" also means the owner or owners for any such property for which such approvals are sought.
- C. "Director" means the City's Director of Community Development.
- D. "Discretionary Approval" means any entitlement or approval, including but not limited to a use permit, variance, design approval, and subdivision map.
- E. "Inclusionary Housing Agreement" means a legally binding, written agreement between a Developer and the City, in form and substance satisfactory to the Director and City Attorney, setting forth those provisions necessary to ensure that the requirements of this Chapter, whether through the provision of Inclusionary Units or through an alternative method, are satisfied.
- F. "Affordable Housing Plan" means the plan referenced in Section 17.92.050.
- G. "Inclusionary Housing Fund" shall have the meaning set forth in Section 17.92.080(A).
- H. "Inclusionary Units" means a dwelling unit developed pursuant to an Inclusionary Housing Agreement that will be offered for-sale or rent to Very Low, Low, and Moderate Income Households, at an Affordable Housing Cost, pursuant to this Chapter.

- I. "Low Income Households" means households who are not very low income households but whose gross income does not exceed the qualifying limits for lower income families as established from time to time pursuant to Section 8 of the United States Housing Act for Contra Costa County as set forth in Title 25 of the California Code of Regulations, Section 6932, or its successor provision and adjusted for family size and other factors by the United States Department of Housing and Urban Development.
- J. "Low Income Units" means Inclusionary Units restricted to occupancy by Low Income Households at an Affordable Housing Cost.
- K. "Moderate Income Households" means households who are not low income households but whose gross income does not exceed one hundred and twenty percent (120%) of the median income for Contra Costa County, adjusted for family size and other factors by the U.S. Department of Housing and Urban Development, as published annually in Title 25 of the California Code of Regulations, Section 6932, or its successor provision.
- L. "Moderate Income Units" means Inclusionary Units restricted to occupancy by Moderate Income Households at an Affordable Housing Cost.
- M. "Residential Development" means the construction of new projects requiring any specific plan, development agreement, planned unit development permit, tentative map, minor subdivision, conditional use permit, site plan review or building permit for which an application has been submitted to the City and which would create one or more additional dwelling units as defined and counted by the State Department of Housing and Community Development (HCD) to be offered for-sale or rent by the construction or alteration of structures. All new construction projects creating one or more additional dwelling units to be offered for-sale or rent on contiguous parcels of land by a single Developer shall constitute a single Residential Development subject to the requirements of this Ordinance, and any accompanying regulations, regardless of whether such projects are constructed all at once, serially, or in phases. The term "Residential Development" shall include the conversion of rental units to for-sale units.
- N. "Unrestricted Units" means those dwelling units in a Residential Development that are not Inclusionary Units.
- O. "Very Low Income Households" means households whose gross income does not exceed the qualifying limits for very low income families as established from time to time pursuant to Section 8 of the United States Housing Act for Contra Costa County as set forth in Title 25 of the California Code of Regulations, Section 6932, or its successor provision and adjusted for family size and other factors by the United States Department of Housing and Urban Development, adjusted for family size and other factors by the United States Department of Housing and Urban Development.
- P. "Very Low Income Units" means Inclusionary Units restricted to occupancy by Very Low Income Households at an Affordable Housing Cost.

#### **17.92.020 - Applicability**

This Chapter shall apply to all Residential Developments, except as provided below.

- A. Residential Developments proposed to contain less than ten (10) dwelling units.
- B. Residential Developments that obtained a current, valid building permit prior to the effective date of the ordinance adding this Chapter.

- C. Any dwelling unit or Residential Development which is damaged or destroyed by fire or natural catastrophes so long as the use of the reconstructed building and number of dwelling units remain the same, and the cost of such rehabilitation constitutes no more than fifty percent (50%) of the of its reasonable market value at the time of destruction or damage.

#### 17.92.030 - Inclusionary Unit Requirement

- A. ~~For-Sale Units:~~—If the Residential Development includes ten (10) or more units ~~for sale~~, a minimum of ten percent (10%) of all newly constructed ~~for sale~~ dwelling units in the Residential Development shall be developed, offered to, and sold or rented to Very Low, Low, and Moderate Income Households, in a ratio determined pursuant to Section 17.92.060, at an Affordable Housing Cost.
- B. The Inclusionary Unit requirement set forth in this Section may be reduced as follows: If only Low Income Units are provided in lieu of any Moderate Income units, a credit of 1.5 units to every 1 unit shall be provided. However, the credits may only be applied to the extent such credit equals a whole number.
- C. In the event the calculation for the number of Inclusionary Units results in a fraction of an Inclusionary Unit, the Developer shall have the option of either: (i) providing a full Inclusionary Unit at Affordable Housing Costs; or (ii) making an in lieu payment to the Inclusionary Housing Fund in an amount equal to the percentage represented by the fractional unit multiplied by the applicable in lieu fee.
- D. The number of Inclusionary Units required for a particular project will be determined at the time a land use application is filed by the Developer for a Residential Development with the City. If a change in the subdivision design results in a change in the total number of units, the number of Inclusionary Units required will be recalculated to coincide with the final approved project.
- E. For purposes of calculating the number of Inclusionary Units required by this Section, any additional units authorized as a density bonus under Chapter 17.90 and California Government Code Section 65915(b)(1) or (b)(2) will not be counted in determining the required number of Inclusionary Units.
- E-F. The number of Affordable Housing Units that are provided in order to secure a density bonus under Chapter 17.90 and- California Government Code Section 65915(b)(1) or (b)(2) will be counted toward the required number of Inclusionary Housing Units.

#### 17.92.040 - Alternatives

In lieu of including the Inclusionary Units in the Residential Development pursuant to Section 17.92.030, the requirements of this Chapter may be satisfied through the following alternatives set forth in this Section.

- A. Off-Site. As an alternative to providing Inclusionary Units upon the same site as the Residential Development, the Developer may elect, with the City Council's approval, which may be granted or denied in its -by-right, at the Developer's sole discretion to construct Inclusionary Units off-site subject to the following requirements:
1. If the Developer constructs units off-site, the percentage of required Inclusionary Units shall be increased to fifteen percent (15%).
  2. The site of the Inclusionary Units has a General Plan designation that authorizes residential uses and is zoned for Residential Development at a density to

accommodate at least the number of otherwise required Inclusionary Units, including the additional five percent (5%) for development off-site, within the Residential Development. The Developer shall obtain all required Discretionary Approvals and complete all necessary environmental review of such site.

3. The site is suitable for development of the Inclusionary Units in terms of configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria.
  4. Environmental review for the site has been completed for the presence of hazardous materials and geological review for the presence of geological hazards and all such hazards are or shall be mitigated to the satisfaction of the City prior to acceptance of the site by the City.
  5. The construction schedule for the off-site Inclusionary Units shall be included in the Affordable Housing Plan and the Inclusionary Housing Agreement.
  6. Construction of the off-site Inclusionary Units shall be completed prior to or concurrently with the Residential Development.
  7. Unless otherwise noted, all requirements applicable to on-site Inclusionary Units shall apply to off-site Inclusionary Units.
- B. In Lieu Fee. For Residential Developments proposing ten (10) units, the Developer may elect, by right, at the Developer's sole discretion to pay a fee in lieu of developing an Inclusionary Unit on-site. The amount of the in lieu fee to be paid by Developer pursuant to this Section shall be the applicable in lieu fee set forth in the fee schedule adopted by the City Council. For all Residential Developments proposing eleven (11) units or more, the Developer may request within the proposed Inclusionary Housing Plan to pay a fee in lieu of all or some of the Inclusionary Units otherwise required by the Ordinance in lieu of developing Inclusionary Units on-site. Developer's request may be approved or denied by the Council in its sole discretion. The fee shall be charged for each unit or fraction of a unit as set forth in Section 17.92.030(C), and the fee shall be paid as follows:
1. The amount of the fee to be paid by Developer pursuant to this subsection shall be the fee schedule established by Resolution of the City Council, and as adjusted from time to time by Resolution of the City Council.
  2. One-half (1/2) of the in-lieu fee required by this subsection shall be paid (or a letter of credit posted) prior to issuance of a building permit for all or any part of the Residential Development. The remainder of the fee shall be paid before a certificate of occupancy is issued for any unit in the Residential Development.
  3. The fees collected shall be deposited in the Inclusionary Housing Fund.
  4. No certificate of occupancy shall be issued for any corresponding Unrestricted Units in a Residential Development unless fees required under this Section have been paid in full to the City.
- C. Land Dedication. In lieu of building Inclusionary Units, a Developer may request to dedicate land to the City suitable for the construction of Inclusionary Units that the City Council reasonably determines to be equivalent or greater value than is produced by applying the City's in lieu fee to the Developer's inclusionary obligation and otherwise meets the following standards and requirements:

1. Marketable title to the site is transferred to the City, or an affordable housing developer approved by the City, prior to the commencement of construction of the Residential Development pursuant to an agreement between the Developer and the City and such agreement is in the best interest of the City.
2. The site has a General Plan designation that authorizes residential uses and is zoned for Residential Development at a density to accommodate at least the number of otherwise required Inclusionary Units within the Residential Development, and conforms to City development standards.
3. The site is suitable for development of the Inclusionary Units in terms of configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the site.
4. Infrastructure to serve the dedicated site, including but not limited to streets and public utilities, must be available at the property line and have adequate capacity to serve the maximum allowable Residential Development pursuant to zoning regulations.
5. Environmental review of the site has been completed for the presence of hazardous materials and geological review for the presence of geological hazards and all such hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.
6. The City shall not be required to construct restricted income units on the site dedicated to the City, but may sell, transfer, lease, or otherwise dispose of the dedicated site. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited into the Inclusionary Housing Fund.

