

## AGENDA

### REGULAR JOINT MEETING OF THE OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY

Tuesday, February 23, 2016  
6:30 p.m.  
Oakley City Council Chambers  
3231 Main Street, Oakley, CA

**MISSION STATEMENT:** The City of Oakley exists to build and enhance a quality community and to serve the public in a friendly, efficient, responsive manner.

**VISION STATEMENT:** The City of Oakley will be recognized as a model of civic participation and a vibrant delta community where families live, work, play, shop and visit.

Agendas are posted in Oakley at Oakley City Hall-3231 Main Street, outside the gym at Delta Vista Middle School-4901 Frank Hengel Way and outside the Library at Freedom High School-1050 Neroly Road; agendas are also posted on the City's Internet Website [www.ci.oakley.ca.us](http://www.ci.oakley.ca.us).

A complete packet of information containing staff reports and exhibits related to each item is available for public review prior to an Oakley City Council and/or City Council Acting as the Successor Agency to the Oakley Redevelopment Agency meeting at Oakley City Hall, 3231 Main Street, Oakley, CA 94561. Any writings or documents provided to a majority of the Oakley City Council or Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency regarding any item on this agenda will be made available for public inspection, during regular business hours, at the front counter in the Main Lobby of the Oakley City Hall located at 3231 Main Street, Oakley, CA 94561.

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**(Please keep cell phones/pagers turned off during the meeting.)**

## 1.0 OPENING MATTERS

### ***Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

- 1.1 Call to Order and Roll Call of the Oakley City Council and Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency**
- 1.2 Pledge of Allegiance to the Flag (Maurice Mauricio and Malina Zuniga, Gehringer Elementary School Students)**
- 1.3 Proclamation Recognizing the 2015 Freedom High School Football Team**

## 2.0 PUBLIC COMMENTS

At this time, the public is permitted to address the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency on non-agendized items. PUBLIC COMMENTS ARE LIMITED TO THREE (3) MINUTES. In accordance with State Law, however, no action or discussion may take place on any item not appearing on the posted agenda. The Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency may respond to statements made or questions asked or may request Staff to report back at a future meeting on the matter. The exceptions under which the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency MAY discuss and/or take action on items not appearing on the agenda are contained in Government Code §54954.2(b)(1)(2)(3). Members of the public should submit any Speaker Cards for Public Comments in advance of the Mayor calling for Public Comments.

## 3.0 CONSENT CALENDAR

Consent Calendar items are typically non-controversial in nature and are considered for approval by the Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency with one single action. Members of the audience, Staff or the Oakley City Council/ Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency who would like an item removed from the Consent Calendar for purposes of public input may request the Mayor remove the item. Members of the public should submit any Speaker Cards related to the Consent Calendar in advance of the Consent Calendar being considered.

### ***Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

- 3.1 Approve the Minutes of the Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Meeting held February 9, 2016 (Libby Vreonis, City Clerk)**

#### ***Oakley City Council***

- 3.2 Accept Report Out of Closed Session Memo (William Galstan, Special Counsel)**

- 3.3 Accept Quarterly Investment Report (2<sup>nd</sup> Quarter Fiscal Year 2015-2016)  
(Deborah Sultan, Finance Director)**
- 3.4 Adopt Resolutions Consenting to Inclusion of the City of Oakley Properties in the California Home Finance Authority PACE Programs and Associate Membership in California Home Finance Authority (Ken Strelø, Senior Planner)**
- 3.5 Adopt a Resolution Authorizing Submittal of Application for Payment Programs and Related Authorizations to CalRecycle for the City/County Payment Program (Joshua McMurray, Planning Manager)**
- 3.6 Adopt a Revised Resolution Calling a Special Municipal Election for June 7, 2016, and Authorizing the Submission to the Voters a Ballot Measure Establishing a Library Development Parcel Tax; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Filing Written Arguments (Derek Cole, City Attorney)**
- 3.7 Approve the Purchase of a Ford Interceptor-Utility Vehicle (Jeff Billeci, Lieutenant)**

***Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

- 3.8 Accept Quarterly Investment Report (2<sup>nd</sup> Quarter Fiscal Year 2015-2016)  
(Deborah Sultan, Finance Director)**

**4.0 PUBLIC HEARING**

***Oakley City Council***

- 4.1 Boparai Minor Subdivision 16-976 (Tentative Parcel Map 01-16)  
(Ken Strelø, Senior Planner)**

Staff recommendation:

- Open the Public Hearing
- Receive the Staff Report
- Receive Comments from the Applicant
- Receive Public Testimony
- Close the Public Hearing
- Deliberate
- Summarize the Deliberation
- Adopt the Resolution

## 5.0 REGULAR CALENDAR

### *Oakley City Council*

- 5.1 Waive the Second Reading and Adopt an Ordinance Authorizing the City to Join Marin Clean Energy (Joshua McMurray, Planning Manager)**

## 6.0 REPORTS

### **6.1 CITY MANAGER**

- (a) **City Manager**

### **6.2 OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY**

- (a) **Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Comments**

- (b) **Requests for Future Agendas**

## 7.0 WORK SESSIONS-None

## 8.0 CLOSED SESSIONS

### *Oakley City Council*

### **8.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Government Code Section 54956.8)**

**Property:** 3530 Main Street, APN 037-160-023  
**Agency Negotiator:** Dwayne Dalman, Economic Development Manager  
**Negotiating Party:** Victoria Louise Mann; Julie Ann Favalora  
**Under Negotiation:** Price and terms of payment

### **8.2 Report Out of Closed Session (William Galstan, Special Counsel)**

## 9.0 ADJOURN



## P R O C L A M A T I O N

### *Recognizing the 2015 Freedom High School Football Team*

**WHEREAS**, *Freedom High School is well known for its commitment to produce strong scholar athletes; and*

**WHEREAS**, *the 2015 Freedom High School football team was recently honored for its success off the field; and*

**WHEREAS**, *this recognition relates to the team having the highest grade point average of all Division 1 football teams in the North Coast Section in 2015; and*

**WHEREAS**, *the team's grade point average of 3.3 set a Division 1, all-time record and was second best among all five divisions in the North Coast Section; and*

**WHEREAS**, *the leadership of Principal Kelly Manke, Athletic Director Steve Amaro, and Head Football Coach Kevin Hartwig and all the teachers and staff at Freedom High School have been instrumental in assisting these scholar athletes; and*

**WHEREAS**, *the following are members of the 2015 Freedom High School football team that are very much deserving of recognition for their on and off the field success:*

Zach Aiello	Gio Fauolo	Kevin Lonergan	Ronnie Rivers
Terrell Ballard	Alejandro Fratus	James Looney	Martin Rocha
Darrell Brown	Derek Furr	Daniel Marchut	Jared Rodgers
Jimmy Cartwright	Michael Garcia	Dominic Mather	Joseph Sweeney
Logan Chadd	Eloy Gonzalez	Joseph Mayor	Michael Tapia
Liam Cobbs	Antonio Gutridge	JC Miral	Jason Ternes
Ivan Collaco	Kyle Harmon	Jordan Montoya	Johnny Tyquentico
Baylei Coston	Derrick Huey	Nick Mosqueira	Isaiah Williams
Brandon Coston	Elijah Jackson	Ryan Mucher	Rudy Yanes
Cory Cox	Malon Johnson	Danny Parangan	
Marquise Davis	Ravnik Kler	Andrew Perez	
Dominic Dominguez	Carter Lewis	Santiago Ramirez	

**NOW, THEREFORE, BE IT RESOLVED** *that we, the Mayor and City Council of the City of Oakley, hereby congratulate the 2015 Freedom High School Football Team for having the highest grade point average of all Division 1 football teams in the North Coast Section.*

February 23, 2016

\_\_\_\_\_  
Kevin Romick, Mayor

\_\_\_\_\_  
Sue Higgins, Vice Mayor

\_\_\_\_\_  
Randy Pope, Councilmember

\_\_\_\_\_  
Doug Hardcastle, Councilmember

\_\_\_\_\_  
Vanessa Perry, Councilmember

**Minutes of the Regular Joint Meeting of the Oakley City Council/Oakley City Council acting as the Successor Agency to the Oakley Redevelopment Agency  
February 9, 2016**

**1.0 OPENING MATTERS**

***Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

**1.1 Call to Order and Roll Call of the Oakley City Council, Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency**

Mayor Kevin Romick called the meeting to order at 6:30pm in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. In addition to Mayor Kevin Romick, Vice Mayor Sue Higgins, Councilmembers Randy Pope, Vanessa Perry and Doug Hardcastle were present.

**1.2 Pledge of Allegiance to the Flag (Joshua Gutierrez and Dalley Pence, Gehringer Elementary School Students)**

Joshua Gutierrez and Dalley Pence led the Pledge of Allegiance to the Flag. Mayor Romick thanked them.

**1.3 Proclamations Honoring Eagle Scouts Ethan Dike, Tony Parsons and Chris Scheer, Boy Scouts of America, Troop 152**

Mayor Romick presented the proclamations to Eagle Scouts Ethan Dike, Tony Parsons and Chris Scheer on behalf of the City Council.

**1.4 Update from Ironhouse Sanitary District (Chad Davisson, General Manager)**

General Manager Chad Davisson thanked the City Council and City staff for displaying the days and hours the Ironhouse Sanitary District's (ISD) Residential Fill Station is open. He mentioned the Fill Station opened in June 2015 and has been so successful that ISD has installed a permanent pipeline to provide potable water to the fill station to meet demand. He mentioned ISD is currently developing its two-year budget and plans to increase its marketing and outreach to commercial customers. He discussed benefits (less potable water for non-potable purpose, protect groundwater supply and quality, and protect the Delta) and potential issues (higher cost to developers to use potable water than ground water which could inhibit development) of installing more purple pipe in the City. He added ISD will hold a Spring summit to bring together the cities of Oakley and Brentwood, Contra Costa Water District, Delta Diablo and ISD for further discussion of the matter.

Mayor Romick inquired what the long range plan is for Jersey Island.

Mr. Davisson responded that ISD is completing a financial analysis of Jersey Island to determine what options may be available.

Vice Mayor Higgins inquired if ISD foresees processing potable water as drinking water so ISD would not have to purchase drinking water from Contra Costa Water District.

Mr. Davisson explained that technically it is possible to do; however, at this time it is more effective to use potable water for alternative purposes such as landscaping. He added ISD is a long way away from using it as drinking water.

#### Online Comment Forms

No online comment forms were submitted for Opening Matters.

#### Public Comment Cards

Angela Lowrey commented on item 4.1. She mentioned that she fully supports ISD and she excited that developers are already installing purple pipe as the biggest cost is construction and installation. She requested ISD and the City Council consider a long-term strategy for sustainability and funding through grants, low interest loans and other options that may become available through Senator Feinstein's drought bill to support incorporating recycled water into parks, trees and development in the Oakley community.

### 2.0 PUBLIC COMMENTS

#### Online Comment Forms

No online comment forms were submitted for Public Comments.

#### Public Comment Cards

No public comment cards were submitted for Public Comments.

### 3.0 CONSENT CALENDAR

#### ***Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

**3.1 Approve the Minutes of the Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Meeting held January 26, 2016 (Libby Vreonis, City Clerk)**

#### ***Oakley City Council***

**3.2 Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)**

- 3.3 Adopt a Resolution Awarding the Construction Contract to R & R Construction for the Fiscal Year 2015/2016 Curb, Gutter and Sidewalk Repair and Reconstruction Project-Capital Improvement Project No. 169  
(Kevin Rohani, Public Works Director/City Engineer)**
- 3.4 Adopt a Resolution Approving an Agreement with Pavement Engineering Inc. (PEI) for Design Services Associated with Capital Improvement Project No. 179-Fiscal Year 2016/2017 Street Repair and Resurfacing Project  
(Kevin Rohani, Public Works Director/City Engineer)**
- 3.5 Adopt a Resolution Confirming the Costs for Emergency Abatement at 543 Norcross Lane (Troy Edgell, Code Enforcement Manager)**
- 3.6 Adopt a Resolution to Adopt a Memorandum of Understanding Implementing the Recommendations of the Multi-Jurisdictional Fire Task Force  
(Bryan Montgomery, City Manager)**

***Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency***

- 3.7 Adopt a Resolution Approving the Successor Agency Mid-Year Financial Status Report (Deborah Sultan, Finance Director)**

Online Comment Forms

No online comment forms were submitted for the Consent Calendar.

Public Comment Cards

No public comment cards were submitted for the Consent Calendar.

It was moved by Councilmember Pope and seconded by Councilmember Perry to approve the Consent Calendar. Motion was unanimous and so ordered. (5-0)

4.0 PUBLIC HEARINGS

***Oakley City Council***

- 4.1 Proposed Amendments to the Oakley 2020 General Plan for the Purpose of Complying with Recent Flood Protection Legislation (GP 02-15)  
(Joshua McMurray, Planning Manager)**

Planning Manager Joshua McMurray presented the staff report. He introduced consultant Charlie Knox, Principal with Placeworks, whom provided a presentation to the City Council.



Mr. Knox explained the amendments to the General Plan are consistent with changes in State legislation (AB 5, AB 162, SB 5 and SB 17).

Mayor Romick inquired if the flood zone maps place any existing homes into flood zones where they may be impacted by increased insurance rates.

Mr. Knox confirmed no residential properties have been included into the flood zone map area.

#### Online Comment Forms

No online comment forms were submitted for item 4.1.

#### Public Comment Cards

No public comment cards were submitted for item 4.1.

It was moved by Councilmember Perry and seconded by Vice Mayor Higgins to adopt the resolution. Motion was unanimous and so ordered. (5-0)

#### **4.2 Ordinance Authorizing the City to Join Marin Clean Energy (MCE) (Joshua McMurray, Planning Manager)**

Planning Manager Joshua McMurray presented the staff report. He mentioned Dawn Weisz, CEO of MCE is available for any questions.

Councilmember Perry asked Ms. Weisz to explain how the process works and how bills will look for residents and businesses, how the process works for solar customers, and the amount and duration of PG&E's opt-out fee.

Ms. Weisz explained that MCE will prepare public outreach documents, provide some advertising, and process mailers to inform the public of energy choices available. She mentioned there is no change from a billing perspective for solar customers. She also mentioned that PG&E charges an opt-out fee of up to \$13 per month which diminishes over time, but can take many years.

Councilmember Hardcastle inquired if the City would be opting into MCE or out of MCE by adoption of the ordinance.

Ms. Weisz explained that if the ordinance is adopted, customers would be given the option to opt out of MCE. She added it is structured this way pursuant to State law.

Vice Mayor Higgins inquired if residents and businesses were notified before this meeting that they must opt out if that is their choice.

Mr. McMurray responded that public outreach is scheduled to occur after the ordinance is adopted; however, there is time for public outreach before the ordinance is considered for adoption if the Council prefers.

Councilmember Pope inquired if there is a sunset or time certain when the Power Charge Indifference Adjustment (PCIA) phases out and if PG&E doubled connection with its net metering.

Ms. Weisz explained that there will be a CPUC workshop discussion on March 8 to discuss when the PCIA phases out. She mentioned PG&E's net metering is not something MCE controls.

Mayor Romick asked Ms. Weisz to explain the advantages to MCE as opposed to PG&E. He inquired if there is a noticeable price difference between MCE and PG&E, if the City can provide other options to customers if they become available to encourage fair pricing through competition, what the process is moving forward if the City Council adopts the ordinance, what the process is to opt out of the MCE program and any associated costs, and what options are available if customers don't opt out of MCE in the beginning.

Ms. Weisz explained the advantages to MCE include customers participating in renewable development, transparency is provided as to the source of energy, rates must be set during a public session before approved, rates are set only one time per year, customers have choices, and energy efficient and low-income solar rebate programs, rebates and incentives are offered. She added that MCE rates have been lower than PG&E rates for the past 18 months. She also explained that State legislation does not allow multiple provider options and MCE and cannot have temporary customers if procuring long-term power which is typically for 20-25 years. She indicated that if the ordinance is adopted, next steps would include obtaining load data from PG&E, perform an economic analysis with the load data to ensure Oakley is a good fit for the MCE program, present the analysis to the MCE Board (the City is allowed to designate a representative to the Board), procurement, outreach, submit a plan to the California Public Utilities Commission and enrollment. She explained that customers can call MCE or utilize MCE's website to opt out at any time; however, there is a \$5 fee if residential customers do not opt out in the first 6 months.

City Manager Bryan Montgomery added that the typical resident will not notice a difference on their billing statement and in speaking with colleagues in other cities, every city will likely partner with a company like MCE. He mentioned it is simply a question of when and which company to choose.

Councilmember Perry inquired if \$13 is the exit fee that PG&E will charge for customers who do not opt out of the MCE program and if it is possible that the charge could increase. Ms. Weisz explained that MCE absorbs some of the cost of the PCIA fee and it is possible the fee could increase. She added that the City may wish to consider when to enroll based upon when PG&E rates increase or when the PCIA fee is reduced.

Councilmember Pope inquired if the PCIA fee is calculated at a flat rate.

Ms. Weisz responded that the PCIA fee is based upon how much power is used. She added the rate classes are different with residential having the highest PCIA rate.

#### Online Comment Forms

No online comment forms were submitted for item 4.2.

#### Public Comment Cards

Shirley Darling inquired if the CARE discount offered by PG&E for low-income seniors will still apply.

Ms. Weisz confirmed the CARE rate will still apply.

Angela Lowrey requested more detail as to where the solar energy is derived and if any new energy options are being considered.

Ms. Weisz confirmed the energy is derived from solar, wind, geothermal, biogas, biomass and hydro and that MCE is interested in purchasing compost field stock and other new energy resources.

Jim Moita commented he would like to build a self-storage facility in Oakley and would like to participate as a solar producer. He expressed his hope that the City Council will choose MCE as PG&E's program is a more difficult process.

Councilmember Pope encouraged everyone to review the staff report as it contains a lot of information regarding sample rates of PG&E and MCE. He commented he is in favor of competition and options, likes that it is free to join the MCE program, and if anyone is not in favor of the MCE program, they can opt out.

Vice Mayor Higgins commented she likes competition and choice as well, but she would like to see more choices offered. She expressed concern over penalty fees.

Councilmember Hardcastle expressed support for the program.

Councilmember Perry commented she loves the idea of going green, but has concern that residents are unaware of a decision that could impact them with regard to opt out fees. She expressed that the residents need to be informed.

Mayor Romick commented he is in favor of competition and options and believes that there will be adequate time to educate residents. He expressed support for the program.

It was moved by Councilmember Pope and seconded by Councilmember Hardcastle to waive the first reading and introduce the ordinance and to place the item on the regular calendar for consideration of adoption at the City Council meeting to be held February 23, 2016. AYES: Hardcastle, Perry, Pope, Romick. NOES: Higgins. (4-1)

## 5.0 REGULAR CALENDAR

### ***Oakley City Council***

#### **5.1 Adopt a Resolution Approving an Agreement with Agricultural–Natural Resources Trust for Assistance in Developing Phase 2 of the City of Oakley Agricultural Conservation and Viticulture Program for an Amount not to Exceed \$17,500.00, and Authorizing the City Manager to Execute Said Agreement (Ken Strelo, Senior Planner)**

Senior Planner Ken Strelo presented the staff report. He introduced Liz DiGiorgio of Agricultural–Natural Resources Trust.

Ms. DiGiorgio provided the City Council an overview of Phase I of the project and introduced Phase II concepts for the project which includes an update of the parcel inventory and parcel map, establishing value for clusters such as the O'Hara cluster, identifying available program grants, developing the Walnut Meadows property, exploring a wine tasting co-op, creating revenue with grape waste products, and engaging community involvement in the program.

Councilmember Perry expressed approval of a wine co-op.

Mayor Romick thanked Ms. DiGiorgio. He commented it is important for Oakley to maintain and enrich its agricultural heritage.

#### Online Comment Forms

No online comment forms were submitted for item 5.1.

#### Public Comment Cards

No public comment cards were submitted for item 5.1.

It was moved by Councilmember Pope and seconded by Councilmember Hardcastle to adopt the resolution. Motion was unanimous and so ordered. (5-0)

**5.2 Adopt a Resolution Calling a Special Municipal Election for June 7, 2016, and Authorizing the Submission to the Voters a Ballot Measure establishing a Library Development Parcel Tax; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Filing Written Arguments (Derek Cole, City Attorney)**

Special Counsel William Galstan presented the staff report.

Online Comment Forms

No online comment forms were submitted for item 5.2.

Public Comment Cards

Craig Leighty, representing the Oakley Library and Learning Center Feasibility Committee, thanked the City Council for directing City staff to bring a resolution for the Library ballot measure for consideration this evening. He commented the Committee is prepared, organized and committed to provide public outreach to encourage the measure to pass.

Councilmember Perry commented she is excited about the measure.

It was moved by Councilmember Perry and seconded by Councilmember Higgins to adopt the resolution. Motion was unanimous and so ordered. (5-0)

**5.3 City Mid-Year Budget Review 2015-2016 (Deborah Sultan, Finance Director)**

Finance Director Deborah Sultan presented the staff report.

Mayor Romick thanked her for doing a great job.

Online Comment Forms

No online comment forms were submitted for item 5.3.

Public Comment Cards

No public comment cards were submitted for item 5.3.

It was moved by Councilmember Pope and seconded by Councilmember Perry to adopt the resolution. Motion was unanimous and so ordered. (5-0)

**6.0 REPORTS**

**6.1 CITY MANAGER**

**(a) City Manager**

City Manager Bryan Montgomery congratulated Public Works Director/City Engineer Kevin Rohani and his department for receiving the American Public Works Association 2016 Project of the Year Award for Northern California for the Main Street project. He mentioned Oakley businesses have shown great participation in the "Shop Oakley" coupon book which is a continuation of the "Oakley First" program Mayor Romick helped start the first time he was Mayor. He also mentioned City staff is exploring a system, Peak Democracy, to provide another forum for public input on the City's website for proposed or current items.

## **6.2 OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY**

### **(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Comments**

Vice Mayor Higgins thanked Mayor Romick for a great Mayors Conference. She announced she attended a Brentwood Chamber award event.

Councilmember Pope announced he attended the East Contra Costa Fire Protection District (ECCFPD) Board meeting and the Board discussed billing a patient's insurance company for payment for emergency medical services provided by ECCFPD. He mentioned the next ECCFPD meeting will be held March 7 at Oakley City Hall. He also mentioned the next Habitat Conservancy meeting will be held February 22 at Clayton City Hall.

Councilmember Perry announced she will attend the next Ironhouse Sanitary District meeting February 16 at 7p.m.

### **(b) Requests for Future Agendas**

## 7.0 WORK SESSIONS-None

## 8.0 CLOSED SESSIONS

### *Oakley City Council*

#### **8.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Government Code Section 54956.8)**

<b>Property:</b>	<b>3563-3587 Main Street, APN 035-121-004-2</b>
<b>Agency Negotiator:</b>	<b>Bryan Montgomery, City Manager</b>
<b>Negotiating Party:</b>	<b>Contra Costa County</b>
<b>Under Negotiation:</b>	<b>Price and terms of payment</b>

**8.2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
(Pursuant to Government Code Section 54956.8)**

**Property:** 3530 Main Street, APN 037-160-023  
**Agency Negotiator:** Dwayne Dalman, Economic Development Manager  
**Negotiating Party:** Victoria Louise Mann; Julie Ann Favalora  
**Under Negotiation:** Price and terms of payment

**8.3 CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
(Pursuant to Government Code Section 54956.8)**

**Property:** 305 Fifth Street, APN 035-163-007  
**Agency Negotiator:** Joshua McMurray, Planning Manager  
**Negotiating Party:** Gil Hagar, FSP Properties, LLC  
**Under Negotiation:** Price and terms of payment

**8.4 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION  
(Pursuant to Government Code Section 54956.9(a))**

***Eugene Buchholz et al. v. City of Oakley et al., Contra Costa Superior Court,  
Case No. MSC13-01166***

**8.5 Report Out of Closed Session (William Galstan, Special Counsel)**

Special Counsel William Galstan announced there was no reportable action.

**9.0 ADJOURN**

There being no further business, the meeting was adjourned at 9:45 p.m.

Respectfully Submitted,

Libby Vreonis  
City Clerk



**MEMORANDUM**  
*Office of the City Attorney*

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**Date:** February 10, 2016  
**To:** Mayor and Members of City Council  
**Cc:** Bryan Montgomery, City Manager; William R. Galstan, Special Counsel  
**From:** Derek P. Cole, City Attorney *William R. Galstan*  
**Subject:** Closed Session Report-Out Memo

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**FOR CONSIDERATION AT THE CITY COUNCIL MEETING OF FEBRUARY 23, 2016**

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**Background and Analysis**

The City Council considered three closed session items at its meeting of February 9, 2016, pursuant to California Government Code Sec. 54956.8 for the purpose of real property negotiations regarding properties located at 3563-3587 Main Street, 3530 Main Street and 305 Fifth Street, Oakley, California.

The City Council also considered a closed session item at its meeting of February 9, 2016, pursuant to California Government Code Sec. 54956.9(a) for the purpose of discussing existing litigation.

There was no reportable action on any of the closed session items.

**Fiscal Impact**

None.

**Recommendation**

Receive and file this report.

**Attachments**

None.





## STAFF REPORT

**Date:** February 23, 2015  
**To:** Bryan H. Montgomery, City Manager  
**From:** Deborah Sultan, Finance Director  
**SUBJECT:** City of Oakley Quarterly Investment Report (2nd Quarter FY 2015-2016)

Approved and Forwarded to City Council:

  
Bryan Montgomery, City Manager

### Background and Analysis

California law and the City's Investment Policy require the City's fiscal officer to submit a quarterly investment report to the City Council at the end of each quarter. The report should contain information on all securities held, and include a statement denoting the ability of the local agency to meet its expenditure requirements for the next six months.

### Fiscal Impact

City resources are organized and accounted for on a fund basis with some of those funds being restricted for specified uses and others that are unrestricted. For investment purposes, however, the funds are invested as a pool. The Investment Report for the Period Ending December 31, 2015 attached shows a combined pool balance of \$29,941,025.48. In addition, the pool had combined 2nd Quarter accrued interest earnings of \$18,076.50. Interest for the period continues to reflect the lower rates currently being offered on safe, short-term investments.

The City is in compliance with the adopted investment policy and able to meet its expenditure requirements for the next six months.

### Recommendation

Staff recommends the City Council accept the investment report for the 2nd Quarter of Fiscal Year 2015-2016.

### Attachments

City of Oakley Investment Report for the quarter ended December 31, 2015.



## Quarterly Investment Report

For the Quarter Ended December 31, 2015

Type*	Name of Institution	Rate	Maturity****	Cost Amount	Market Value**
<b>Investments in Wells Fargo Bank Account</b>					
12	Overnight Sweep Investment	0.034%	1/1/2016	\$ 2,173,793.34	\$ 2,173,793.34
<b>Investments with Wells Fargo Investment Advisors:</b>					
9	Institutional Money Market	0.071%	N/A	1,774,175.17	1,774,175.17
<b>Investments with State of California:</b>					
3	Local Agency Investment Fund (LAIF)-City	0.370%	N/A	15,195,161.05	15,182,806.82
<b>Investments with CalTRUST</b>					
11	Short-Term Investment Account-City	0.563%	N/A	9,026,139.43	9,045,403.37
<b>Total Investments Other than Bond Proceeds</b>				<b>28,169,268.99</b>	<b>28,176,178.70</b>
<b>Investments with Wells Fargo Trust (bond proceeds): ***</b>					
<b>2012 Refunding Revenue Bonds</b>					
9	<b>Government Money Market</b> Wells Fargo Advantage Gov MM Svc	0.001%	N/A	120,893.58	120,893.58
4	<b>Certificates of Deposit (3)</b> Discover Bank	1.750%	5/16/12 - 5/16/17	250,000.00	252,435.00
	GE Capital Retail Bank	1.750%	5/18/12 - 5/18/17	250,000.00	252,095.00
	Goldman Sachs Bank USA	1.800%	5/16/12 - 5/16/17	250,000.00	252,265.00
<b>2014 Refunding Revenue Bonds</b>					
9	<b>Government Money Market</b> Wells Fargo Advantage Gov MM Svc	0.001%	N/A	326,132.27	326,132.27
<b>2006 Certificates of Participation</b>					
9	<b>Government Money Market</b> Wells Fargo Advantage Gov MM Svc	0.001%	N/A	574,730.64	574,730.64
<b>Total Investments of Bond Proceeds</b>				<b>1,771,756.49</b>	<b>1,778,551.49</b>
<b>Total All City Investments</b>				<b>\$ 29,941,025.48</b>	<b>\$ 29,954,730.19</b>

**Accrued Interest of Investments other than Bond Proceeds:**

Wells Fargo Investment Advisors	105.49
Local Agency Investment Fund	13,738.73
Caltrust Short-Term Investment Account	4,232.28
Accrued Interest as of 12/31/15	<u>\$ 18,076.50</u>

\* **Type of investment** as described in Authorized Investments section of the City's adopted Investment Policy

- |                                      |                       |                                 |
|--------------------------------------|-----------------------|---------------------------------|
| 1. U.S Government Securities         | 5. Bankers Acceptance | 9. Money market funds           |
| 2. U.S. Government Agency Securities | 6. Commercial Paper   | 10. Repurchase agreements       |
| 3. Local Agency Investment Fund      | 7. Medium term notes  | 11. CalTRUST Short Term Account |
| 4. Certificates of Deposit           | 8. Mutual funds       | 12. Overnight Sweep             |

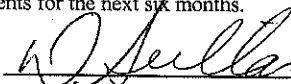
\*\* **Market Valuation** for LAIF was obtained at <http://www.treasurer.ca.gov/pmia-lai/mktvalue/2015/201512.pdf>

Market value for all other investments was obtained from FT Interactive Data. As the City holds its investments to maturity, market value fluctuations are not significant.