#### **17.92.050 - Procedures**

- A. At the times and in accordance with the standards and procedures set forth herein, Developer shall:
  1. Submit an Inclusionary Housing Plan ~~for approval by the Director~~, setting forth in detail the manner in which the provisions of this Chapter will be implemented for the proposed Residential Development. If land dedication or off-site units are proposed, the Inclusionary Housing Plan shall include information necessary to establish site location, suitability, development, constraints, and the number of Inclusionary Units assigned pursuant to this Chapter. Inclusionary Housing Plans that satisfy the express requirements of Section 17.92.030 may be approved by the Director. Inclusionary Housing Plans that include alternatives as set for the in Section 17.92.040 must be approved by the City Council.
  2. Execute and cause to be recorded an Inclusionary Housing Agreement, unless Developer is complying with this Chapter pursuant to Section 17.92.040(B) (in lieu fee) or Section 17.92.040(C) (land dedication).
- B. No Discretionary Approval shall be issued for all or any portion of a Residential Development subject to this Chapter until the Developer has submitted an Inclusionary Housing Plan.

- C. No building permit shall be issued for the Residential Development, or any portion thereof, subject to this Chapter unless the City Council has approved the Inclusionary Housing Plan and the Inclusionary Housing Agreement (if required) is recorded.
- D. No certificate of occupancy shall be issued for the Residential Development, or any portion thereof, subject to this Chapter unless the approved Inclusionary Housing Plan has been fully implemented.
- E. The City Manager or designee may establish and amend policies for the implementation of this Chapter.

#### 17.92.060 - Standards

- A. Inclusionary Units shall be reasonably dispersed throughout the Residential Development; shall be proportional, in number of bedrooms, to the Unrestricted Units. If the Residential Development offers a variety of unit plans with respect to design, materials and optional interior amenities, the Inclusionary Units shall be identical with the Residential Development's base-plan in terms of design, appearance, materials, finished quality and interior amenities. If multiple floor plans with the same number of bedrooms are proposed, the Inclusionary Units may be the units with the smaller floor plans.
- B. All Inclusionary Units in a Residential Development shall be constructed concurrently with or prior to the construction of the Unrestricted Units. In the event the City approves a phased project, the Inclusionary Units required by this Chapter shall be constructed and occupied in proportion to the number of units in each phase of the Residential Development. In no case shall an Affordable Housing Unit be the final dwelling unit issued a Certificate of Occupancy of a Residential Development or its approved phase(s).
- C. Inclusionary Units shall be sold to Low and Moderate Income Households or rented to Very Low, Low, and Moderate Income Households at a ratio established pursuant to a Resolution adopted by the City Council, and shall be provided at the applicable Affordable Housing Cost.
- D. The number of bedrooms must be the same as those in the Unrestricted Units, except that if the Unrestricted Units provide more than four (4) bedrooms, the Inclusionary Units need not provide more than four (4) bedrooms.
- E. Inclusionary Units shall prohibit subsequent rental occupancy (for for-sale units) or subletting (for rental units), unless approved for hardship reasons by the City Manager or designee. Such hardship approval shall include provision for United States military personnel who are required to leave the country for active military duty.
- F. Prior the development of any units in a Residential Development, a deed restriction or other enforceable obligation approved by the City Attorney shall be recorded limiting the Developer and any successors, whenever an Inclusionary Unit is sold or leased, to sell such unit to persons meeting the income eligibility requirements for Low and Moderate Income Households or to rent such unit to persons meeting the income eligibility requirements for Very Low, Low, and Moderate Income Households as applicable for a period of fifty-five (55) years.

#### 17.92.070 - Enforcement

- A. The provisions of this Chapter shall apply to all Developers and their agents, successors and assigns proposing a Residential Development. All Inclusionary Units shall be sold or leased in accordance with this Chapter. It shall be a misdemeanor to violate any provision of this Chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for

any person to sell or rent to another person an Inclusionary Unit under this Chapter at a price exceeding the maximum allowed under this Chapter or to sell or rent an Inclusionary Unit to a Household not qualified under this Chapter. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller or lessor of an Inclusionary Unit to obtain occupancy of housing for which he or she is not eligible.

- B. Any individual who sells, rents, or sublets an Inclusionary Unit in violation of the provisions of this Chapter shall be required to forfeit all monetary amounts so obtained. Recovered funds shall be deposited into the Inclusionary Housing Fund.
- C. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including but not limited to: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; (2) civil actions for injunctive relief or damages; (3) actions to recover from any violator of this Chapter civil fines, restitution to prevent unjust enrichment, and/or enforcement costs; and (4) any other action, civil or criminal, authorized by law or by any regulatory document, restriction, or agreement under this Chapter.
- D. In any action to enforce this Chapter or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.
- E. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any person, owner, Developer or household from the requirements of this Chapter.
- F. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it would otherwise be entitled under law or equity.

#### **17.92.080 - General Provisions**

##### **A. Inclusionary Housing Fund**

There is hereby established a separate fund of the City, to be known as the Inclusionary Housing Fund. All monies collected pursuant to 17.92.040, 17.92.060 and 17.92.070 shall be deposited in the Inclusionary Housing Fund. Additional monies from other sources may be deposited in the Inclusionary Housing Fund. The monies deposited in the Inclusionary Housing Fund shall be subject to the following conditions:

1. Monies deposited into the Inclusionary Housing Fund must be used to increase and improve the supply of housing affordable to Very Low, Low, and Moderate Income Households in the City. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this Section.
2. The fund shall be administered, subject to the approval by the City Manager, by the Director of Community Development, or his or her designee, who may develop procedures to implement the purposes of the Inclusionary Housing Fund consistent with the requirements of this Chapter and through the adopted budget of the City.
3. Monies deposited in accordance with this Section shall be used in accordance with the City's Housing Element, or subsequent plan adopted by the City Council to construct, rehabilitate, or subsidize affordable housing or assist other government entities, private organizations, or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development

loan funds, participation leases, or other public-private partnership arrangements. The Inclusionary Housing Fund may be used for the benefit of both rental and owner-occupied housing. In no case is the City obligated to actually construct affordable housing units on its own.

**B. Administrative Fees**

The City Council may by Resolution establish reasonable fees and deposits, which shall fund the City's costs associated with the administration and monitoring of the Inclusionary Units and administration of the Inclusionary Housing Fund.

**C. Appeal**

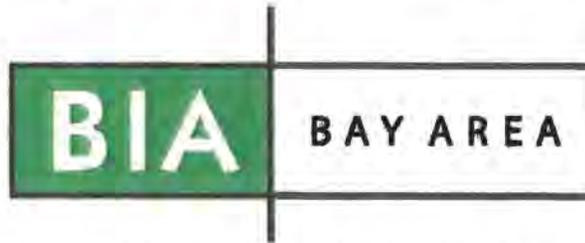
Within ten (10) calendar days after the date of any decision of the Director under this Chapter, an appeal may be filed with the City Clerk. Within ninety (90) calendar days of the request for an appeal is filed or a later time as agreed to by the appellant, the City Council shall consider the appeal. The City Council's decision shall be final.