\*\*\* **Investment of bond proceeds** is governed by each bond's Trust Agreement. All of the amounts with Wells Fargo Trust are debt service reserve funds. Investment income remains with the individual bond accounts.

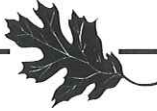
\*\*\*\* With the exception of CD's, all accounts have same day or next day liquidity

The City of Oakley is in compliance with the City's annually adopted investment policy and is able to meet its operating expenditure requirements for the next six months.

  
 Approved by Deborah Sultan  
 Finance Director

  
 Date

# OAKLEY



CALIFORNIA

## STAFF REPORT

Approved and forwarded to City Council

  
Bryan H. Montgomery, City Manager

**Date:** February 23, 2016

**To:** Bryan H. Montgomery, City Manager

**From:** Kenneth W. Strelow, Senior Planner

**SUBJECT:** **Resolutions Consenting to Inclusion of the City of Oakley Properties in the California Home Finance Authority PACE Programs and Associate Membership in California Home Finance Authority**

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### SUMMARY AND BACKGROUND

The Applicant, Ygrene Energy Fund California, LLC (“Ygrene” or “Ygrene Works”) has requested the Oakley City Council adopt two resolutions resulting in inclusion of properties within the City of Oakley into the California Home Finance Authority (“CHF”) Community Facilities District No 2014-1 and the CHF Program to finance renewable energy generation, energy and water efficiency improvements, and electrical vehicle charging infrastructure, and approving associate membership in the joint power authority related thereto.

On November 18, 2014, Oakley City Council adopted three resolutions consenting to inclusion of properties within the City of Oakley into the Figtree (Reso. No. 115-14), CaliforniaFirst (Reso. No. 116-14), and HERO (Reso. No. 117-14) Property Assessed Clean Energy (“PACE”) programs. PACE programs provide property owners options to finance distributed generation renewable energy sources, energy and water efficiency improvements, and electrical vehicles charging stations through private property assessments. The Ygrene Works program would give Oakley residents another PACE funding option.

#### CHF PACE Financing Programs

CHF, which is in the process of formally changing its name to Golden State Finance Authority, is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Act”) and the Joint Power Agreement entered into on July 1, 1993, as amended from time to time (the “Authority JPA”).

CHF has established two PACE financing programs for residential, commercial, industrial and agricultural properties to address high up-front costs for property owners who wish to improve their properties through installation of measures that will generate renewable energy or reduce their energy and water use. By offering low cost financing, CHF's PACE programs allow construction of these projects to proceed and, in the process, stimulate building activity and the overall local economy, reduce peak energy demand, increase property values, and generate savings on utility bills for property owners. CHF contracts with Ygrene Energy Fund CA LLC to serve as the program administrator and to operate the Ygrene Works for California PACE financing program.

### **JPA ASSOCIATE MEMBERSHIP**

To participate in the proposed PACE programs, the City must become an Associate Member of CHF (JPA Agreement attached). Associate membership requires no dues or other costs to the City, but permits participation in all CHF programs including the PACE program. The attached resolutions approve joining the JPA as an Associate Member. Pursuant to the JPA Agreement and CHF Board Resolution 15-01, the Executive Director has the authority to approve the addition of new Associate Members to the JPA.

### **PROGRAM AUTHORIZATION BEING SOUGHT**

CHF sought and has completed the process of validation for both the SB 555 and the AB 811 programs in the Superior Court for the County of Sacramento (summaries of SB 555 and AB 811 are included as attachments). As of August 25, 2015, the CHF SB 555 PACE program is fully operational. Although CHF is implementing only the SB 555 PACE program at this time, CHF chose to form, validate and maintain both the SB 555 and AB 811 programs offerings to ensure that the "Ygrene Works for California" program remains the most innovative, cost effective and most secure PACE program in the state. The other existing PACE programs are approved for and operate only under the AB 811 program.

If market conditions, consumer demand and/or legislative changes affect one PACE program more than another, CHF has the flexibility to offer the program that best supports CHF's vision of service without any interruption to participating counties and cities and their property owners. CHF intends to maximize the benefits of both program offerings.

In support of CHF's approach, the Council is being asked to pass two resolutions that would approve the following actions:

- The first resolution authorizes the City to join the JPA as an Associate Member and permits property owners within the incorporated areas of the City to participate in the CHF SB 555 Community Facilities District (related to SB 555).

- The second resolution authorizes the City to join the JPA as an Associate Member and permits property owners within the incorporated areas of the City to participate in the CHF AB 811 Authority PACE Program (related to AB 811).

Each resolution also authorizes CHF to:

- Accept applications from property owners within the City's incorporated area to finance authorized improvements; and
- Conduct proceedings and levy special taxes or contractual assessments, as applicable, on the property of participating owners.

Cities and counties that have approved the Ygrene Works program to date have adopted both resolutions. Authorizing both programs ensures that no matter the market or legislative environment for PACE, the Ygrene Works program will be established and able to operate successfully in Oakley without the need for additional review or the need for the City Council to consider approving another resolution thereby saving valuable staff time and resources.

## **ANALYSIS**

Joining the Ygrene Works program and adding CHF PACE to the City of Oakley would provide property owners another option in addition to Figtree, CaliforniaFirst, and HERO. Other Contra Costa County jurisdictions that have joined the Ygrene Works program include the cities of Antioch, Brentwood, Concord, Danville, Lafayette, Martinez, and San Ramon.

Following are additional PACE program considerations provided by the applicant:

- Supports development of renewable energy sources, installation of energy and water efficiency improvements, reduction of greenhouse gases, and protection of the environment.
- Only property owners who voluntarily choose to participate in the program will be subject either to assessments or special taxes, depending on which program CHF decides to implement.
- Program financing provides for an affordable method for many property owners to reduce their energy costs and improve their properties.
- Because program financing can be readily transferred upon sale, even owners who are planning to sell have the ability to make responsible and beneficial improvements to their property.

- While early payment premiums may apply in some circumstances, property owners can choose to pay off the program financing at any time.
- The City incurs no financial obligations as a result of program participation.
- Once the Council passes the resolutions, the City will incur no costs, and no staff time is required for administration or funding of the PACE program.

## **RECOMMENDED ACTION**

Staff recommends that the City Council take the following actions:

1. Adopt a resolution consenting to inclusion of properties within the City's Incorporated Area in CHF Community Facilities District No. 2014-1 (Clean Energy) to finance renewable energy generation, energy efficiency, water conservation and electric vehicle charging infrastructure improvements and approving associate membership in CHF (related to SB 555); and
2. Adopt a resolution consenting to inclusion of properties within the City's incorporated area in the CHF PACE program to finance renewable energy generation, energy and water efficiency improvements and electric vehicle charging infrastructure and approving associate membership in CHF (related to AB 811).

## **ATTACHMENTS**

1. Summaries of SB 555 and AB 811 Programs
2. Resolution Consenting to Inclusion of Properties into CHF CFD 2014-1 (SB 555)
3. Resolution Authorizing Program under AB 811
4. California Home Finance Authority Amended and Restated Joint Exercise of Powers Agreement (Exhibit A to both Resolutions)

## Summaries of SB 555 and AB 811 Programs

**SB 555 PACE Community Facilities District:** Senate Bill 555 amended the Mello-Roos Community Facilities Act, set forth in sections 53311 through 53368.3 of the California Government Code and particularly in accordance with sections 53313.5(l) and 53328.1(a) ("Mello-Roos Act"), to allow for the creation of Community Facilities Districts ("CFDs") for the purpose of financing or refinancing the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements permanently affixed to private or publicly-owned real property.

Individual properties can be annexed into the district and be subject to the special tax that is imposed to repay project financing only if (i) the Council adopts a resolution consenting to the inclusion of parcels in the incorporated areas of the City within the CFD and (ii) each participating owner provides its unanimous written approval for annexation of its property into the PACE CFD.

**AB 811 PACE Contractual Assessment Program:** By the passage of Assembly Bill 811, the California State Legislature added Chapter 29 to the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code. This legislation authorized cities and counties to establish voluntary contractual assessment programs for the purpose financing private property improvements that promote renewable energy generation, energy and water efficiency and electric vehicle charging infrastructure.

As with the SB 555 CFD, properties can be annexed into the AB 811 PACE program and be subject to the property tax assessment that is imposed to repay project financing only if (i) the Council adopts a resolution consenting to the inclusion of parcels in the incorporated areas of the City within the program and (ii) each participating owner consents in writing to the annexation of its property into the PACE program.

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OAKLEY CONSENTING TO INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE CALIFORNIA HOME FINANCE AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 2014-1 (CLEAN ENERGY) TO FINANCE RENEWABLE ENERGY IMPROVEMENTS, ENERGY EFFICIENCY AND WATER CONSERVATION IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING ASSOCIATE MEMBERSHIP IN THE JOINT EXERCISE OF POWERS AUTHORITY RELATED THERETO**

Recitals

**WHEREAS**, the California Home Finance Authority, a California joint powers authority, (the "Authority") has established the Community Facilities District No. 2014-1(Clean Energy) in accordance with the Mello-Roos Community Facilities Act, set forth in sections 53311 through 53368.3 of the California Government Code (the "Act") and particularly in accordance with sections 53313.5(l) and 53328.1(a) (the "District"); and

**WHEREAS**, the purpose of the District is to finance or refinance (including the payment of interest) the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements permanently affixed to private or publicly-owned real property (the "Authorized Improvements"); and

**WHEREAS**, the Authority is in the process of amending the Authority Joint Powers Agreement (the "Authority JPA") to formally change its name to the Golden State Finance Authority; and

**WHEREAS**, the City of Oakley is committed to development of renewable energy generation and energy efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

**WHEREAS**, in the Act, the Legislature has authorized a parcel within the territory of the District to annex to the District and be subject to the special tax levy of the District only (i) if the city or county within which the parcel is located has consented, by the adoption of a resolution by the applicable city council or county board of supervisors, to the inclusion of parcels within its boundaries in the District and (ii) with the unanimous written approval of the owner or owners of the parcel when it is annexed (the "Unanimous Approval Agreement"), which, as provided in section 53329.6 of the Act, shall constitute the election required by the California Constitution; and

**WHEREAS**, the City wishes to provide innovative solutions to its property owners to achieve energy efficiency and water conservation and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such Authorized Improvements; and



**WHEREAS**, the Authority has established the District, as permitted by the Act, the Authority JPA, originally made and entered into July 1, 1993, as amended to date, and the City, desires to become an Associate Member of the JPA by execution of the JPA Agreement, a copy of which is attached as Exhibit "A" hereto, to participate in the programs of the JPA and, to assist property owners within the incorporated area of the City in financing the cost of installing Authorized Improvements; and

**WHEREAS**, the City will not be responsible for the conduct of any special tax proceedings; the levy and collection of special taxes or any required remedial action in the case of delinquencies in the payment of any special taxes in connection with the District.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the Authority CFD No. 2014-1 (Clean Energy) to finance the installation of the Authorized Improvements.

2. This City Council consents to inclusion in the Authority CFD No. 2014-1 (Clean Energy) of all of the properties in the incorporated area within the City and to the Authorized Improvements, upon the request of and execution of the Unanimous Approval Agreement by the owners of such properties when such properties are annexed, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.

3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the Authority CFD No. 2014-1 (Clean Energy) and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Authorized Improvements.

4. This City Council hereby approves joining the JPA as an Associate Member and authorizes the execution by appropriate City officials of any necessary documents to effectuate such membership.

5. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the Authority CFD No. 2014-1 (Clean Energy) within the City, and report back periodically to this City Council on the success of such program.

6. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the February 23, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CONSENTING TO INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE CALIFORNIA HOME FINANCE AUTHORITY, PROGRAM TO FINANCE RENEWABLE ENERGY GENERATION, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING ASSOCIATE MEMBERSHIP IN THE JOINT EXERCISE OF POWERS AUTHORITY RELATED THERETO**

Recitals

**WHEREAS**, the California Home Finance Authority ("Authority") is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Act") and the Joint Power Agreement entered into on July 1, 1993, as amended from time to time (the "Authority JPA"); and

**WHEREAS**, the Authority is in the process of amending the Authority JPA to formally change its name to the Golden State Finance Authority; and

**WHEREAS**, Authority has established a property-assessed clean energy ("PACE") Program (the "Authority PACE Program") to provide for the financing of renewable energy generation, energy and water efficiency improvements and electric vehicle charging infrastructure (the "Improvements") pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code ("Chapter 29") within counties and cities throughout the State of California that elect to participate in such program; and

**WHEREAS**, City of Oakley (the "City") is committed to development of renewable energy generation and energy and water efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

**WHEREAS**, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

**WHEREAS**, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the Authority PACE Program would promote the purposes cited above; and

**WHEREAS**, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency, and in doing so cooperate with Authority in order to efficiently and economically assist property owners within the City in financing such Improvements; and

**WHEREAS**, Authority has established the Authority PACE Program, which is such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into July 1, 1993, as amended to date, and the City, desires to become an Associate Member of the JPA by execution of the JPA Agreement, a copy of which is attached as Exhibit "A" hereto, to participate in the programs of the JPA and to assist property owners within the jurisdiction of the City in financing the cost of installing Improvements; and

**WHEREAS**, the City will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the Authority PACE Program.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the Authority PACE Program to finance the installation of the Improvements.

2. This City Council consents to inclusion in the Authority PACE Program of all of the properties in the jurisdictional boundaries of the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.

3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the Authority PACE Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent such contractual assessments.

4. This City Council hereby approves joining the JPA as an Associate Member and authorizes the execution by appropriate City officials of any necessary documents to effectuate such membership.

5. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the Authority PACE Program within the City, and report back periodically to this City Council on the success of such program.

6. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the February 23, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

**CALIFORNIA HOME FINANCE AUTHORITY**

**AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT**

(Original date July 1, 1993 and as last amended and restated December 10, 2014)

THIS AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT ("Agreement") is entered into by and among the counties listed on Attachment 1 hereof and incorporated herein by reference. All such counties are referred to herein as "Members" with the respective powers, privileges and restrictions provided herein.

**RECITALS**

A. WHEREAS, the California Rural Home Mortgage Finance Authority ("CRHMFA") was created by a Joint Exercise of Powers Agreement dated July 1, 1993 pursuant to the Joint Exercise of Powers Act (commencing with Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"). By Resolution 2003-02, adopted on January 15, 2003, the name of the authority was changed to CRHMFA Homebuyers Fund. The most recent amendment to the Joint Exercise of Powers Agreement was on January 28, 2004.

B. WHEREAS, the Members of CRHMFA Homebuyers Fund desire to update, reaffirm, clarify and revise certain provisions of the joint powers agreement, including the renaming of the joint powers authority, as set forth herein.

C. WHEREAS, the Members are each empowered by law to finance the construction, acquisition, improvement and rehabilitation of real property.

D. WHEREAS, by this Agreement, the Members desire to create and establish a joint powers authority to exercise their respective powers for the purpose of financing the construction, acquisition, improvement and rehabilitation of real property within the jurisdiction of the Authority as authorized by the Act.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Members individually and collectively agree as follows:

**1. Definitions**

Unless the context otherwise requires, the following terms shall for purposes of this Agreement have the meanings specified below:

"Act" means the Joint Exercise of Powers Act, commencing with Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, including the Marks-Roos Local Bond Pooling Act of 1985, as amended.

"Agreement" means this Joint Exercise of Powers Agreement, as the same now exists or as it may from time to time be amended as provided herein.

**"Associate Member"** means a county, city or other public agency which is not a voting member of the Rural County Representatives of California, a California nonprofit corporation ("RCRC"), with legal power and authority similar to that of the Members, admitted pursuant to paragraph 4.d. below to associate membership herein by vote of the Board.

**"Audit Committee"** means a committee made up of the nine-member Executive Committee.

**"Authority"** means California Home Finance Authority ("CHF"), formerly known as CRHMFA Homebuyers Fund or California Rural Home Mortgage Finance Authority.

**"Board"** means the governing board of the Authority as described in Section 7 below.

**"Bonds"** means bonds, notes, warrants, leases, certificates of participation, installment purchase agreements, loan agreements and other securities or obligations issued by the Authority, or financing agreements entered into by the Authority pursuant to the Act and any other obligation within the meaning of the term "Bonds" under the Act.

**"Delegate"** means the Supervisor designated by the governing board of each Member to serve on the Board of the Authority.

**"Executive Committee"** means the nine-member Executive Committee of the Board established pursuant to Section 10 hereof.

**"Member"** means any county which is a member of RCRC, has executed this Agreement and has become a member of the Authority.

**"Obligations"** means bonds, notes, warrants, leases, certificates of participation, installment purchase agreements, loan agreements and other securities or obligations issued by the Authority, or financing agreements entered into by the Authority pursuant to the Act and any other financial or legal obligation of the Authority under the Act.

**"Program" or "Project"** means any work, improvement, program, project or service undertaken by the Authority.

**"Rural County Representatives of California" or "RCRC"** means the nonprofit entity incorporated under that name in the State of California.

**"Supervisor"** means an elected County Supervisor from an RCRC member county.

## 2. Purpose

The purpose of the Authority is to provide financing for the acquisition, construction, , improvement and rehabilitation of real property in accordance with applicable provisions of law for the benefit of residents and communities. In pursuit of this purpose, this Agreement provides for the joint exercise of powers common to any of its Members and Associate Members as provided herein, or otherwise authorized by the Act and other applicable laws, including assisting

in financing as authorized herein, jointly exercised in the manner set forth herein.

**3. Principal Place of Business**

The principal office of the Authority shall be 1215 K Street, Suite 1650, Sacramento, California 95814.

**4. Creation of Authority; Addition of Members or Associate Members**

a. The Authority is hereby created pursuant to the Act. As provided in the Act, the Authority shall be a public entity separate and distinct from the Members or Associate Members.

b. The Authority will cause a notice of this Agreement or any amendment hereto to be prepared and filed with the office of the Secretary of State of California in a timely fashion in the manner set forth in Section 6503.3 of the Act.

c. A county that is a member of RCRC may petition to become a member of the Authority by submitting to the Board a resolution or evidence of other formal action taken by its governing body adopting this Agreement. The Board shall review the petition for membership and shall vote to approve or disapprove the petition. If the petition is approved by a majority of the Board, such county shall immediately become a Member of the Authority.

d. An Associate Member may be added to the Authority upon the affirmative approval of its respective governing board and pursuant to action by the Authority Board upon such terms and conditions, and with such rights, privileges and responsibilities, as may be established from time to time by the Board. Such terms and conditions, and rights, privileges and responsibilities may vary among the Associate Members. Associate Members shall be entitled to participate in one or more programs of the Authority as determined by the Board, but shall not be voting members of the Board. The Executive Director of the Authority shall enforce the terms and conditions for prospective Associate Members to the Authority as provided by resolution of the Board and as amended from time to time by the Board. Changes in the terms and conditions for Associate Membership by the Board will not constitute an amendment of this Agreement.

**5. Term and Termination of Powers**

This Agreement shall become effective from the date hereof until the earlier of the time when all Bonds and any interest thereon shall have been paid in full, or provision for such payment shall have been made, or when the Authority shall no longer own or hold any interest in a public capital improvement or program. The Authority shall continue to exercise the powers herein conferred upon it until termination of this Agreement, except that if any Bonds are issued and delivered, in no event shall the exercise of the powers herein granted be terminated until all Bonds so issued and delivered and the interest thereon shall have been paid or provision for such payment shall have been made and any other debt incurred with respect to any other financing program established or administered by the Authority has been repaid in full and is no longer outstanding.

**6. Powers; Restriction upon Exercise**



a. To effectuate its purpose, the Authority shall have the power to exercise any and all powers of the Members or of a joint powers authority under the Act and other applicable provisions of law, subject, however, to the conditions and restrictions herein contained. Each Member or Associate Member may also separately exercise any and all such powers. The powers of the Authority are limited to those of a general law county.

b. The Authority may adopt, from time to time, such resolutions, guidelines, rules and regulations for the conduct of its meetings and the activities of the Authority as it deems necessary or desirable to accomplish its purpose.

c. The Authority shall have the power to finance the construction, acquisition, improvement and rehabilitation of real property, including the power to purchase, with the amounts received or to be received by it pursuant to a bond purchase agreement, bonds issued by any of its Members or Associate Members and other local agencies at public or negotiated sale, for the purpose set forth herein and in accordance with the Act. All or any part of such bonds so purchased may be held by the Authority or resold to public or private purchasers at public or negotiated sale. The Authority shall set any other terms and conditions of any purchase or sale contemplated herein as it deems necessary or convenient and in furtherance of the Act. The Authority may issue or cause to be issued Bonds or other indebtedness, and pledge any of its property or revenues as security to the extent permitted by resolution of the Board under any applicable provision of law. The Authority may issue Bonds in accordance with the Act in order to raise funds necessary to effectuate its purpose hereunder and may enter into agreements to secure such Bonds. The Authority may issue other forms of indebtedness authorized by the Act, and to secure such debt, to further such purpose. The Authority may utilize other forms of capital, including, but not limited to, the Authority's internal resources, capital markets and other forms of private capital investment authorized by the Act.

d. The Authority is hereby authorized to do all acts necessary for the exercise of its powers, including, but not limited to:

- (1) executing contracts,
- (2) employing agents, consultants and employees,
- (3) acquiring, constructing or providing for maintenance and operation of any building, work or improvement,
- (4) acquiring, holding or disposing of real or personal property wherever located, including property subject to mortgage,
- (5) incurring debts, liabilities or obligations,
- (6) receiving gifts, contributions and donations of property, funds, services and any other forms of assistance from persons, firms, corporations or governmental entities,
- (7) suing and being sued in its own name, and litigating or settling any suits or claims,
- (8) doing any and all things necessary or convenient to the exercise of its specific powers and to accomplishing its purpose
- (9) establishing and/or administering districts to finance and refinance the acquisition, installation and improvement of energy efficiency, water

conservation and renewable energy improvements to or on real property and in buildings. The Authority may enter into one or more agreements, including without limitation, participation agreements and implementation agreements to implement such programs.

e. Subject to the applicable provisions of any indenture or resolution providing for the investment of monies held thereunder, the Authority shall have the power to invest any of its funds as the Board deems advisable, in the same manner and upon the same conditions as local agencies pursuant to Section 53601 of the Government Code of the State of California.

f. All property, equipment, supplies, funds and records of the Authority shall be owned by the Authority, except as may be provided otherwise herein or by resolution of the Board.

g. Pursuant to the provisions of Section 6508.1 of the Act, the debts, liabilities and obligations of the Authority shall not be debts, liabilities and obligations of the Members or Associate Members. Any Bonds, together with any interest and premium thereon, shall not constitute debts, liabilities or obligations of any Member. The Members or Associate Members hereby agree that any such Bonds issued by the Authority shall not constitute general obligations of the Authority but shall be payable solely from the moneys pledged to the repayment of principal or interest on such Bonds under the terms of the resolution, indenture, trust, agreement or other instrument pursuant to which such Bonds are issued. Neither the Members or Associate Members nor the Authority shall be obligated to pay the principal of or premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Members or Associate Members or the Authority shall be pledged to the payment of the principal of or premium, if any, or interest on the Bonds, nor shall the Members or Associate Members of the Authority be obligated in any manner to make any appropriation for such payment. No covenant or agreement contained in any Bond shall be deemed to be a covenant or agreement of any Delegate, or any officer, agent or employee of the Authority in an individual capacity, and neither the Board nor any officer thereof executing the Bonds or any document related thereto shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

## **7. Governing Board**

a. The Board shall consist of the number of Delegates equal to one representative from each Member.

b. The governing body of each Member shall appoint one of its Supervisors to serve as a Delegate on the Board. A Member's appointment of its Delegate shall be delivered in writing (which may be by electronic mail) to the Authority and shall be effective until he or she is replaced by such governing body or no longer a Supervisor; any vacancy shall be filled by the governing body of the Member in the same manner provided in this paragraph b..

c. The governing body of each Member of the Board shall appoint a Supervisor as an alternate to serve on the Board in the absence of the Delegate; the alternate may exercise all the

rights and privileges of the Delegate, including the right to be counted in constituting a quorum, to participate in the proceedings of the Board, and to vote upon any and all matters. No alternate may have more than one vote at any meeting of the Board, and any Member's designation of an alternate shall be delivered in writing (which may be by electronic mail) to the Authority and shall be effective until such alternate is replaced by his or her governing body or is no longer a Supervisor, unless otherwise specified in such appointment. Any vacancy shall be filled by the governing body of the Member in the same manner provided in this paragraph c..

d. Any person who is not a member of the governing body of a Member and who attends a meeting on behalf of such Member may not vote or be counted toward a quorum but may, at the discretion of the Chair, participate in open meetings he or she attends.

e. Each Associate Member may designate a non-voting representative to the Board who may not be counted toward a quorum but who may attend open meetings, propose agenda items and otherwise participate in Board Meetings.

f. Delegates shall not receive compensation for serving as Delegates, but may claim and receive reimbursement for expenses actually incurred in connection with such service pursuant to rules approved by the Board and subject to the availability of funds.

g. The Board shall have the power, by resolution, to the extent permitted by the Act or any other applicable law, to exercise any powers of the Authority and to delegate any of its functions to the Executive Committee or one or more Delegates, officers or agents of the Authority, and to cause any authorized Delegate, officer or agent to take any actions and execute any documents for and in the name and on behalf of the Board or the Authority.

h. The Board may establish such committees as it deems necessary for any lawful purpose; such committees are advisory only and may not act or purport to act on behalf of the Board or the Authority.

i. The Board shall develop, or cause to be developed, and review, modify as necessary, and adopt each Program.

## **8. Meetings of the Board**

a. The Board shall meet at least once annually, but may meet more frequently upon call of any officer or as provided by resolution of the Board.

b. Meetings of the Board shall be called, noticed, held and conducted pursuant to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part I of Division 2 of Title 5 of the Government Code of the State of California.

c. The Secretary of the Authority shall cause minutes of all meetings of the Board to be taken and distributed to each Member as soon as possible after each meeting.

d. The lesser of twelve (12) Delegates or a majority of the number of current Delegates shall constitute a quorum for transacting business at any meeting of the Board, except

that less than a quorum may act to adjourn a meeting. Each Delegate shall have one vote.

e. Meetings may be held at any location designated in notice properly given for a meeting and may be conducted by telephonic or similar means in any manner otherwise allowed by law.

## 9. Officers; Duties; Official Bonds

a. The Board shall elect a chair and vice chair from among the Delegates at the Board's annual meeting who shall serve a term of one (1) year or until their respective successor is elected. The chair shall conduct the meetings of the Board and perform such other duties as may be specified by resolution of the Board. The vice chair shall perform such duties in the absence or in the event of the unavailability of the chair.

b. The Board shall contract annually with RCRC to administer the Agreement and to provide administrative services to the Authority, and the President and Chief Executive Officer of RCRC shall serve *ex officio* as Executive Director, Secretary, Treasurer, and Auditor of the Authority. As chief executive of the Authority, the Executive Director is authorized to execute contracts and other obligations of the Authority, unless prior Board approval is required by a third party, by law or by Board specification, and to perform other duties specified by the Board. The Executive Director may appoint such other officers as may be required for the orderly conduct of the Authority's business and affairs who shall serve at the pleasure of the Executive Director. Subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent, the Executive Director, as Treasurer, is designated as the custodian of the Authority's funds, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Act. The Executive Director, as Auditor, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Act.

c. The Legislative Advocate for the Authority shall be the Rural County Representatives of California.

d. The Treasurer and Auditor are public officers who have charge of, handle, or have access to all property of the Authority, and a bond for such officer in the amount of at least one hundred thousand dollars (\$100,000.00) shall be obtained at the expense of the Authority and filed with the Executive Director. Such bond may secure the faithful performance of such officer's duties with respect to another public office if such bond in at least the same amount specifically mentions the office of the Authority as required herein. The Treasurer and Auditor shall cause periodic independent audits to be made of the Authority's books by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act.

e. The business of the Authority shall be conducted under the supervision of the Executive Director by RCRC personnel.

## 10. Executive Committee of the Authority

a. Composition

The Authority shall appoint nine (9) members of its Board to serve on an Executive Committee.

b. Powers and Limitations

The Executive Committee shall act in an advisory capacity and make recommendations to the Authority Board. Duties will include, but not be limited to, review of the quarterly and annual budgets, service as the Audit Committee for the Authority, periodically review this Agreement; and complete any other tasks as may be assigned by the Board. The Executive Committee shall be subject to all limitations imposed by this Agreement, other applicable law, and resolutions of the Board.

c. Quorum

A majority of the Executive Committee shall constitute a quorum for transacting business of the Executive Committee.

**11. Disposition of Assets**

Upon termination of this Agreement, all remaining assets and liabilities of the Authority shall be distributed to the respective Members in such manner as shall be determined by the Board and in accordance with the law.

**12. Agreement Not Exclusive; Operation in Jurisdiction of Member**

This Agreement shall not be exclusive, and each Member expressly reserves its rights to carry out other public capital improvements and programs as provided for by law and to issue other obligations for those purposes. This Agreement shall not be deemed to amend or alter the terms of other agreements among the Members or Associate Members.