**D. Waiver**

1. Notwithstanding any other provision of this Chapter, the requirements of this Chapter may be waived, adjusted, or reduced if a Developer shows, based on substantial evidence, that there is no reasonable relationship between the impact of a proposed Residential Development and the requirements of this Chapter, or that applying the requirements of this Chapter would take property in violation of the United States or California Constitutions.
2. Any request for a waiver, adjustment, or reduction under this Section shall be submitted to the City concurrently with the Affordable Housing Plan required by Section 17.92.050. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.
3. The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan, and is subject to the appeal process in subsection (C) above.
4. In making a determination on an application for waiver, adjustment, or reduction, the Developer shall bear the burden of presenting substantial evidence to support the claim. The City may assume each of the following when applicable:
  - (i) That the Developer will provide the most economical Inclusionary Units feasible, meeting the requirements of this Chapter and any implementing regulations.
  - (ii) That the Developer is likely to obtain housing subsidies when such funds are reasonably available.

The waiver, adjustment or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this Section.

# ATTACHMENT 9



BUILDING INDUSTRY ASSOCIATION

**DATE:** April 17, 2018

**TO:** Mayor Keith Haydon, Vice Mayor David Shuey and Councilmembers Tuija Catalano, Jim Diaz and Julie K. Pierce

**FROM:** BIA|Bay Area East Bay Executive Director for Governmental Affairs Lisa Vorderbrueggen

**RE:** Agenda Item 8 – Whether to Incorporate Rental Housing Into Existing Inclusionary Housing Regulation

Dear Mayor Haydon, Vice Mayor Shuey and Councilmembers,

As a membership organization that represents more than 400 companies dedicated to developing and constructing homes, BIA|Bay Area would like to make the following comments on the staff proposal to expand the city's inclusionary ordinance to include rental residential development.

While AB 1505 now allows local governments to impose inclusionary requirements on new rental developments, the regulations must also include alternative means of compliance such as the option of paying an in-lieu fee, making a land donation, building the units off-site or rehabilitating existing units. BIA strongly encourages Clayton to provide all residential developers a by-right in-lieu fee option.

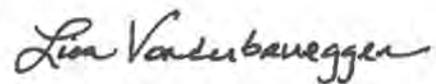
Not only do developers need options to make complex and costly housing projects work from an economic perspective, generating local affordable housing revenue is more important than ever. The state has a number of housing-related programs available for local affordable housing that will receive significant funding increases starting in 2018. Cities need a source of local funds to compete for those dollars as most of these programs require a local match. Local funds are also especially critical when it comes to assembling cash to build homes for the very poor as other sources are nearly non-existent.

We also encourage Clayton to grandfather residential development projects currently in the city's application pipeline. Developers obtain financing based on existing regulatory rules and imposing additional costs this late in the process may postpone or outright kill the much-needed new housing being planned in Clayton. For example, delaying the effective date of the ordinance or exempting projects with pending applications as long as

building permits are pulled within a set time period are effective means of ensuring that good projects are not inadvertently killed during the transition period.

Thank you for your time and consideration. Feel free to contact me at any time if you have any further questions or comments.

Sincerely yours,

A handwritten signature in cursive script that reads "Lisa Vanderbrueggen".

Lisa A. Vorderbrueggen  
BIA|Bay Area  
1350 Treat Blvd., Ste. 140  
Walnut Creek, CA 94598  
925-348-1956  
[lvorderbrueggen@biabayarea.org](mailto:lvorderbrueggen@biabayarea.org)

cc:

Clayton City Manager Gary Napper  
Clayton Community Development Director Mindy Gentry



Agenda Date: 12-18-2018  
 Agenda Item: Ba

Approved:   
 \_\_\_\_\_  
**Gary A. Napper**  
 City Manager

# STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: KEVIN MIZUNO, FINANCE MANAGER**

**DATE: DECEMBER 18, 2018**

**SUBJECT: INFORMATION ONLY – PUBLICATION OF LATEST CALPERS ACTUARIAL REPORTS FOR YEAR ENDED JUNE 30, 2017**

## RECOMMENDATION

This report is for information purposes only to provide the City Council and the public with a summary of information contained within the latest CalPERS actuarial reports for the City's *multiple-employer cost-sharing defined benefit pension plans*.

## BACKGROUND

In lieu of Social Security, since July 1, 1975 the City of Clayton has participated in the California Public Employees' Retirement System (CalPERS) as its pension system for City employees. At that time, the City only had two plans; one for civilian (or non-sworn) full-time employees and the other for its sworn full-time police officers. Today, those plans are referred to as the "Classic" Miscellaneous Tier I and Safety Tier I plans for civilian and sworn police officers, respectively. Risk Pooling of small employers was mandated by CalPERS in the fiscal year ending June 30, 2006 (FY 2005-06) based on the June 30, 2003 actuarial valuation to protect small employers (i.e. those with less than 100 active members) against large fluctuations in employer contribution rates caused by unexpected demographic events.

As the result of proactive pension reform action taken by the City Council in 2011 followed by the state legislature's enactment of the Public Employee Pension Reform Act (PEPRA) in 2013, the City is now enrolled in a three tiered pension risk pool system covering the Miscellaneous and Safety plans. The following table encompasses the six (6) CalPERS employee pension risk pools and underlying benefit formulas the City currently has:

	Miscellaneous Retirement Plan	Safety (Police) Retirement Plan
Classic	2% at age 55	3% at age 55
Classic Tier II	2% at age 60	2% at age 50
PEPRA	2% at age 62	2.7% at age 57

On an annual basis CalPERS publishes an actuarial valuation for each of the City's pension plan tiers. These actuarial valuations establish the required employer contribution rates as a percentage of payroll as well as the fixed dollar unfunded actuarial liability (UAL) contribution requirements three (3) years from the date of the actuarial report. Accordingly, the actuarial reports for year ended June 30, 2017 provide the employer pension contribution requirements for the fiscal year ending June 30, 2020 (FY 2019-20). The most recent reports, published in August 2018, are available to the public on the CalPERS website at [www.calpers.ca.gov](http://www.calpers.ca.gov).

Every year, the City of Clayton has contributed 100% of its annual required contribution as determined by these actuarial reports in accordance with the law. On December 21, 2016, the CalPERS Board voted to lower its discount rate from 7.5% to 7.0% over a three (3) year timeframe from FY 2018-19 to FY 2020-21 with the intent that a gradual reduction of the rate would give employers more time to prepare for the changes in contribution costs. The first year of pension contribution increases resulting from lowering the discount rate occurs in FY 2018-19.

## **DISCUSSION**

### ***Employer Contribution Requirements***

Since the adoption of PEPRA and due to measures taken by the City Council in 2011 to create second retirement tiers, noteworthy savings were realized by the City in the three year timeframe from FY 2012-13 to FY 2014-15. Ultimately, these savings were realized by the City through the gradual attrition of several Tier I "Classic" employees with those positions subsequently filled by less expensive Tier II and PEPRA enrolled employees. However, commencing in FY 2015-16, in an aggressive and deliberate measure to recapture these savings realized by participating agencies, CalPERS began billing for the unfunded portion of the City's Tier I pension liabilities as a fixed dollar amount as opposed to the "percentage of payroll" method used in all prior years leading up to FY 2015-16. Therefore, to understand and better prepare for fluctuations in employer pension costs, a city must monitor both the percentage of payroll (or "Normal Cost") rate as well as the relatively new fixed dollar UAL contribution components.