**13. Conflict of Interest Code**

The Authority shall by resolution adopt a Conflict of Interest Code as required by law.

**14. Contributions and Advances**

Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by any Member, Associate Member or any other public agency to further the purpose of this Agreement. Payment of public funds may be made to defray the cost of any contribution. Any advance may be made subject to repayment, and in that case shall be repaid in the manner agreed upon by the advancing Member, Associate Member or other public agency and the Authority at the time of making the advance.

**15. Fiscal Year; Accounts; Reports; Annual Budget; Administrative Expenses**

a. The fiscal year of the Authority shall be the period from January 1 of each year to and including the following December 31, except for any partial fiscal year resulting from a change

in accounting based on a different fiscal year previously.

b. Prior to the beginning of each fiscal year, the Board shall adopt a budget for the succeeding fiscal year.

c. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles. The books and records of the Authority are public records and shall be open to inspection at all reasonable times by each Member and its representatives.

d. The Auditor shall either make, or contract with a certified public accountant or public accountant to make, an annual audit of the accounts and records of the Authority. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California, and shall conform to generally accepted auditing standards. When an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member (and also with the auditor of Sacramento County as the county in which the Authority's office is located) within 12 months after the end of the fiscal year.

e. In any year in which the annual budget of the Authority does not exceed five thousand dollars (\$5,000.00), the Board may, upon unanimous approval of the Board, replace the annual audit with an ensuing one-year period, but in no event for a period longer than two fiscal years.

#### **16. Duties of Members or Associate Members; Breach**

If any Member or Associate Member shall default in performing any covenant contained herein, such default shall not excuse that Member or Associate Member from fulfilling its other obligations hereunder, and such defaulting Member or Associate Member shall remain liable for the performance of all covenants hereof. Each Member or Associate Member hereby declares that this Agreement is entered into for the benefit of the Authority created hereby, and each Member or Associate Member hereby grants to the Authority the right to enforce, by whatever lawful means the Authority deems appropriate, all of the obligations of each of the parties hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative, and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

#### **17. Indemnification**

To the full extent permitted by law, the Board may authorize indemnification by the Authority of any person who is or was a Board Delegate, alternate, officer, consultant, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Delegate, alternate, officer, consultant, employee or other agent of the Authority. Such indemnification may be made against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal

proceeding, had no reasonable cause to believe his or her conduct was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

#### **18. Immunities**

All of the privileges and immunities from liabilities, exemptions from law, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any of the Members or Associate Members when performing their respective functions, shall apply to them to the same degree and extent while engaged as Delegates or otherwise as an officer, agent or other representative of the Authority or while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

#### **19. Amendment**

This Agreement may be amended by the adoption of the amendment by the governing bodies of a majority of the Members. The amendment shall become effective on the first day of the month following the last required member agency approval. An amendment may be initiated by the Board, upon approval by a majority of the Board. Any proposed amendment, including the text of the proposed change, shall be given by the Board to each Member's Delegate for presentation and action by each Member's board within 60 days, which time may be extended by the Board.

The list of Members, Attachment 1, may be updated to reflect new and/or withdrawn Members without requiring formal amendment of the Agreement by the Authority Board of Directors.

#### **20. Withdrawal of Member or Associate Member**

If a Member withdraws as member of RCRC, its membership in the Authority shall automatically terminate. A Member or Associate Member may withdraw from this Agreement upon written notice to the Board; provided however, that no such withdrawal shall result in the dissolution of the Authority as long as any Bonds or other obligations of the Authority remain outstanding. Any such withdrawal shall become effective thirty (30) days after a resolution adopted by the Member's governing body which authorizes withdrawal is received by the Authority. Notwithstanding the foregoing, any termination of membership or withdrawal from the Authority shall not operate to relieve any terminated or withdrawing Member or Associate Member from Obligations incurred by such terminated or withdrawing Member or Associate Member prior to the time of its termination or withdrawal.

#### **20. Miscellaneous**

a. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

b. **Construction.** The section headings herein are for convenience only and are not to

be construed as modifying or governing the language in the section referred to.

c. **Approvals.** Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

d. **Jurisdiction; Venue.** This Agreement is made in the State of California, under the Constitution and laws of such State and is to be so construed; any action to enforce or interpret its terms shall be brought in Sacramento County, California.

e. **Integration.** This Agreement is the complete and exclusive statement of the agreement among the parties hereto, and it supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the parties relating to the subject matter of this Agreement.

f. **Successors; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the Board.

g. **Severability.** Should any part, term or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

The parties hereto have caused this Agreement to be executed and attested by their properly authorized officers.

AS ADOPTED BY THE MEMBERS:

Originally dated July 1, 1993  
Amended and restated December 10, 1998  
Amended and restated February 18, 1999  
Amended and restated September 18, 2002  
Amended and restated January 28, 2004  
Amended and restated December 10, 2014

[SIGNATURES ON FOLLOWING PAGES]



SIGNATURE PAGE FOR NEW ASSOCIATE MEMBERS

NAME OF COUNTY OR CITY:

\_\_\_\_\_

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

By \_\_\_\_\_  
[Clerk of the Board Supervisors or City Clerk]

**AFTER EXECUTION, PLEASE SEND TO:**

YGRENE ENERGY FUND  
ATTN: LEGAL DEPARTMENT  
815 5<sup>TH</sup> STREET  
SANTA ROSA CA 95404

**ATTACHMENT 1**  
**CALIFORNIA HOME FINANCE AUTHORITY MEMBERS**

As of December 10, 2014


Alpine County  
Amador County  
Butte County  
Calaveras County  
Colusa County  
Del Norte County  
El Dorado County  
Glenn County  
Humboldt County  
Imperial County  
Inyo County  
Lake County  
Lassen County  
Madera County  
Mariposa County  
Mendocino County  
Merced County  
Modoc County  
Mono County  
Napa County  
Nevada County  
Placer County  
Plumas County  
San Benito County  
Shasta County  
Sierra County  
Siskiyou County  
Sutter County  
Tehama County  
Trinity County  
Tuolumne County  
Yolo County  
Yuba County



## STAFF REPORT

**Date:** February 23, 2016  
**To:** Bryan Montgomery, City Manager  
**From:** Joshua McMurray, Planning Manager  
**Subject:** **Adopt a Resolution Authorizing Submittal of Application for Payment Programs and Related Authorizations to CalRecycle for the City/County Payment Program**

Approved and Forwarded to City Council:

  
Bryan Montgomery, City Manager

### Summary

This item is related to the City/County Payment Program authorized by CalRecycle. The City/County Payment Program is a funding source for the City to apply for funds that can be used for beverage container recycling and litter reduction. In the past the City has bought recycling containers for parks and City facilities as well as sponsor litter clean up events. Recent changes in CalRecycle policies require a separate resolution authorizing a designated person from the City to submit documents to CalRecycle in regards to this program. The attached Resolution authorizes the City Manager, or his designee, to submit applications and related authorizations to CalRecycle. Do to the annual nature of City/County Payment Program; CalRecycle does not require an expiration date on the resolution.

### Recommendation

Staff recommends the City Council adopt the Resolution authorizing the City Manager to submit applications and related authorizations on behalf of the City to CalRecycle.

### Attachments

1. Proposed Resolution

**CITY OF OAKLEY**

**RESOLUTION NO. XX-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING  
SUBMITTAL OF APPLICATION FOR PAYMENT PROGRAMS AND RELATED  
AUTHORIZATIONSTO CALRECYCLE FOR THE CITY/COUNTY PAYMENT  
PROGRAM**

**WHEREAS**, pursuant to Public Resources Code sections 48000 et seq., 14581, and 42023.1(g). the Department of Resources Recycling and Recovery (CalRecycle) has established various payment programs to make payments to qualifying jurisdictions; and

**WHEREAS**, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the payment programs; and

**WHEREAS**, CalRecycle's procedures for administering payment programs require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the payment program.

**NOW, THEREFORE, BE IT RESOLVED** that CITY OF OAKLEY CITY MANAGER or his designee is authorized to submit an application to CalRecycle for any and all payment programs offered; and

**BE IT FURTHER RESOLVED** that the CITY OF OAKLEY CITY MANAGER his designee, is hereby authorized as Signature Authority to execute all documents necessary to implement and secure payment; and

**BE IT FURTHER RESOLVED** that this authorization is effective until rescinded by the Signature Authority or this governing body.

**PASSED AND ADOPTED** by the City Council of the City of Oakley, California, this 23<sup>rd</sup> day of February 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Kevin Romick, Mayor                           Date

ATTEST:

Nancy Ortenblad, City Clerk

# OAKLEY



CALIFORNIA

Agenda Date: 02/23/2016  
Agenda Item: 3.6

## STAFF REPORT

**Date:** February 16, 2016  
**To:** Mayor and Members of City Council  
**From:** Derek P. Cole, City Attorney  
**Cc:** Bryan H. Montgomery, City Manager; William R. Galstan, Special Counsel  
**Subject:** Adopt a Revised Resolution Calling a Special Municipal Election for June 7, 2016, and Authorizing the Submission to the Voters a Ballot Measure establishing a Library Development Parcel Tax; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Filing Written Arguments

### FOR CONSIDERATION AT THE CITY COUNCIL MEETING ON FEBRUARY 23, 2016

At the previous City Council meeting held February 9, 2016, the Council approved Resolution 19-16, calling for an election on a special tax to fund the construction and operation of a new downtown library. Since this adoption, our office has reviewed recent legislation—AB 809, adopted in the previous legislative session—which may affect the language that must be used to describe the ballot language of this measure.

AB 809 states that for any “ordinance” calling for approval of a special tax, the ballot language must state two things:

- The phrase “shall the ordinance (stating the nature thereof) be adopted” must be used, requiring the use of the (weaker) passive voice to identify the measure (Elec. Code, § 13119(a)); and
- The ballot language must identify the amount of money to be raised from the measure annually in addition to stating the rate and duration of the proposed special tax. (Elec. Code, § 13119(b).)

Unfortunately, the statutes governing special-tax measures are jumbled and confusing, as they are scattered throughout several different codes and chapters within codes, and they are not consistently drafted. The City Attorney, for instance, has usually treated special tax measures as resolutions whenever he has drafted these for other agencies. However, the codes, including the one mentioned above, also recognize that special taxes may be adopted as ordinances.

# OAKLEY



CALIFORNIA

Although the code above does not by its terms apply to “resolutions” adopting special taxes, our office believes it is advisable to assume that the Legislature intended to include special tax measures adopted by resolution as also subject to the new ballot-language requirements. To be on the safe side, we accordingly request that the Council adopt a new resolution (which will supersede the resolution adopted at the previous meeting) that contains the following ballot language (with the principal changes shown in underline and bold text):

*“To replace the small, outdated Oakley Library currently utilizing a portion of Freedom High School and construct and operate a new Library and Community Learning Center downtown, **shall the ordinance** establishing a \$7.75 per month per parcel Library Development Tax **be adopted, raising approximately \$1.1 million annually**, for 30 years starting fiscal year 2016/17, with independent financial audits ensuring funds are spent only on the Oakley Library and Community Learning Center?”*

If the Council adopts the above language, the remainder of the ballot resolution will remain unchanged. The County Elections Office has set a deadline of March 11 for receipt of initiative measures, so the revised resolution will need to be adopted prior to that date to ensure the City can properly transmit it by the upcoming deadline.

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
AUTHORIZING THE IMPOSITION OF A SPECIAL TAX ON PARCELS OF  
PROPERTY TO FINANCE THE CONSTRUCTION AND FURNISHING OF A  
DOWNTOWN LIBRARY AND CALLING FOR AN ELECTION THEREON**

**WHEREAS**, in 1999, Oakley's Community Library moved to Freedom High School with the expectation that this move would be a temporary one;

**WHEREAS**, nearly 17 years later, the Library continues to be located at Freedom High School, and because limitations due to this location, is unable to provide the desired levels of collection, technology, space, parking, and visibility;

**WHEREAS**, the current location of the Library has no community meeting rooms; the Library has only one electrical outlet, leaving insufficient ability for persons to use laptops, tablets, and other technology; its shelf space is exhausted and it has no quiet study/work spaces; and family programming time is limited, as it must be scheduled after school hours;

**WHEREAS**, in light of these limitations, the City, with considerable stakeholder and public input, undertook an exhaustive process to evaluate the possibility of constructing and financing a new, stand-alone library;

**WHEREAS**, this evaluation has shown that a new, stand-alone library with 20,000 square feet of space can be constructed in downtown Oakley, immediately next to City Hall;

**WHEREAS**, preliminary architectural renderings for the new Downtown Library have been prepared and a financial evaluation has determined the cost to design, construct, and furnish the new Library would cost \$12 million;

**WHEREAS**, to finance the cost for this new library, the City has determined it is necessary to impose a monthly tax on every parcel within the City of \$7.75; and

**WHEREAS**, in proposing that the voters of the City consider such a special tax, the City Council finds that the adoption of this resolution and other City acts necessary to present the proposed tax to City voters are purely electoral and financial matters and thus are not a "project," as provided for in California Environmental Quality Act Guideline section 15378(b)(3) and (4).



**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLEY  
HEREBY RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:**

**SECTION 1. ENACTMENT OF SPECIAL TAX**

As provided for in Chapter 7 to Title 3 of the Oakley Municipal Code, and if approved by the voters in the manner provided for below, there is hereby enacted within the City a special tax in the amount \$7.75 per month on every parcel of property located within the City for the purposes set forth in Section 2.

**SECTION 2. PURPOSES OF SPECIAL TAX**

The purpose of the special tax authorized herein shall be to provide funding for the planning, environmental, engineering, administrative, and architectural services necessary to construct and operate the Downtown Library, as well as the construction and furnishing of the Library. All proceeds from the special tax authorized herein shall be used exclusively for these purposes only.

**SECTION 3. METHOD OF COLLECTION**

The City hereby directs the Contra Costa County Treasurer/Tax Collector to collect the special tax authorized herein for the initial Fiscal Year 2016-2017, on the same tax roll at the same time and in the same manner, and subject to the same penalties as the property taxes fixed and collected by the County on behalf of the City. The County may deduct its reasonable costs incurred for such services before remittal to the District.

The special tax, together with all penalties and interest thereon, shall constitute a lien upon each parcel of property upon which it is levied until it has been paid, and such special tax, together with all penalties and interest thereon, shall, until paid, constitute a personal obligation to the City by the person(s) who own(s) the parcel of property on the date the special tax is due.

**SECTION 4. EFFECTIVE DATE OF SPECIAL TAX**

The special tax shall become effective following the approval of this resolution and subsequent approval by two-thirds of voters voting on proposition set forth in Section 9. If approved, the special tax shall be collected beginning in fiscal year 2016-17. The tax shall be continued to be collected for 30 years.