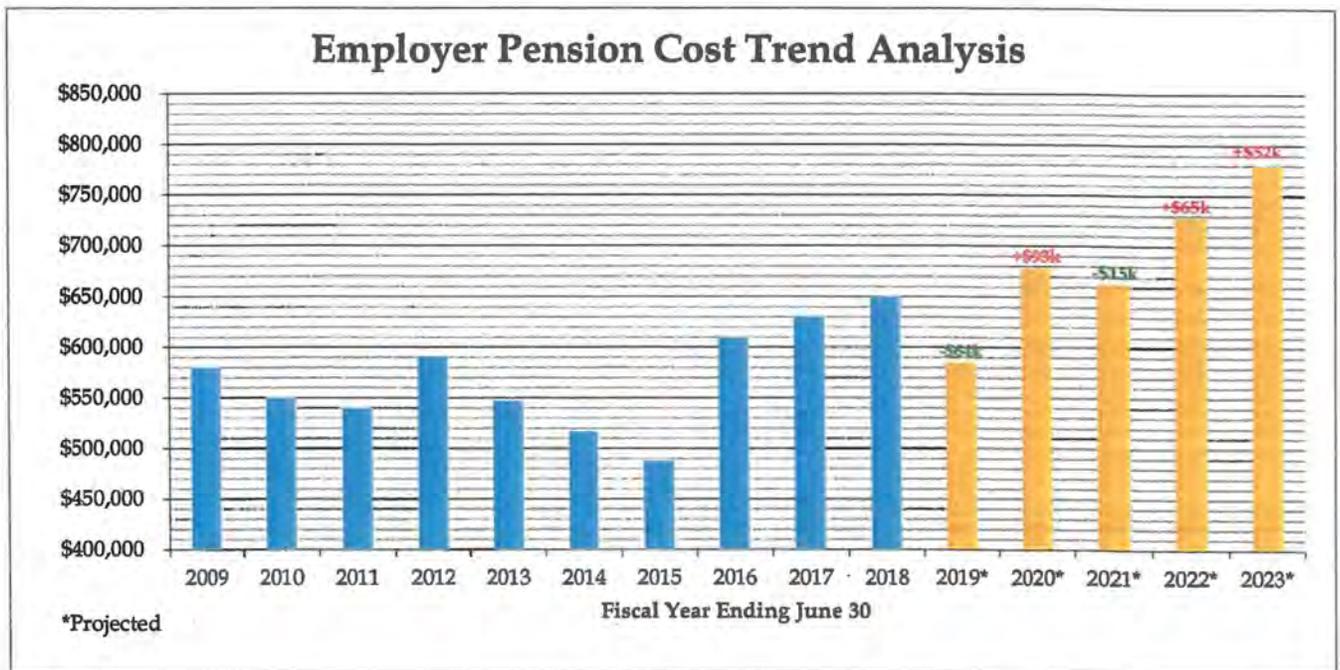
As noted previously, the latest CalPERS actuarial reports for the year ended June 30, 2017 establish the City's normal cost contribution rates as well as the fixed dollar UAL contribution requirements for FY 2018-19. Additionally, the actuarial reports provide contribution requirement projections for both FY 2019-20 and FY 2020-21. The City's FY 2019-20 contribution requirements relative to the prior year (FY 2018-19) are as follows:

Pension Tier	FY 2018-19		FY 2019-20	
	Normal Cost	UAL	Normal Cost	UAL
Safety Classic	17.614%	\$125,476	18.928%	\$158,688
Safety Tier II	15.719%	\$880	16.636%	\$638
Safety PEPRA	12.141%	\$1,404	13.034%	\$1,903
Miscellaneous Classic	8.892%*	\$171,943	9.680%*	\$198,048
Miscellaneous Tier II	7.634%	\$830	8.081%	\$1,135
Miscellaneous PEPRA	6.842%	\$2,135	6.985%	\$2,130

\*Excludes employer-paid member contribution (EPMC) of 7.0%

The published FY 2019-20 employer contribution requirements remained relatively consistent with prior year actuarial projections, with the exception of the Safety Classic plan where the increase was in excess of one percent (1.314% rate increase). Similarly, the highest fixed dollar UAL employer pension contribution hike occurred in the Safety Classic plan. This increase is a direct result of the full amortization of the Safety Classic plan's side-fund liability as of July 1, 2018, resulting in temporary employer pension contribution savings realized during FY 2018-19 (which is illustrated in the table below).

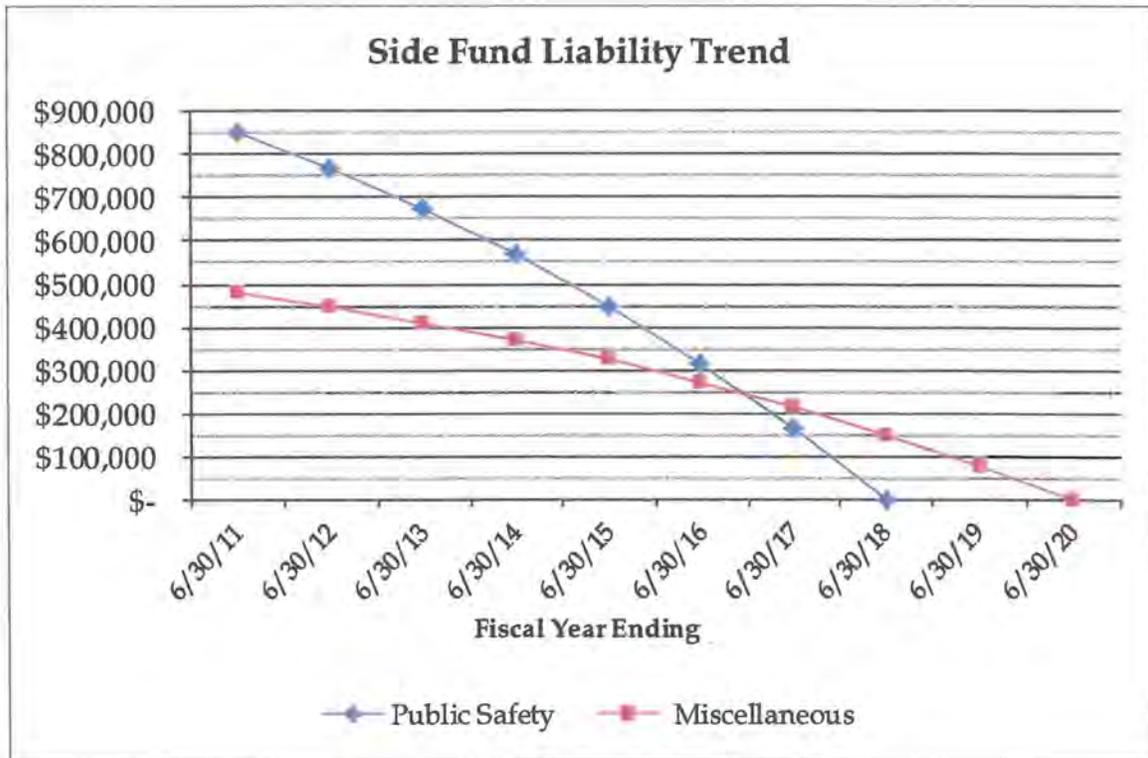
Changes in legislative law, employee workforce attrition, and volatility of CalPERS estimates (i.e. investment returns), make it challenging to predict future pension costs as well as the status of the UAL with absolute certainty. However the following chart provides a summary of historical City-wide employer pension contributions as well as a projection for the next five future years (including FY 2018-19) using employment and actuarial information known at this time. As noted previously, the unpredictability of workforce and market factors makes these future year projections subject to change prospectively.



### Status of Side Fund Liabilities

As noted previously, CalPERS mandated risk pooling for smaller employers commencing in FY 2005-06. One adverse impact of this restructuring was the establishment of "side fund" liabilities for many participating agencies, including Clayton. Although the cost sharing plans were designed to bundle employer pension expenses of several employer plans providing identical benefits, plans that had super- or under-funded statuses carried forward their positive or negative balances into the pooled shared-risk program in what is referred to as a side fund. The City has been amortizing these Miscellaneous and Safety "Classic" Tier I side fund liabilities over several years within its annual employer contribution requirements.

The latest actuarial reports reveal that both “Classic” Tier I side fund liabilities are being amortized on schedule. Some very positive news is the Safety Tier I side fund was fully amortized (i.e. paid off) to start FY 2018-19 (July 1, 2018); the Miscellaneous Tier I side fund is on track and still projected to be paid off by July 1, 2020. As of the close of FY 2018-19, the Miscellaneous Tier I Side Fund is projected to be approximately \$78,832. The following table illustrates an updated trend analysis of the City’s side fund liabilities per the June 30, 2017 actuarial reports:

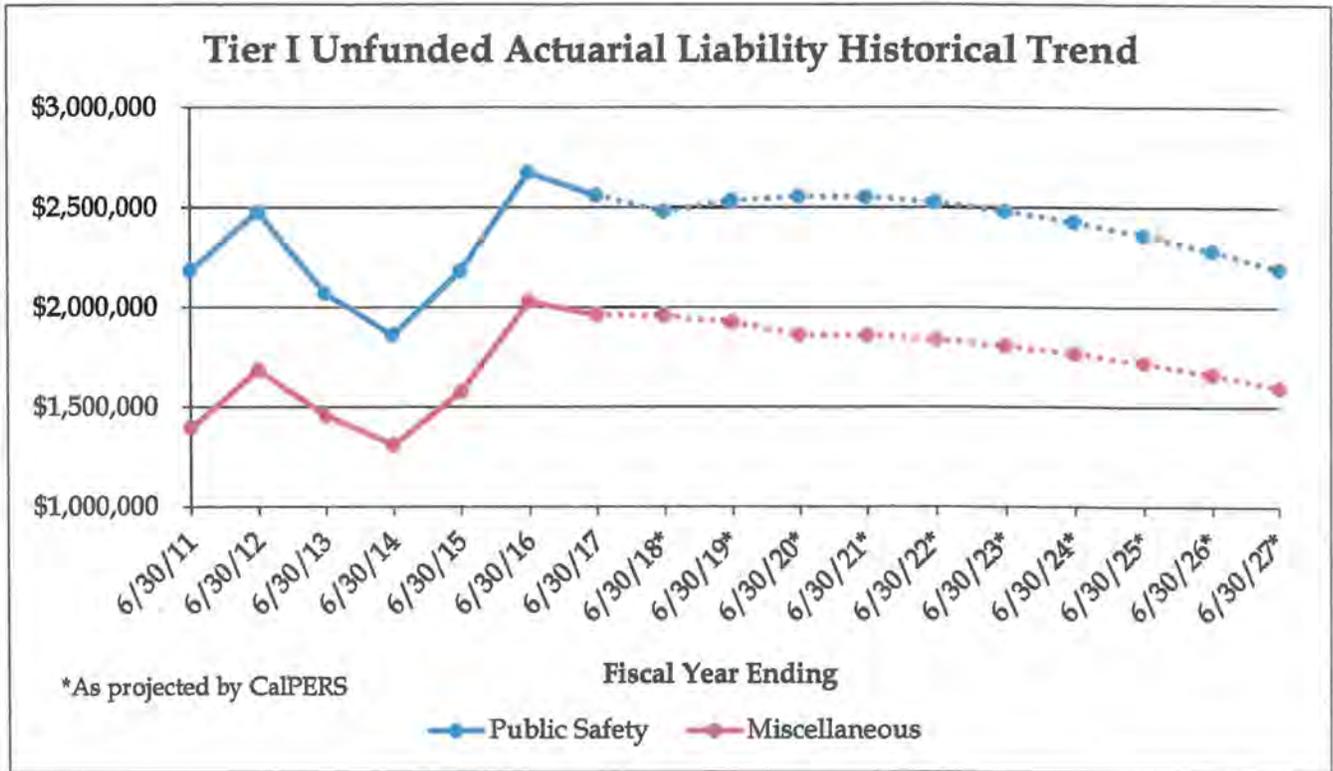


**Status of Unfunded Actuarial Liabilities**

Commencing with the June 30, 2011 actuarial reports published in October 2012, CalPERS began disclosing the funded status of the City’s two Classic Tier I plans, which were the only plans in effect at that time. These funded status figures paint an “aggregate” plan figure, and include the side fund liabilities described previously. Since being published by CalPERS, City management, by direction of City Council, has carefully monitored the status of these UALs to ensure the policies were working effectively to control growth and gradually improve each plan’s funded status the long run. A “long-term” perspective is essential to responsibly address this issue to ensure the City has balanced budgets into the foreseeable future especially when considering the City is already operating with relatively very limited resources compared to our much larger neighboring public agencies.

In future years, gradual decreases to the Tier I UALs are anticipated as a result of CalPERS’ implementation of the fixed dollar UAL billings three years ago in FY 2015-16, coupled with the implementation of new PEPRAs tiers to prevent further growth of Classic plan participants. The

status of the City's other retirement plans (Tier II and PEPR) are solvent with insignificant unfunded liabilities not necessitating analysis at this time. The chart below illustrates the actual "Classic" Tier I UALs for the past seven (7) years, as well as projected future trends for the next ten (10) years per CalPERS' publicly-available actuarial reports.



As depicted in the chart above, when considering the current funded status of the City's pension plan's, the most recently issued June 30, 2017 actuarial reports reflect slight decreases to both the Safety and Miscellaneous Tier I Plan UALs. As of June 30, 2017 the Safety Tier I Plan UAL status improved, decreasing slightly by 4.2% to \$2,560,292, reflecting a funded status of 74.9%. Similarly, the Miscellaneous Tier I Plan also improved, decreasing slightly by 3.2% to \$1,961,439, reflecting a funded status of 74.7%. These simultaneous decreases are primarily due to the favorable 11.2% investment return of CalPERS in FY 2016-17, which was far above the assumed 7.5% discount rate benchmark at that time. Some additional positive news is CalPERS' press release on July 12, 2018 reported the fund anticipates closing FY 2017-18 with another encouraging investment return of 8.6%, exceeding the new reduced discount rate of 7.0%. This higher-than-projected investment return is expected to result in a slight reduction to the City's UALs in next year's pension plan actuarial reports.

Prospectively, arising from policies adopted by the City, the state legislature, and CalPERS, gradual reductions are predicted for the City's pension UALs. These gradual reductions incorporate CalPERS policies to amortize annual plan investment gains and losses over thirty (30) periods well as its five (5) year ramp up and down phases to smooth the volatility these

annual conditions can have on employer pension contribution requirements. Consequently, the latest actuarial reports project employer UAL pension contributions for the two "Classic" Tier I plans to gradually increase until reaching their ceiling in FY 2030-31, after which they steadily reduce until both plan's UALs are fully paid off in FY 2046-47 (under present value calculations and CalPERS methodologies).

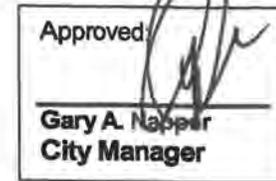
### **FISCAL IMPACT**

None. This is an informational report requiring no action. Pursuant to recent City Council action, the City also established a "Pension Contribution Stabilization Fund" this fiscal year to assist in mitigating the future fiscal impacts of volatile CalPERS employer contributions. As of the fiscal year ended June 30, 2018 this fund reported a positive reserve of \$167,860 as a budgetary buffer for future operational years.



Agenda Date: 12-18-2018

Agenda Item: 8b



# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**  
**FROM: CITY MANAGER**  
**DATE: 18 DECEMBER 2018**  
**SUBJECT: DETERMINATION OF COUNCIL COMMITTEE ASSIGNMENTS**

---

## **RECOMMENDATION**

It is recommended the City Council discuss and approve Mayor Catalano's proposed changes to the various Council ad-hoc and committee assignments for the ensuing year of 2019.

## **BACKGROUND**

In addition to its primary role as elected officials of the City of Clayton, members of the City Council hold a variety of ad-hoc and standing committee assignments that involve the direct participation of its members in a host of local and regional issues and intergovernmental organizations. Pursuant to its adopted *Council Guidelines and Procedures*, the Mayor assigns the Council ad-hoc and committee appointments annually, usually each December following Council reorganization. Consideration of this matter presents an opportunity to review the established committees and determine continued relevance, need to create new ones, or abolish existing ones. In making the assignments, the Mayor is encouraged to seek individual input from members of the City Council regarding appointment preferences.

Attached are two (2) lists:

1. Mayor Catalano's list of proposed assignment changes, highlighted in **green font**.
2. The current list of City Council sub-committees and associated assignments during 2018. The list was updated (*in red font*) to reflect the elections made at the Council Reorganization Meeting held on December 4, 2018 relative to the chair and vice chair of the Oakhurst Geological Hazard Abatement District (GHAD). The Clayton Financing Authority (CFA) chair and vice chair are automatically filled by the mayor and vice mayor of the City, respectively, per its By-Laws.

Also attached are the pertinent pages from the *Council Guidelines and Procedures* referencing Council ad-hoc and committee assignments.

- Attachments:
1. Mayor Catalano's proposed assignments for 2019 [2 pp.]
  2. City Council current Committee Assignments – 2018 [2 pp.]
  3. *Council Guidelines and Procedures* [2 pp.]