**SECTION 5. SPECIAL ACCOUNT**

Upon the effective date of this special tax, the City is hereby directed to create a separate account into which all revenue raised by the special tax shall be placed. Should any surplus money be generated by this special tax in any year, such surplus shall be expended in the following year, in the discretion of the City

Council, only for the purposes stated in Section 2. In no event shall surplus money generated by this special tax be used for any purpose other than as authorized herein.

**SECTION 6. ANNUAL REPORT**

The City shall cause a report to be filed with the City Council no later than June 30 of each year, commencing on June 30, 2018, and at least once a year thereafter, which shall contain both of the following: (i) the amount of funds collected and expended under this Resolution; and (ii) the status of any project required or authorized to be funded to carry out the purposes set forth in this Resolution.

**SECTION 7. EXEMPTIONS**

The special tax authorized herein shall not be imposed upon a federal or state agency, any local agency, or any parcel of property which is exempt from ad valorem taxes under any other applicable law.

**SECTION 8. APPROPRIATIONS LIMIT**

To the extent the Board proposes to increase the City's spending limit under Article XIII B of the California Constitution, this resolution authorizes the increase of that limit by an amount equal to the proceeds of the taxes for the first year the special tax authorized herein is imposed.

**SECTION 9. CALL FOR ELECTION**

An election is called for June 7, 2016 to consider the following question:

<p><i>To replace the small, outdated Oakley Library currently utilizing a portion of Freedom High School and construct and operate a new Library and Community Learning Center downtown, shall the ordinance establishing a \$7.75 per month per parcel Library Development Tax be adopted, raising approximately \$1.1 million annually, for 30 years starting fiscal year 2016/17, with independent financial audits ensuring funds are spent only on the Oakley Library and Community Learning Center?</i></p>	<b>YES</b>	
	<b>NO</b>	

**SECTION 10. CONSOLIDATION**

Pursuant to Part 3, commencing with Section 10400, Division 10 of the Elections Code, the Contra Costa County Registrar of Voters is requested to consolidate

this election with other elections held on the same day in the same territory or in the territory that is in part the same.

#### SECTION 11. COUNTY ADMINISTRATION OF ELECTION

Pursuant to Section 10002 of the Elections Code, the City Council hereby request the Board of Supervisors of Contra Costa County to permit the County Elections Official to render services necessary to place this measure on the ballot of the next general municipal election and to conduct the election of this ballot measure. The City Council recognizes that additional costs may be incurred by the County by reason of these services and agrees to reimburse the County for these costs.

#### SECTION 12. CONDUCT OF ELECTION

The election on this measure shall be held, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, the returns made, and a result ascertained and determined, and all other proceedings conducted in connection with the election, under the regulations of the Registrar of Voters of Amador County, in accordance with the provisions of the law governing general municipal elections in general law cities.

#### SECTION 13. ARGUMENTS IN FAVOR OR IN OPPOSITION

Anyone may submit primary arguments on this ballot measure pursuant to Election Code Section 9280, et.seq. Such primary arguments shall not exceed 300 words in length and shall be submitted to the City Clerk no later than 5:00 p.m. on February 23, 2016. Anyone may submit rebuttal arguments to the primary arguments pursuant to Election Code Section 9285 subsection (a), the provisions of which are hereby adopted. Such rebuttal arguments shall not exceed 250 words in length and shall be submitted to the City Clerk no later than 5:00 p.m., on March 4, 2016. The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. No more than five signatures shall appear with any argument submitted. If more than one argument is submitted in favor of or in opposition to the proposed measure, the City Clerk shall select the argument to be utilized in accordance with Elections Code section 9287.

#### SECTION 14. IMPARTIAL ANALYSIS

The City Attorney shall prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure pursuant to Election Code Section 9280, and submit it to the City Clerk no later than 5:00 p.m. on March 4, 2016.

SECTION 15. DESIGNATION OF MEASURE TEXT

The City requests the Elections Official publish only the following portions of this Resolution as the measure text to be published in the Voter's Pamphlet: The Title of this Resolution, all "Whereas" clauses, Sections 1 through 8 above, and the adoption block and signatures/attestations provided below.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** the City Council hereby rescinds Resolution 19-16, adopted on February 9, 2016, as this Resolution is intended to replace that previous resolution.

The foregoing resolution was adopted at a regular meeting of the City Council of the City of Oakley held on the 23<sup>rd</sup> day of February, 2016, by Councilmember \_\_\_\_\_, who moved its adoption, which motion being duly seconded by Councilmember \_\_\_\_\_, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:



\_\_\_\_\_  
Kevin Romick, MAYOR

ATTEST:

\_\_\_\_\_  
Libby Vreonis, CITY CLERK                      Date



## STAFF REPORT

**Date:** February 17, 2016  
**To:** City Council   
**From:** Lieutenant Jeff Billeci   
**Subject:** Fleet Purchase

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### **Background and Analysis**

The Fiscal Year 2015/16 Budget includes an allocation for the purchase of replacement vehicles for the Police Department. The Police Department has already replaced one vehicle earlier this fiscal year and Staff is recommending replacing Police Patrol Vehicle #55 at this time.

Police Patrol Vehicle #55 (a 2010 Ford Crown Victoria) has over 110,000 miles and has reached the end of its useful lifespan. While Staff has been pleased with the Crown Victoria, Ford is no longer making that model. The replacement models are the Ford Interceptor-Sedan and the Ford Interceptor-Utility Vehicle. The Police Department currently has a Ford Interceptor-Sedan on patrol and would like to purchase a Ford Interceptor-Utility Vehicle to replace #55. This would allow officers to test the Utility Vehicle on patrol and compare those results to the Sedan.

Folsom Lake Ford has provided an estimate that is currently below the State Bid price.

### **Fiscal Impact**

The Ford Interceptor-Utility Vehicle will cost approximately \$28,309.75 (plus tax) and the funds that were budgeted in FY 15/16 are for this purpose.

**Recommendation**

Staff recommends that the Council approves the Resolution authorizing the City Manager to purchase one Ford Interceptor-Utility Vehicle (in an amount not to exceed \$32,000) from the Vehicle replacement Fund, for the replacement of Vehicle #55.

**Attachments**

Folsom Lake Ford Estimate  
Resolution

# FOLSOM LAKE FORD

## THE FORD SOURCE

12755 FOLSOM BLVD. • FOLSOM, CA 95630 • (916) 353-2000

2016 ORDER-14-16 WEEKS

BUILD OUT 3/11/2016

STATE CONTRACT 1-15-23-14B

**DANIEL A. RAIMONDI**  
Fleet Director

PATROL

(916) 353-2000, Ext. 376  
Toll Free 1-800-655-0555  
Cell. (916) 825-1622  
Fax (916) 353-2078

2/08/2016

K8A 4DR AWD POLICE  
.112.6" WB  
G1 SHADOW BLACK  
9 CLTH BKTS/VNL R  
W EBONY INTERIOR  
500A EQUIP GRP  
.PREM SINGLE CD  
99R .3.7L V6 TIVCT  
44C .6-SPD AUTO TRAN  
FRT LICENSE BKT  
16D BADGE DELETE  
18W RR WINDOW DEL  
423 CAL EM NOT REQD  
43D COURTESY DISABL  
51S DUAL LED LAMPS  
55D SCUFF GUARDS  
59B KEY CODE B  
60R NOISE SUPPRESS  
66A FRONT HDLMP PKG  
.GRILL WIRING  
66C REAR LIGHT PKG  
68G RR DR/LK INOP  
76R REVERSE SENSING  
87R RR VIEW MIR/CAM  
92R SOLAR TINT 2ND  
936 CAL SER VEH EXP  
FLEX FUEL

**\$28,301.00 PLUS TAX  
PLUS \$8.75 CA TIRE FEE  
LESS \$500.00 DISCOUNT  
20 DAY PAYMENT**

**INCLUDES WHITE ROOF  
AND 4 DOORS WHITE**

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
TO APPROVE THE PURCHASE OF A FORD INTERCEPTOR-UTILITY  
VEHICLE**

**BE IT RESOLVED** by the City Council of the City of Oakley that it approves the purchase of a Ford Interceptor-Utility Vehicle.

The foregoing resolution was adopted at a regular meeting of the City Council of the City of Oakley held on the 23rd day of February, 2016, by Councilmember \_\_\_\_\_, who moved its adoption, which motion being duly seconded by Councilmember \_\_\_\_\_, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

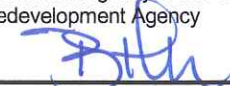




## STAFF REPORT

**Date:** February 23, 2016  
**To:** Bryan H. Montgomery, City Manager  
**From:** Deborah Sultan, Finance Director  
**SUBJECT:** City of Oakley as Successor Agency to the Oakley Redevelopment Agency-Quarterly Investment Report (2<sup>nd</sup> Quarter FY 2015-2016)

Approved and Forwarded to the Oakley City Council, as the Board of the Successor Agency to the Oakley Redevelopment Agency

  
Bryan Montgomery, City Manager

### Background and Analysis

California law and the City's Investment Policy require the Agency's fiscal officer to submit a quarterly investment report to the Agency's governing board. The report should contain information on all securities held, and include a statement denoting the ability of the local agency to meet its expenditure requirements for the next six months.

### Fiscal Impact

The Investment Report for the Period Ending December 31, 2015 attached shows balances of \$788,053.09 in cash for operations and \$2,000,948.11 in bond reserves held by the Bond Trustee.

The Agency is in compliance with the City's annually adopted investment policy; however, it continues to struggle to meet all of its expenditure requirements. There was sufficient tax revenues distributed to the Agency in June, when combined with amounts set aside in January and accumulated between January and June, to make the Agency's bond debt service payments last September. However, funding is still insufficient to pay all of the Agency's prior years' unpaid pass-through obligations and remaining project costs. With increased property tax revenues this year and the savings from the refunding of the 2003 bonds, the Agency's funding is improved, but not yet sufficient to meet all of its needs.

### Recommendation

Staff recommends the City Council, as the Board of the Successor Agency, accept the investment report for the 2nd Quarter of Fiscal Year 2015-2016.

### Attachments

City of Oakley as Successor Agency to the Redevelopment Agency Investment Report for the quarter ended December 31, 2015



City of Oakley as Successor Agency to the  
Oakley Redevelopment Agency

Quarterly Investment Report  
For the Quarter Ended December 31, 2015

Type*	Name of Institution	Rate	Maturity***	Cost Amount	Market Value
<b>Investments in Wells Fargo Bank Account</b>					
	Successor Agency Checking	0.020%	N/A	\$ 788,053.09	\$ 788,053.09
<b>Total Investments Other than Bond Proceeds</b>				<u>788,053.09</u>	<u>788,053.09</u>
<b>Investments with Wells Fargo Trust (bond proceeds): **</b>					
2008 Tax Exempt Tax Allocation Bonds					
9	Government Money Market				
	California Asset Management Trust	0.17%	N/A	2,000,948.11	2,000,948.11
<b>Total Investments of Bond Proceeds</b>				<u>2,000,948.11</u>	<u>2,000,948.11</u>
<b>Total Agency Investments</b>				<u>\$ 2,789,001.20</u>	<u>\$ 2,789,001.20</u>

\* Type of investment as described in Authorized Investments section of the City's adopted Investment Policy

- |                                      |                       |                                 |
|--------------------------------------|-----------------------|---------------------------------|
| 1. U.S Government Securities         | 5. Bankers Acceptance | 9. Money market funds           |
| 2. U.S. Government Agency Securities | 6. Commercial Paper   | 10. Repurchase agreements       |
| 3. Local Agency Investment Fund      | 7. Medium term notes  | 11. CalTRUST Short Term Account |
| 4. Certificates of Deposit           | 8. Mutual funds       | 12. Overnight Sweep             |

\*\* Investment of bond proceeds is governed by each bond's Trust Agreement. All of the amounts with Wells Fargo Trust are debt service reserve funds. Investment income remains with the individual bond accounts.

\*\*\* All Successor Agency accounts have same day or next day liquidity

The City of Oakley, as Successor Agency to the Oakley Redevelopment Agency, is in compliance with the City's annually adopted investment policy.

  
Approved by Deborah Sultan  
Finance Director

  
Date

**STAFF REPORT**

Approved and forwarded to City Council

  
Bryan H. Montgomery, City Manager

**Date:** February 23, 2016  
**To:** Bryan H. Montgomery, City Manager  
**From:** Kenneth W. Strelow, Senior Planner  
**SUBJECT:** Boparai Minor Subdivision MS 16-976 (TPM 01-16)

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**SUMMARY**

This is a public hearing on a request by Surjeet Boparai ("Applicant") for approval of a tentative parcel map subdividing one 1.07 acre lot into two lots of 0.51 acres (Parcel A) and 0.56 acres (Parcel B) ("Project"). The lot is an existing commercial shopping center ("Boparai Plaza") with two buildings that are adjacent to the Chevron Gas Station on Main Street and East Cypress Road. Each of the proposed two lots will exclusively include one of the two buildings. The site is located at 4510-4534 Main Street and zoned "C" (General Commercial) District. APN 033-240-015

Staff recommends the City Council adopt the resolution approving Boparai Minor Subdivision 16-976 (TPM 01-16), as conditioned.

**BACKGROUND****General Plan and Zoning**

The General Plan Land Use Designation for the project site is *Commercial* as depicted in the [Oakley 2020 General Plan](#) Figure 2-2 (Land Use Diagram). The site is zoned "C" (General Commercial) District. Applicable lot requirements for the C District include a 7,500 square foot minimum lot size, 1.0 maximum base floor area ratio (FAR), and no applicable minimum lot width or lot depth.

**Existing Conditions and Surrounding Uses**

**Project Site:** There are two separate buildings on the project site, which are currently and have historically been occupied by retail, food, office and personal services type uses. The building on proposed Parcel B includes a drive thru that is not currently being utilized.

**North:** Within the same shopping center is a Chevron Gas Station with market and drive-thru car wash (separate lot) and Cypress Road beyond.

**South:** Additional *Commercial* designated and C District land. Three of the parcels are occupied by existing residential dwelling units. The parcel to the south of those is undeveloped.

**East:** Marsh Creek and trail with a single family residential subdivision beyond.

**West:** Main Street and Arco Gas Station, market and drive-thru car wash on the southwest corner of main Street and Cypress Road.

## **PROJECT DESCRIPTION**

### **Tentative Parcel Map**

The proposed tentative parcel map (MS 16-976) does not include plans for development because the project site is already built out. Rather the applicant requests to split the existing parcel into two lots so that the two existing buildings will also be on separate lots. If approved, the subdivision would result in two parcels; Parcel A at 22,392 square feet (0.51 acres), and Parcel B at 24,384 square feet (0.56 acres). An existing 25 foot wide access easements would remain and provide shared access for the two proposed lots with the existing lot to the north (Chevron Gas Station). This easement would also provide Parcel A with access since this subdivision would separate Parcel A from the existing driveway on Main Street. No road dedications or improvements are proposed or required as a result of this subdivision.