# CITY COUNCIL ASSIGNMENTS STANDING/AD-HOC COMMITTEES/LIAISONS

## CITY OF CLAYTON 2019

Association of Bay Area Governments (ABAG)	Julie Pierce Alternate: Tuija Catalano
Budget/Audit Committee	Jeff Wan; Jim Diaz Alternate: Carl Wolfe
Citizens Corps Council (CERT)	Jim Diaz Alternate: Jeff Wan
Clayton Financing Authority [CFA]* *[offices automatically go to Mayor & Vice Mayor, per Bylaws]	President – Tuija Catalano Vice President – Julie Pierce
Community Park Sports Fields Ad-Hoc Committee	Tuija Catalano, Julie Pierce
Contra Costa Water District [CCWD] Liaison	Jim Diaz Alternate: Carl Wolfe
Central Contra Costa Transit Authority [CCCTA]	Keith Haydon Alternate: Tuija Catalano
“Do the Right Thing” Program	Tuija Catalano, Carl Wolfe
Downtown Activities Committee	Julie Pierce, Jim Diaz
East Bay Division - League of California Cities	Julie Pierce Alternate: Tuija Catalano
East Contra Costa County Habitat Conservancy	Tuija Catalano Alternate: Carl Wolfe
Economic Development Committee	Julie Pierce, Carl Wolfe Alternate: Jeff Wan

Endeavor Hall Marketing Committee	Jim Diaz, Carl Wolfe
Garbage & Recycling Committee	Jim Diaz, Tuija Catalano
Interview Committees:	
a. Planning Commission applicants	City Council
b. Trails and Landscaping Committee applicants	Vice Mayor Tuija Catalano
Clayton Library Foundation Liaison	Carl Wolfe Alternate: Jeff Wan
Mayors' Conference – Contra Costa County	Mayor & Council
Mt. Diablo School District Liaison Committee	Jeff Wan, Tuija Catalano Alternate: Julie Pierce
Oakhurst Geological Hazard Abatement District [GHAD]	Chair – Carl Wolfe Vice Chair – Jeff Wan
Trails and Landscaping Committee (TLC) Liaison	Vice Mayor Alternate: Tuija Catalano
TRANSPAC	Julie Pierce Alternate: Jim Diaz
“Unsung Heroes” Program Committee	Tuija Catalano; Carl Wolfe

\* \* \* \* \*

Revised: 04 December 2018  
Original Adoption: 17 December 2004

# CITY COUNCIL ASSIGNMENTS STANDING/AD-HOC COMMITTEES/LIAISONS

## CITY OF CLAYTON 2018

Association of Bay Area Governments (ABAG)	Julie Pierce Alternate: David Shuey
Budget/Audit Committee	Keith Haydon; Tuija Catalano Alternate: Jim Diaz
Citizens Corps Council (CERT)	Keith Haydon Alternate: Jim Diaz
Clayton Financing Authority [CFA]* *[offices automatically go to Mayor & Vice Mayor, per Bylaws]	President – Tuija Catalano Vice President – Julie Pierce
Community Park Sports Fields Ad-Hoc Committee	Tuija Catalano, Julie Pierce
Contra Costa Water District [CCWD] Liaison	Jim Diaz Alternate: Keith Haydon
Central Contra Costa Transit Authority [CCCTA]	Keith Haydon Alternate: Tuija Catalano
“Do the Right Thing” Program	David Shuey
Downtown Activities Committee	Julie Pierce, Jim Diaz
East Bay Division - League of California Cities	Julie Pierce Alternate: Keith Haydon
East Contra Costa County Habitat Conservancy	Keith Haydon Alternate: Tuija Catalano
Economic Development Committee	Julie Pierce, David Shuey Alternate: Tuija Catalano

Endeavor Hall Marketing Committee

Jim Diaz, Keith Haydon

Garbage & Recycling Committee

David Shuey, Tuija Catalano

Interview Committees:

a. Planning Commission applicants

City Council

b. Trails and Landscaping Committee applicants

Vice Mayor  
Tuija Catalano

Clayton Library Foundation Liaison

Tuija Catalano  
Alternate: Jim Diaz

Mayors' Conference – Contra Costa County

Mayor & Council

Mt. Diablo School District Liaison Committee

David Shuey, Tuija Catalano  
Alternate: Julie Pierce

Oakhurst Geological Hazard Abatement District [GHAD]

**Chair – Carl Wolfe**  
**Vice Chair – Jeff Wan**

Trails and Landscaping Committee (TLC) Liaison

Vice Mayor  
Alternate: Tuija Catalano

TRANSPAC

Julie Pierce  
Alternate: Jim Diaz

“Unsung Heroes” Program Committee

Keith Haydon; David Shuey

\* \* \* \* \*

Revised: 06 March 2018  
Original Adoption: 17 December 2004

4. Council Members exhibit care and respect for each other as persons.
5. Council Members promote care and respect for each other's point of view. Each Member has a right to be heard.
6. Opinions are expressed honestly, openly, civilly and with integrity.
7. Humor is an important tool.
8. Traditions are respected but not always binding.

C. COUNCIL INTERACTION AND COMMUNICATION

1. The Mayor makes Council sub-committee appointments annually in December; the Mayor is encouraged to seek input from Council regarding appointment preferences.
2. Members will take seriously the responsibility of reporting to Council on sub-committees and other regional, state and national board/agency/group activities in which they are involved.
3. Each Council Member has the responsibility to initiate resolution of problems as soon as possible.
4. Members shall recall and abide by the Brown Act when giving information to each other outside of public meetings.
5. Cheap shots at each other are not allowed by Members during public meetings, in the media, or at any other time.
6. Relationships are informal, but Council Members need to be aware of impact on and perception of the public.
7. Council Members will be flexible in covering Council responsibilities for each other.
8. **Council Sub-Committees.**
  - a. **Sub-committee areas belong to the Council as a whole; they are not seen as territorial.**
  - b. **Sub-committees shall keep the rest of the Council fully informed. The rest of the Council is responsible for letting a sub-committee know if they want more information or to give input.**
  - c. **Before sub-committees start moving in new directions, they will obtain direction from the rest of the Council.**

- d. Sub-committee reports will be made under “Council Reports” at Council meetings, when appropriate.
- e. Sub-committee memos will be sent on an interim basis to update other Council Members on:
  - 1). Issues being discussed.
  - 2). Options being considered.
  - 3). Progress.
- f. Appropriate reports will also be included in the City Manager’s “Weekly Report”.
- g. Council may contact Department Heads or the City Manager to be briefed on any sub-committee work.
- h. Council shall review the performance of citizen committees no less frequently than every six months.
- i. Sub-committees are task oriented with scheduled dates of completion.

D. COUNCIL INTERACTION AND COMMUNICATION WITH STAFF

- 1. City Manager.
  - a. Council Members should always feel free to communicate with the City Manager.
  - b. When a Council Member is unhappy about the performance of a Department, he/she should discuss this with the City Manager, not any other employee [the City Manager will inform the Mayor of any serious violations of this norm].
  - c. Concerns about the performance of Department Heads must be taken to the City Manager and/or Mayor first for resolution through proper channels.
  - d. In passing along critical information, the City Manager will inform all Council Members.
  - e. Council will provide ongoing feedback, information and perceptions to the City Manager, including some response to the “Weekly Report”.
  - f. Council will page the City Manager if there is an emergency and he/she cannot be reached by phone.

**MINUTES  
OF THE  
REGULAR MEETING**

**Agenda Date:** 12-18-2018

**Agenda Item:** 2a SA

**CLAYTON SUCCESSOR and SUCCESSOR HOUSING AGENCIES**

**January 16, 2018**

1. **CALL TO ORDER & ROLL CALL** - the meeting was called to order at 9:32 p.m. by Chairman Haydon in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. **Board Members present:** Chairman Haydon, Vice Chair Shuey, Board Members Catalano, Diaz and Pierce. **Board Members absent:** None. **Staff present:** City Manager Gary Napper, City Attorney Mala Subramanian, and City Clerk/Secretary Janet Brown.
  
2. **CONSENT CALENDAR-** It was moved by Board Member Pierce, seconded by Board Member Diaz, to approve the Consent Calendar as submitted (Passed; 5-0 vote).
  - (a) Approved the minutes of the regular public meeting of December 20, 2016.
  - (b) Adopted Resolution No. 01-2018SA approving the Successor Agency's 12<sup>th</sup> Recognized Obligation Payment Schedule for the time period covering July 1, 2018 through June 30, 2019 (ROPS 2018-19) required by the CA Department of Finance (DOF).
  
3. **PUBLIC COMMENT ON NON-AGENDA ITEMS** – None.
  
4. **PUBLIC HEARINGS** – None.
  
5. **ACTION ITEMS** – None.
  
6. **BOARD ITEMS** – None.
  
7. **ADJOURNMENT** – on call by Chairman Haydon, the Board adjourned its meeting at 9:32 p.m. in memory of Dr. Valentin Victorovich Alexeeff, a former Clayton City Manager, who passed away on December 11 in Santa Clara.

###

Respectfully submitted,

---

Janet Brown, Secretary

Approved by the  
Clayton Successor and Successor Housing  
Agencies Board

---

Keith Haydon, Mayor

Approved



Gary A. Napper  
City Manager



# STAFF REPORT

**TO:** CITY OF CLAYTON SUCCESSOR AGENCY BOARD  
**FROM:** KEVIN MIZUNO, FINANCE MANAGER, CPA  
**DATE:** DECEMBER 18, 2018  
**SUBJECT:** ADOPT A RESOLUTION TO APPROVE AND ADOPT THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE YEAR ENDING JUNE 30, 2020 (ROPS 2019-2020), PURSUANT TO THE DISSOLUTION ACT

---

## RECOMMENDATION

It is recommended the Successor Agency Board adopt the attached Resolution approving the 13<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2019-2020) covering the timeframe July 1, 2019 through June 30, 2020 pursuant to Section 31471(h) and 34177(l)(1) of the California Redevelopment Law – the Dissolution Act, [ABx1 26 and AB 1484].