## **ENVIRONMENTAL REVIEW**

The proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15315 (Class 15 – Minor Land Divisions) of the State CEQA Guidelines. This project can be classified as Class 15 in that:

- The project is a division of land in an urbanized area zoned for residential use into four or fewer parcels;
- The division is in conformance with the General Plan and zoning ordinance, and no variances or exceptions are required; and
- All services and access to the proposed parcels to local standards are available, and the parcel was not involved in a larger subdivision within the last two years.

## **REQUIRED FINDINGS**

The tentative parcel map was analyzed in relation to the required findings found in the City's subdivision ordinance (adopted County ordinance by reference), which generally state, "the

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City Council shall not approve a tentative map unless it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general plan required by law. When approving the tentative map for a minor subdivision, the advisory agency shall make findings as required concerning the fulfillment of construction requirements." The proposed parcels must also comply with the regulations set forth in the "C" District.

### **ANALYSIS AND FINDINGS**

The main purpose of the subdivision is to separate the two existing buildings in an attempt to make the drive-thru building more marketable and ultimately attract a desirable tenant. The proposed tentative parcel map represents a subdivision of land that is consistent with the applicable General Plan policies and guidelines in that it allows for and attempts to attract additional commercial uses. From a zoning perspective, the lot sizes are consistent with the applicable C District zoning regulations of 7,500 square foot minimum lot sizes and maximum 1.0 base floor area ratio.

### **FINDINGS**

Complete draft findings are included in the attached resolution.

### **RECOMMENDATION**

Staff recommends the City Council adopt the resolution approving Boparai Minor Subdivision MS 16-976 (TPM 01-16), as conditioned.

### **ATTACHMENTS**

1. Vicinity Map
2. Public Hearing Notice
3. Applicant's Plans
4. Draft Resolution

Vicinity Map

**Boparai Minor Subdivision MS 16-976 (TPM 01-16)  
4510-4534 Main Street**





City of Oakley  
3231 Main Street  
Oakley, CA 94561  
[www.oakleyinfo.com](http://www.oakleyinfo.com)

## NOTICE OF PUBLIC HEARING

Notice is hereby given that on **February 23, 2016** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an application for a **Tentative Parcel Map**.

**Project Name:** Boparai Minor Subdivision MS 16-976 (TPM 01-16).

**Project Location:** 4510-4534 Main Street, Oakley, CA 94561. APN 033-240-015.

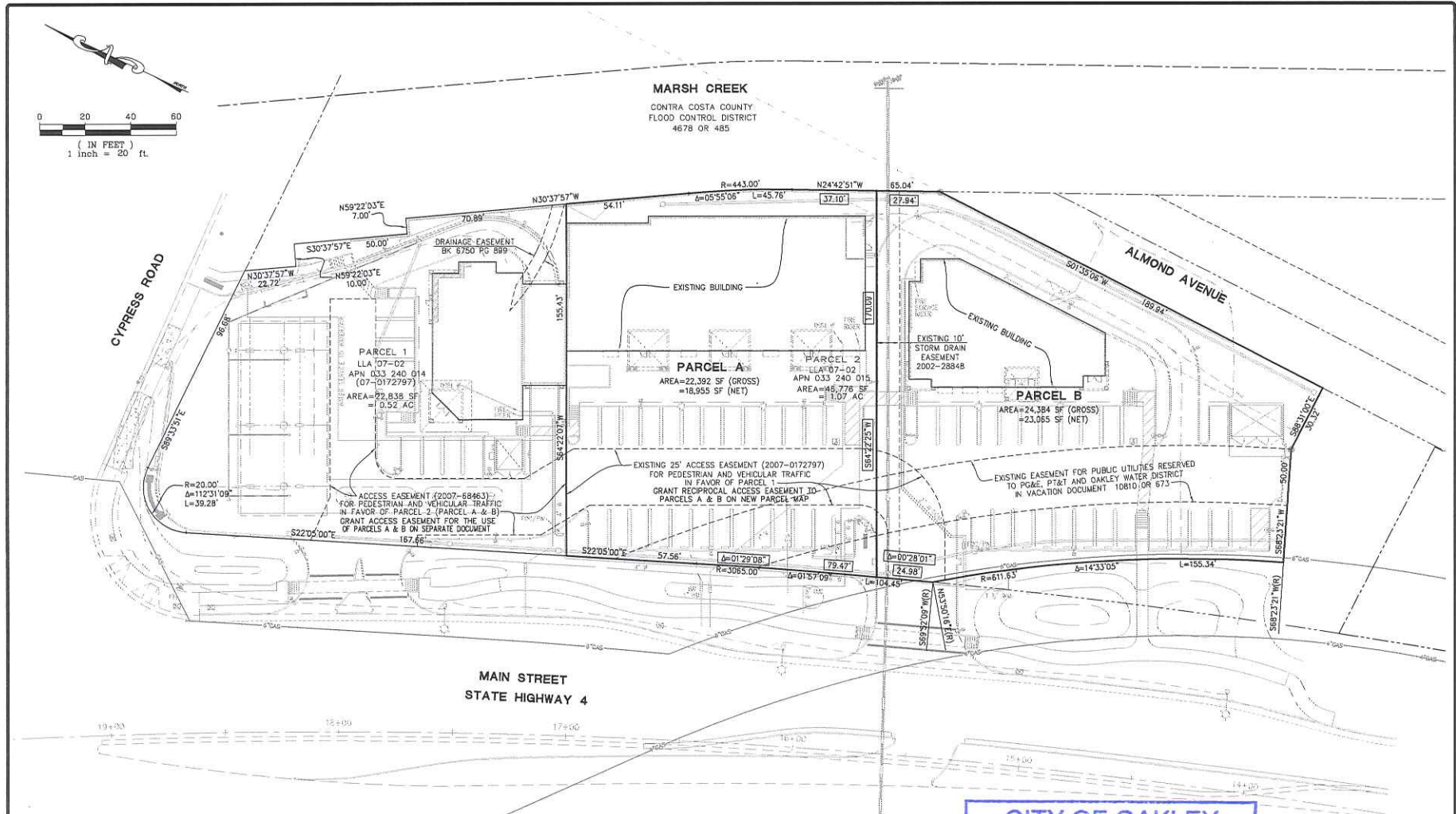
**Applicant:** Surjeet Boparai, 4510 Main Street, Oakley, CA 94561.

**Request:** This is a public hearing on a request for approval of a Tentative Parcel Map subdividing one 1.07 acre lot into two lots of 0.51 acres (Parcel A) and 0.56 acres (Parcel B). The project site is the location of an existing commercial shopping center ("Boparai Plaza") with two separate buildings that are adjacent to the Chevron Gas Station on Main Street and East Cypress Road. Each of the proposed lots will exclusively include one of the two buildings. The site is zoned "C" (General Commercial) District.

The Staff Report and its attachments will be available for public review, on or after **February 19, 2016** at City Hall, 3231 Main Street, Oakley, CA 94561 or on the City's website [www.oakleyinfo.com/city-meetings/](http://www.oakleyinfo.com/city-meetings/).

Interested persons are invited to submit written comments prior to and may testify at the public hearing. **Written comments may be submitted to Kenneth W. Strelo, Senior Planner at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to [strelo@ci.oakley.ca.us](mailto:strelo@ci.oakley.ca.us).**

**NOTICE IS ALSO GIVEN** pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.



**OWNER/DEVELOPER:**  
 BOPARAI INVESTMENTS, LLC  
 4510 MAIN STREET  
 OAKLEY, CA 94661  
 PH. (925) 437-8797

**CIVIL ENGINEER:**  
 HUMANN COMPANY INC.  
 1021 BROWN AVE.  
 LAFAYETTE, CA 94549  
 PH. (925) 283-5000

**PROJECT INFORMATION**

APN: 033-240-015-9  
 ADDRESS: 4510 MAIN STREET  
 OAKLEY, CA 94661

EXISTING ZONING: COMMERCIAL  
 PROPOSED ZONING: COMMERCIAL  
 EXISTING LAND USE: COMMERCIAL STORES  
 PROPOSED LAND USE: COMMERCIAL STORES  
 TOTAL AREA: 46,776 SF (1.07± AC)  
 NUMBER OF LOTS: 2 LOT SUBDIVISION  
 AVERAGE LOT AREA: 23,388 SF (0.54± AC)

**UTILITIES:**

POWER: PG&E  
 WATER: DIABLO WATER DISTRICT  
 SEWER: IRONHOUSE SANITARY DISTRICT  
 STORM DRAIN: CITY OF OAKLEY

CITY OF OAKLEY  
 Planning Department  
 JAN 19 2016  
 RECEIVED

REVISIONS	SCALE	DATE	DRAWN	CHECKED	IN	JOB NO.
	1" = 20'	11/19/15	BE	IN		04147
VESTING TENTATIVE PARCEL MAP - MS						
RESUBDIVISION OF PARCEL 2 LLA 07-02 INTO PARCELS A & B						
BOPARAI PLAZA - 4510 MAIN STREET (APN 033-240-015)						
OAKLEY CONTRA COSTA COUNTY CALIFORNIA						
 <b>HUMANN COMPANY INC.</b> ENGINEERING - SURVEYING - PLANNING 1021 BROWN AVE. LAFAYETTE, CA 94549 PH. (925) 283-5000 FAX (925) 283-5078 www.humannco.com						
SHEET 1 OF 1 SHEET						
JOB NO. 04147						



## RESOLUTION NO. XX-16

**A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS  
AND APPROVING A TENTATIVE PARCEL MAP FOR "BOPARAI MINOR  
SUBDIVISION MS 16-976 (TPM 01-16)" LOCATED AT 4510-4534 MAIN STREET  
APN 032-240-015****FINDINGS**

**WHEREAS**, on January 19, 2016, Surjeet Boparai of Boparai Investments, LLC ("Applicant") filed an application requesting approval of a Tentative Parcel Map to subdivide one 1.07 acre lot into two lots of 0.51 acres (Parcel A) and 0.56 acres (Parcel B) ("Project") within an existing commercial shopping center ("Boparai Plaza"). Each of the proposed two lots will exclusively include one of the two existing buildings. The site is located at 4510-4534 Main Street and zoned "C" (General Commercial) District. APN 033-240-015; and

**WHEREAS**, the applicant's plans include the Tentative Parcel Map, which was received on January 19, 2016 and attached to the project staff report ("Plans"); and

**WHEREAS**, on February 4, 2016 the project application was deemed complete per Government Code section 65920 et. seq; and

**WHEREAS**, the project site is designated "Commercial" on the Oakley 2020 General Plan Land Use Map, and zoned C (General Commercial) District; and

**WHEREAS**, the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15315 (Class 15 – Minor Land Divisions); and

**WHEREAS**, on or prior to February 12, 2016, the Notice of Public Hearing for the project was posted in the Contra Costa Times, at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and at the project site. The notice was also mailed out to all owners of property within a 300-foot radius of the subject property's boundaries, to outside agencies, and to parties requesting such notice; and

**WHEREAS**, on February 23, 2016, the City Council held a public hearing and received a report from City Staff, oral and written testimony from the applicant and public, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as revised by the City Council during its deliberations; and

**WHEREAS**, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their

application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

**WHEREAS**, these Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, and the information submitted to the City Council at its February 23, 2016 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the project (hereafter the "Record").

**NOW, THEREFORE, BE IT RESOLVED THAT**, on the basis of the above Findings and the entire Record, the City Council makes the following additional findings in support of the recommended approvals:

- A. Regarding the application requesting approval of a Tentative Parcel Map for the project titled, "Boparai Minor Subdivision MS 16-976 (TPM 01-16)", the City Council finds that:
  - 1. The proposed tentative parcel map represents a subdivision of land that is consistent with the applicable General Plan policies and guidelines in that it allows for and attempts to attract additional commercial uses. From a zoning perspective, the lot sizes are consistent with the applicable C District zoning regulations of 7,500 square foot minimum lot sizes and maximum 1.0 base floor area ratio; and
  - 2. The subdivision is on a piece of land that has already been the subject of a conditioned development that dedicated and improved the appropriate amount of right of way along Main Street frontage, and there is no additional need for right of way dedication.
- B. The Project complies with Measure J Growth Management requirements.

**BE IT FURTHER RESOLVED THAT**, on the basis of the above Findings and the Record, the City Council approves the applicant's request for approval of a Tentative Parcel Map for "Boparai Minor Subdivision MS 16-976 (TPM 01-16)", subject to the following conditions:

Applicant shall comply with the requirements of the Oakley Municipal Code, unless otherwise stipulated in this resolution. Conditions of Approval are based on the plans received by the Planning Division and made a part of the City Council's meeting packet for the February 23, 2016 City Council meeting.

**THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED (BOLD CONDITIONS ADDED OR AMENDED AT PUBLIC HEARING):**

## ***Planning Division Conditions***

### **General:**

1. This Tentative Parcel Map is approved, as shown on the revised plans date stamped by the Planning Division on January 19, 2016, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.
2. This approval shall be effectuated within a period of three (3) years from the effective date of this resolution by the recording of a Parcel Map and if not effectuated shall expire on February 23, 2019. Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Municipal Code and Subdivision Map Act.
3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on February 23, 2019, and as conditioned herein.
4. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.
5. There shall be no construction associated with this Tentative Parcel Map. The applicant has stated that the Final Parcel Map will only result in the division of land, and no development related improvements to the site.
6. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

### **Subdivision Disclosures:**

7. Where a lot/parcel is located within 300' of a high voltage electric transmission line, the applicant shall record the following notice:

"The subject property is located near a high voltage electric transmission line. Purchasers should be aware that there is ongoing research on possible potential adverse health effects caused by the exposure to a magnetic field generated by high voltage lines. Although much more research is needed before the question of whether magnetic fields actually cause adverse health effects can be resolved, the basis for such a hypothesis is established. At this time no risk assessment has been made."

When a Final Subdivision Public Report issued by the California Department of Real Estate is required, the applicant shall also request that the Department of Real Estate insert the above note in the report.

8. The following statements shall be recorded at the County Recorder's Office for each parcel to notify future owners of the parcels that they own property in an agricultural area:

"This document shall serve as notification that you have purchased land in an agricultural area where you may regularly find farm equipment using local roads; farm equipment causing dust or blowing sand; crop dusting and spraying occurring regularly; burning associated with agricultural activities; noise associated with farm equipment such as zon guns and aerial crop dusting and certain animals, including equestrian trails as well as flies may exist on surrounding properties. This statement is again, notification that this is part of the agricultural way of life in the open space areas of the City of Oakley and you should be fully aware of this at the time of purchase.

#### ***Public Works and Engineering Conditions***

**THE FOLLOWING PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE APPROVAL OF A FINAL PARCEL MAP UNLESS OTHERWISE NOTED:**

9. The Applicant shall submit a final parcel map prepared by a licensed land surveyor or qualified registered civil engineer to the City Engineer and pay appropriate fees in accordance with the Code and these conditions of approval.