## BACKGROUND

Under the Dissolution Act, “enforceable obligations” of the former redevelopment agency (e.g. Clayton Redevelopment Agency) include the following financial arrangements (the ROPS of a city or county):

- Bonds
- Loans
- Payments required by state or federal government
- Obligations to employees
- Judgments or settlements
- Binding and legally enforceable agreements entered into before AB1x26
- Contracts for Redevelopment Agency (RDA) administration, Successor Agency administration, and Oversight Board administration

Subject: Adopt a Resolution to Approve and Adopt the Recognized Obligation Payment Schedule for the Year Ending June 30, 2020 (ROPS 2019-2020), Pursuant to the Dissolution Act  
Date: December 18, 2018  
Page: 2 of 4

---

The monies to fund payment of the requested ROPS enforceable obligations are issued by the Contra Costa County Auditor-Controller's Office (CAC) to Clayton's Redevelopment Obligation Retirement Fund. As its name implies, this fund replaces the former Redevelopment Agency's three Funds and functions as the repository for sufficient tax increment revenues in the amounts identified and approved in subsequent ROPS to effectively "retire" all former Clayton Redevelopment Agency debts and contractual obligations over a multi-year period. Once all identified and certified debts and obligations have been satisfied, the Successor Agency is then dissolved.

Pursuant to *California Health and Safety Code* section 34179(j), on and after July 1, 2018 in each county where more than one oversight board was created (including Contra Costa County), there shall be only one County Oversight Board staffed by the County Auditor-Controller. The Countywide Oversight Board of Contra Costa County is comprised of a seven member board consisting of one member from each of the following groups: County Board of Supervisors, Mayors Conference, Special Districts, the Superintendent of Schools, Community College District, a member of the public, and a former employee of a County public agency. Following this re-organization of the Oversight Board, commencing July 1, 2018 the Department of Finance (DOF) only recognizes actions taken by the newly established Countywide Oversight Board.

## **DISCUSSION**

### ***Prior Recognized Obligation Payment Schedule***

A DOF Determination Letter dated April 12, 2018 accepted the Clayton Oversight Board-approved ROPS 2018-2019. Following the DOF's approval this resulted in the Clayton Successor Agency receiving \$661,053 in June 2018 for enforceable obligations through the six month period ending December 31, 2018. Also, pursuant to the DOF's April 12, 2018 determination letter, the Clayton Successor Agency expects to receive \$124,904 in January 2019 for enforceable obligations through the six month period ending June 30, 2019.

### ***Current Recognized Obligation Payment Schedule***

Included herein, as Attachment 1 to this staff report, is the 13<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2019-2020). Pursuant to *California Health & Safety Code* section 34177(o)(1), commencing with the ROPS 2016-2017 and thereafter, agencies were authorized to submit an annual ROPS to the DOF and the CAC by February 1, 2016 and each February 1<sup>st</sup> thereafter. Following the annual submission of an approved ROPS, the DOF has been directed to make its determination of approval by the following April 15<sup>th</sup>.

On this annual ROPS, the Successor Agency is requesting Redevelopment Property Tax Trust Fund (RPTTF) monies to pay for local obligations totaling \$720,213 and \$147,138 for the six month periods ending December 31, 2019 and June 30, 2020, respectively. In addition to RPTTF, the Successor Agency is requesting authorization to use other unencumbered Successor Agency

Subject: Adopt a Resolution to Approve and Adopt the Recognized Obligation Payment Schedule for the Year Ending June 30, 2020 (ROPS 2019-2020), Pursuant to the Dissolution Act  
Date: December 18, 2018  
Page: 3 of 4

---

balances to make payments on enforceable obligations consistent with the law and the DOF's April 12, 2018 determination letter.

For the six month period ending December 31, 2019 the Successor Agency is requesting authorization to make payments on the following enforceable obligations:

- Principal and interest on the 2014 Refunding Tax Allocation Bonds,
- Trustee and other professional service fees directly related to the bonds,
- Third of four scheduled repayments on the SERAF loan from the Successor Housing Fund (No. 616) to Successor Agency Fund (No. 615), and
- Administrative costs under *California Health & Safety Code* section 34171(b).

Immediately thereafter, for the six month period ending June 30, 2020, the Successor Agency is requesting authorization to make payments on the following enforceable obligations:

- Interest on the 2014 Refunding Tax Allocation Bonds, and
- Administrative costs under *California Health & Safety Code* section 34171(b).

### ***Supplemental Educational Revenue Augmentation Fund (SERAF) Loan***

During FY 2009-10, as part of emergency measures to address its own budgetary issues, the State of California imposed a two year raid on local redevelopment agencies in the form of SERAF demands. To the former Agency, this meant an astounding \$2,371,940 in SERAF payments was required to be made to the CAC between FY 2009-10 and FY 2010-11. In order to meet this massive obligation, an intra-agency loan of \$592,412 was established from the RDA's low-moderate income fund to its non-housing fund on May 19, 2010. The principal amount of this loan was originally scheduled for repayment in four equal installments of \$148,103 commencing FY 2011-12 and ending in FY 2014-15. With the state-imposed dissolution of redevelopment agencies effective February 1, 2012 and the rigorous new restrictions on SERAF loan repayments established through AB1484, the full principal balance the SERAF loan is currently outstanding and unpaid.

SERAF loans became eligible for repayment starting in the six month period ending December 31, 2014, provided the following three circumstances are met: (1) The Successor Agency has completed its DDRs; (2) the results of the DDRs are reviewed by the Oversight Board; and (3) the Successor Agency has received a Notice of Completion by the DOF. In accordance with the law, on September 20, 2016 the Clayton Successor Agency Board adopted Resolution No. 02-2016SA approving an agreement and repayment schedule for the SERAF loan in accordance with *California Health & Safety Code* section 34171(d)(1)(G). Consistent with the Oversight Board's original approval of the SERAF loan repayment terms on April 26, 2012, the balance of the SERAF loan will be payable to the Successor Housing Agency in four equal principal installments of \$148,103 beginning in the fiscal year 2017-18 and ending in the fiscal year 2020-21 ROPS period.

Subject: Adopt a Resolution to Approve and Adopt the Recognized Obligation Payment Schedule for the Year Ending June 30, 2020 (ROPS 2019-2020), Pursuant to the Dissolution Act  
Date: December 18, 2018  
Page: 4 of 4

---

Accordingly, the ROPS 2019-2020 includes the third SERAF loan repayment request for the six month period ending December 31, 2019.

### **FISCAL IMPACT**

Once approved by the DOF, ROPS 2019-2020 will be in place for the Successor Agency to make payments on agreements and other obligations of the former Redevelopment Agency for the period of time July 1, 2019 through June 30, 2020. Absent this approval the Successor Agency is not permitted to make such payments which would cause the Successor Agency to be in breach of legal bond covenants.

#### Attachments:

1. Successor Agency Resolution approving the ROPS 2019-2020 Resolution (3 pp.)
  - o Exhibit A: Recognized Obligation Payment Schedule (ROPS 2019-2020)

**RESOLUTION NO. 02- 2018SA**

**A RESOLUTION APPROVING AND ADOPTING THE  
RECOGNIZED OBLIGATION PAYMENT SCHEDULE  
FOR THE TIME PERIOD OF JULY 01, 2019 THROUGH JUNE 30,  
2020 (ROPS 2019-2020), PURSUANT TO SECTION 31471(h)  
AND 34177(l)(1) OF THE CALIFORNIA REDEVELOPMENT LAW**

**THE CITY COUNCIL (AS SUCCESSOR AGENCY)  
City of Clayton, California**

**WHEREAS**, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Clayton (the "City") adopted in accordance with the California Community Redevelopment Law, City Ordinance No. 243 on July 20, 1987 adopting the Redevelopment Plan for the Clayton Redevelopment Project Area (the "Redevelopment Plan"), as amended from time to time; and

**WHEREAS**, the Redevelopment Agency of the City of Clayton (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to said Redevelopment Law; and

**WHEREAS**, Assembly Bill X1 26 (the "Dissolution Act") and Assembly Bill X1 27 (the "Alternative Redevelopment Program Act") were enacted by the State of California on June 28, 2011, to significantly modify the Community Redevelopment Law and to end the existence of or modify continued operation of redevelopment agencies throughout the state (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

**WHEREAS**, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional meaning all California redevelopment agencies, including the Clayton Redevelopment Agency, were terminated and automatically dissolved on February 1, 2012 pursuant to the Dissolution Act; and

**WHEREAS**, on January 17, 2012 by Resolution No. 03-2012, the Clayton City Council did exercise its priority right and took action to become the Successor Agency and the Successor Housing Agency of the former Clayton Redevelopment Agency; and

**WHEREAS**, November 27, 2018 the California Department of Finance (DOF) posted instructions for completing the Recognized Obligation Payment Schedule covering the time period of July 1, 2019 through June 30, 2020 (ROPS 2019-2020), including the requirement that the ROPS 2019-2020 must be approved by the

Countywide Oversight Board and submitted electronically to the DOF by February 1, 2019; and

**WHEREAS**, pursuant to *California Health and Safety Code* section 34179(j), on and after July 1, 2018 in each county where more than one oversight board was created, there shall be only one County Oversight Board; and

**WHEREAS**, the Countywide Oversight Board shall be staffed by the County Auditor-Controller (CAC), by another county entity selected by the CAC, or by a city within the county that the CAC may select after consulting with the DOF; and

**WHEREAS**, commencing July 1, 2018 the DOF will only recognize actions taken by the Countywide Oversight Board; and

**WHEREAS**, the CAC instructed local Successor Agencies, including the City of Clayton Successor Agency, to prepare the ROPS 2019-2020 to be presented to the newly established Countywide Oversight Board for approval at a forthcoming meeting to be scheduled in January 2019; and

**WHEREAS**, the City of Clayton Successor Agency Board has reviewed and duly considered the Staff Report, the proposed ROPS 2019-2020, plus documents and other written evidence presented at the meeting.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Clayton, California, and serving as the Successor Agency Board, does hereby find the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

**BE IT FURTHER RESOLVED** that the Successor Agency Board does hereby approve and adopt the ROPS 2019-2020, attached hereto as "Exhibit A" and incorporated herein as if fully set forth in this Resolution.

**BE IT FURTHER RESOLVED** that the Successor Agency Board authorizes and directs its City Manager or the City Manager's designee to: (1) post the ROPS 2019-20 (Exhibit A) on the City's website; (2) designate a City representative to submit the approved ROPS to the Countywide Oversight board for approval and to whom all questions related to the ROPS can be directed; (3) notify, by mail or electronic means, the County Auditor-Controller, the State Department of Finance, and the State Controller's Office of the Countywide Oversight Board's action to adopt the ROPS 2019-2020, and to provide those persons with the internet website location of the posted schedule and the contact information for the City's designated contact; and (4) to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the ROPS on behalf of the Successor Agency and City.

**BE IT FURTHER RESOLVED** that if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibit A, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution, Exhibit A or any part thereof. The Successor Agency Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibit A irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Resolution and of Exhibit A are declared to be severable.

**AND BE IT FURTHER RESOLVED** that this Resolution shall and does take immediate effect upon its adoption.

**PASSED, APPROVED AND ADOPTED** by the Successor Agency Board of Clayton, California at a regular public meeting thereof held on the 18<sup>th</sup> day of December 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA  
Serving as the Clayton Successor Agency Board

---

Tuija Catalano, Mayor

ATTEST:

---

Janet Calderon, City Clerk

**Recognized Obligation Payment Schedule (ROPS 19-20) - Summary  
Filed for the July 1, 2019 through June 30, 2020 Period**

**Successor Agency:** Clayton  
**County:** Contra Costa

<b>Current Period Requested Funding for Enforceable Obligations (ROPS Detail)</b>	<b>19-20A Total (July - December)</b>	<b>19-20B Total (January - June)</b>	<b>ROPS 19-20 Total</b>
<b>A Enforceable Obligations Funded as Follows (B+C+D):</b>	<b>\$ 27,130</b>	<b>\$ -</b>	<b>\$ 27,130</b>
B Bond Proceeds	-	-	-
C Reserve Balance	-	-	-
D Other Funds	27,130	-	27,130
<b>E Redevelopment Property Tax Trust Fund (RPTTF) (F+G):</b>	<b>\$ 693,083</b>	<b>\$ 147,138</b>	<b>\$ 840,221</b>
F RPTTF	568,083	22,138	590,221
G Administrative RPTTF	125,000	125,000	250,000
<b>H Current Period Enforceable Obligations (A+E):</b>	<b>\$ 720,213</b>	<b>\$ 147,138</b>	<b>\$ 867,351</b>

Certification of Oversight Board Chairman:  
Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

\_\_\_\_\_  
Name Title  
/s/\_\_\_\_\_  
Signature Date

Clayton Recognized Obligation Payment Schedule (I

July 1, 2019 through June 30,

(Report Amounts in Whole Dol

A	B	C	D	E	F	G	H	I	J	K
Item #	Project Name/Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	ROPS 19-20 Total
								\$ 3,050,221		\$ 867,351
3	LMIHF Loan entered into on 5/19/10	SERAF/ERAF	5/19/2010	6/30/2021	Successor Agency LMI	Inter-loan for SERAF payment to State	All	299,206	N	\$ 151,103
4	Fiscal Agent Fees (US Bank Trustee)	Fees	11/1/1996	8/1/2024	US Bank	Paying Agent Fees	All	2,200	N	\$ 2,200
7	Successor Agency Functions	Admin Costs	6/25/2014	8/1/2024	City of Clayton	Expenses for Successor Agency Operation	All	250,000	N	\$ 250,000
16	Refunding Tax Allocation Bonds 2014	Refunding Bonds Issued After 6/27/12	6/25/2014	8/1/2024	US Bank	Bonds issued to refund the 1996 and 1999 non-housing RDA Tax Allocation Bonds	All	2,498,815	N	\$ 464,048

**ROPS 19-20) - ROPS Detail**

**2020**

(Dollars)

L	M	N	O	P	Q	R	S	T	U	V	W
<b>19-20A (July - December)</b>					<b>19-20A Total</b>	<b>19-20B (January - June)</b>					<b>19-20B Total</b>
<b>Fund Sources</b>						<b>Fund Sources</b>					
Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	
\$ 0	\$ 0	\$ 27,130	\$ 568,083	\$ 125,000	\$ 720,213	\$ 0	\$ 0	\$ 0	\$ 22,138	\$ 125,000	\$ 147,138
		27,130	123,973		\$ 151,103						\$ -
			2,200		\$ 2,200						\$ -
				125,000	\$ 125,000					125,000	\$ 125,000
			441,910		\$ 441,910				22,138		\$ 22,138

**Clayton Recognized Obligation Payment Schedule (ROPS 18-19) - Report of Cash Balances**  
**July 1, 2015 through June 30, 2016**  
**(Report Amounts in Whole Dollars)**

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see [\[ INSERT URL LINK TO CASH BALANCE TIPS SHEET \]](#)

A	B	C	D	E	F	G	H	I	
		<b>Fund Sources</b>							
		<b>Bond Proceeds</b>		<b>Reserve Balance</b>		<b>Other</b>	<b>RPTTF</b>		
	<b>Cash Balance Information for ROPS 15-16 Actuals (07/01/15 - 06/30/16)</b>	Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	<b>Comments</b>	
1	<b>Beginning Available Cash Balance (Actual 07/01/15)</b>	274,093	-	1,325,017	-	111,832	8,921		
2	<b>Revenue/Income (Actual 06/30/16)</b> RPTTF amounts should tie to the ROPS 15-16 total distribution from the County Auditor-Controller during June 2015 and January 2016.	14	-	368,286	-	24,332	713,829	E2- \$368,286 pertains to receipt from City General Fund pursuant to DOF final approval of All Other Funds DDR.	
3	<b>Expenditures for ROPS 15-16 Enforceable Obligations (Actual 06/30/16)</b>	85,413	-	1,632,606	-	-	716,700	E3- Includes payment to County Auditor Controller's Office of \$1,256,182 pursuant to the DOF Determination Letter on the All Other Funds DDR. Also includes repayment to City of Clayton on the 2% Election Agreement of \$376,424.	
4	<b>Retention of Available Cash Balance (Actual 06/30/16)</b> RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	-	-	-	-	-	-		
5	<b>ROPS 15-16 RPTTF Balances Remaining</b>	No entry required							
6	<b>Ending Actual Available Cash Balance (06/30/16)</b> C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ 188,694	\$ -	\$ 60,697	\$ -	\$ 136,164	\$ 6,050		