#### **ADVISORY NOTES**

THE FOLLOWING ADVISORY NOTES ARE PROVIDED TO THE APPLICANT AS A COURTESY BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.

C. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the 23<sup>rd</sup> day of February, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date



## STAFF REPORT

**Date:** February 23, 2016  
**To:** Bryan Montgomery, City Manager  
**From:** Joshua McMurray, Planning Manager  
**SUBJECT:** Ordinance Authorizing the City to Join Marin Clean Energy

Approved and Forwarded to City Council:

  
Bryan Montgomery, City Manager

### Summary

On February 9, 2016 the City Council waived the first reading and introduced the Ordinance that would authorize the City to join Marin Clean Energy (MCE). At that meeting Staff indicated that the final Ordinance and the balance of the submittal documents required by MCE would be placed on the next City Council meeting agenda for adoption. These documents include:

- Adoption of a Resolution requesting membership (See Attachment 5)
- An executed Memorandum of Understanding (See Attachment 6)
- Signed Request for load data from PG&E (See Attachment 7)

When all prerequisite documents are approved, MCE will review and approve the City's ordinance and MCE will conduct an economic feasibility analysis (membership analysis) prior to approving membership. The MCE Board would then adopt a resolution authorizing the City's membership in the program.

### Fiscal Impact

As long as the City is able to submit a complete Membership Application to MCE prior to the March 31, 2016 deadline, there would be no cost to the City for the membership analysis. If the membership analysis is favorable and then MCE approves the City's membership in the program, then there will be a small Staff time commitment upfront and will diminish over time. Staff estimates this to be a few hours a week at the most.

### CEQA

This action not a project as defined in accordance with California Environmental Quality Act (CEQA) Guidelines, Section 15378 because the proposed action will not result in any direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Joining a Community Choice Aggregator (CCA) such as MCE presents no foreseeable significant adverse impact to the environment because the California State regulations such as the Renewable portfolio Standard (RPS) and Resource Adequacy (RA)

requirements apply equally to CCAs as they do Investor-Owned Utilities. State CEQA Guidelines Section 15378(b)(5) states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Further, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable (Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)).

### **Recommendation**

Staff recommends the City Council waive the second reading and adopt the attached Ordinance authorizing the City to join Marin Clean Energy, adopt the Resolution requesting membership into Marin Clean Energy, authorize the City Manager to execute the Memorandum of Understanding between the City of Oakley and Marin Clean Energy and authorizing the Mayor to sign the request for load data from PG&E.

### **Attachments**

1. December 8, 2015 Staff Report
2. February 9, 2016 Staff Report
3. MCE Letter
4. Ordinance
5. Draft Resolution
6. Draft Memorandum of Understanding
7. Draft Request for load data from PG&E

# OAKLEY



CALIFORNIA

Attachment 1

## STAFF REPORT

**Date:** December 8, 2015  
**To:** Bryan Montgomery, City Manager  
**From:** Joshua McMurray, Planning Manager

Approved and Forwarded to City Council:

A handwritten signature in black ink, appearing to read "Bryan Montgomery".

Bryan Montgomery, City Manager

**SUBJECT: Adoption of a Resolution Authorizing the City Manager to Send a Non-Binding Letter of Intent to Marin Clean Energy (MCE) Expressing the City's Interest in Exploring Potential Membership**

### Summary

City Staff recently attended a meeting at the City of Brentwood where representatives from Pacific Gas and Electric (PG&E), Marin Clean Energy (MCE), and the Contra Costa Clean Energy Alliance presented information relating to Community Choice Energy (CCE) programs. Since that meeting, Staff has been in contact with MCE and as a result of those conversations has drafted a resolution that would authorize the City Manager to sign a non-binding Letter of Intent that would allow the City to explore a potential membership into MCE.

### Background

CCE is a hybrid approach between investor-owned utilities, like PG&E, and municipal utilities, like Palo Alto's, that was authorized by AB 117 in 2002. CCE enables local governments and some special districts to procure and/or develop power on behalf of their public facilities, residents and businesses. The existing utility (like PG&E) continues to be responsible for transmitting and distributing electricity through the grid, maintaining infrastructure, billing customers, and customer services.

MCE was the first CCE to begin operating in California. MCE is a public, not-for-profit electricity provider operating under the Community Choice Energy model formed in 2008. It gives all residential, commercial, and municipal electric customers the choice of having 50% to 100% of their electricity supplied by renewable sources. MCE is governed by a 17-member Board of Directors representing each of the member communities it serves.

### MCE Membership Process

The first step to potentially join MCE is for the City to send a non-binding Letter of Intent requesting MCE membership consideration. There is no cost to submit such a letter. The City of Walnut Creek, City of Lafayette, Yolo County, the City of Davis and all five cities in Napa County have submitted letters of intent already, and based on the meeting in City of Brentwood last week, it appears others will consider soon whether to



submit such a letter. Most recently, the Cities of Calistoga and American Canyon have already passed Ordinances to join MCE. Although Staff feels there is more research and analysis that needs to be done, submitting a Letter of Intent will keep the door open to joining MCE should the City decide to do so in the future. Submitting a letter does not obligate the City to conduct a membership analysis. It simply states that the City is interested in possibly joining MCE and puts Oakley in line with the other jurisdictions doing the same.

MCE's Board recently addressed how to expand to include new communities at its September Board meeting. The MCE Board decided to have an open inclusion period, ending March 31, 2016. Based on the decision by MCE's Board to have an open inclusion period, the next step for Oakley, after we submit a Letter of Intent, would be to pass an ordinance to join MCE (which requires two separate votes), and pass a resolution, Memorandum of Understanding and PG&E load data request. All of these items are referenced in the attached Membership Application Checklist. Once these steps are completed, MCE will conduct the membership analysis. Prior to the inclusion period, the membership analysis required a not-to-exceed Contract in the amount of \$15,000; however that amount has been reduced to \$0 if the City were to have a completed application submitted to MCE prior to the March 31<sup>st</sup> deadline.

Assuming the conclusions of the analysis are positive (i.e. inclusion of the new community would 1) help MCE and the City reduce energy-related Green House Gasses; and 2) preserve or enhance the competitiveness of MCE's electricity generation rates (both within the City and throughout MCE's existing service area), MCE's Board would then vote to include the new community, and it would officially become a member of MCE's JPA.

This means that if the City were to proceed with the items required by the application checklist prior to the March 31<sup>st</sup> deadline, the City would essentially be committed to joining MCE as long as the membership analysis was favorable.

#### Other CCE Membership Possibilities:

Contra Costa County is currently looking at the options available. The County has come up with three options which include: 1) form a Contra Costa County Program, 2) partner with Alameda County on a joint Program, or 3) join Marin Clean Energy. Staff is currently monitoring the County and how they proceed.

#### **Fiscal Impact**

There is no fiscal impact to submit the Letter of Intent to MCE. Furthermore, as long as the City was able to submit a complete Membership Application to MCE prior to the March 31, 2016 deadline, there would be no cost to the City for the membership analysis.

**Recommendation**

Staff recommends the City Council adopt the Resolution authorizing the City Manager to send a non-binding, no-cost Letter of Intent to MCE regarding consideration of possible membership in the CCE.

**Attachments**

1. Resolution Authorizing a Letter of Intent to MCE
2. Membership Application Checklist

**RESOLUTION NO. XX-15**

**A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SEND A NON-BINDING LETTER OF INTENT TO MARIN CLEAN ENERGY (MCE) EXPRESSING THE CITY'S INTEREST IN EXPLORING POTENTIAL MEMBERSHIP**

**WHEREAS**, the City is interested in exploring a potential membership into the Marin Clean Energy (MCE) Joint Powers Authority (JPA); and

**WHEREAS**, formally expressing interest by submitting a letter of intent has no obligation or cost for the City of Oakley.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Oakley City Council does authorize the City Manager or his designee to send a non-binding letter of intent to Marin Clean Energy expressing the City's interest in exploring possible membership.

**PASSED AND ADOPTED** by the City Council at a meeting held on the 8<sup>th</sup> day of December 2015, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

\_\_\_\_\_  
, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

### MCE Membership Application Checklist

- ✓ Request for load data for PG&E signed by Mayor, City Manager, Board president or Chief County Administrator
- ✓ County assessor data for all building stock in jurisdiction
- ✓ Adoption of a resolution requesting membership in MCE
- ✓ Adoption of the ordinance required by the Public Utilities Code Section 366.2(c) (10) to join MCE's CCA program, adopted governing Board, subject to MCE Board approval
- ✓ Executed 'Agreement for Services' or 'Memorandum of Understanding' (if during inclusion period) to cover:
  - Community agrees to publicize and share information about MCE with community during the 6 month enrollment period. Options to publicize include but are not limited to website, social media, public events, community workshops, and newsletter announcements (where feasible), as well as distribution of flyers and handouts provided by MCE at community offices.
  - Community agrees to provide desk space for up to 2 MCE staff during the 6 month enrollment period, and agrees to consider ongoing desk space availability if needed for effective and efficient outreach.
  - Community agrees to assign staff member as primary point of contact with MCE. Assigned staff member will support and facilitate communication with other community staff and officials, as well as provide input and high-level assistance on community outreach.
  - Community agrees to cover of quantitative analysis cost, not to exceed \$10,000; waived under inclusion period.



## STAFF REPORT

**Date:** 2/2/2016

**To:** Bryan Montgomery, City Manager  
**From:** Joshua McMurray, Planning Manager

**SUBJECT:** Ordinance Authorizing the City to Join Marin Clean Energy (MCE)

---

### Summary and Background

On December 8, 2015 the City Council received a presentation from Marin Clean Energy (MCE) as part of a Staff initiated item to discuss Community Choice Energy or CCE (Staff report and attachments from the December 8<sup>th</sup> meeting are attached). MCE was the first CCE to begin operating in California. MCE is a public, not-for-profit electricity provider operating under the Community Choice Energy model formed in 2008. It gives all residential, commercial, and municipal electric customers the choice of having 50% to 100% of their electricity supplied by renewable sources. MCE is governed by a 17-member Board of Directors representing each of the member communities it serves. MCE focuses on maximizing the use of renewable energy sources in addition to providing competitive energy rates. The City Council authorized the City Manager to submit a non-binding Letter of Intent to MCE which in turn MCE responded back with a letter dated December 18, 2015. That letter is attached to this report for reference and outlines the information needed in order to submit a formal "Membership Application" to MCE. As stated in MCE's letter, the City has an opportunity to take advantage of the current no-cost inclusion period where applications need to be submitted to MCE no later than March 31, 2016. If the City Council chooses to waive the first reading and introduce the attached Ordinance, the City would be able to take advantage of this opportunity.

CCE is intended to provide customers options in the electric utility marketplace. These options available to residents might grow over time as the County or other entities get involved in the CCE discussion. The City has an opportunity to provide both residents and businesses a choice as to who produces/procures energy that they use.

### Analysis

As stated in the previous Staff Report, CCE is a hybrid approach between investor-owned utilities, like PG&E, and municipal utilities, like Palo Alto's, that was authorized by AB 117 in 2002. CCE enables local governments and some special districts to procure and/or develop power on behalf of their public facilities, residents and businesses. The existing utility (like PG&E) continues to be responsible for transmitting and distributing electricity through the grid, maintaining infrastructure, billing customers, and customer services.

### MCE Membership Process

If the City Council introduces the Ordinance, Staff will place the final Ordinance and the balance of the submittal documents on the next City Council meeting agenda for adoption. These documents include:

1. Adoption of a Resolution requesting membership (See Attachment 4)
2. An executed Memorandum of Understanding (See Attachment 5)
3. Signed Request for load data from PG&E (See Attachment 6 )

When all prerequisite documents are approved, MCE will review and approve the City's ordinance and MCE will conduct an economic feasibility analysis (membership analysis) prior to approving membership. The MCE Board would then adopt a resolution authorizing the City's membership in the program.

### Current Rates and Opting Out

At the December 8<sup>th</sup> City Council meeting, Staff was directed to bring back a comparison of rates from Community Choice Aggregators (CCA) such as MCE and Sonoma Clean Power. Both MCE and Sonoma Clean Power partner with PG&E to create comparisons for energy rates and average monthly charges. This information is publically available on each entity's website. MCE's information can be accessed through this link: <http://www.mcecleanenergy.org/rates/>. Although the comparisons are structured the same it should be noted that MCE and Sonoma Clean Power have different renewable percentages and use different kilowatt hour usages for each comparison. MCE offers both a 50% renewable option and two 100% renewable options, while Sonoma Clean Power offers a 36% renewable option and one 100% renewable option. You will generally find that the comparisons show that the renewable options, at a per kilowatt hour rate, are offered at a lower cost than the comparable PG&E rate (which is now at least 27% renewable).

What you will typically find in the average bills as shown in the comparisons is that the lower renewable offering results in a lower monthly electric bill while the fully renewable rate is usually more than the average PG&E bill. The reasoning for that is the Power Charge Indifference Adjustment or PCIA fee that is imposed on Community Choice Aggregators. This fee is charged to cover PG&E's generation costs acquired prior to a customer's switch to a third-party electric generation provider. So, although in most cases the renewable rate is cheaper than the PG&E rate, the PCIA fee makes the average bill higher for customers that want the 100% renewable option.

One of the concerns from most communities is what happens once a City is a member of a CCA. If the City became a member of MCE, everyone in the City would automatically be opted into the MCE 50% renewable rate structure. In the event that customer would rather use energy procured by PG&E, they would have to opt-out of MCE. This process is easy and can be accomplished on the MCE website and by phone. On average, MCE has experienced less than a 20% opt-out rate. If a customer chooses to opt out, they may request to do so at any time. If a customer chooses to opt out after the first 60 days (two months) of service, s/he will have to pay a one-time administrative fee (\$5 for residential customers; \$25 for commercial

customers) and would then be subject to PG&E's terms and conditions. Presently, if customers chose to opt out of MCE after 60 days, PG&E will require a one year waiting period before customers can return to MCE.

The larger issue is if the City as a whole wanted to opt out of the MCE membership. This has never been requested as MCE is fairly new (formed in 2008). In talking with MCE, the biggest challenge presented in this scenario is the power that has been procured by MCE through multiple year contracts (often 20 years or more) would need to be reimbursed in some way. There is a 'Withdrawal' provision in MCE's Joint Powers Authority (JPA) Agreement; however Oakley should only join MCE if we are committed to remaining with the JPA long term. It would likely be very expensive to buy out long term energy contracts for the City upon withdrawal. Staff has provided this provision from the JPA Agreement as Attachment 8.

### Options

The City Council could choose to not approve the Ordinance and accompanying documents and decline to pursue membership in MCE. Electric customers would continue to receive electricity sourced by PG&E and would not have access to competitive energy options.

Alternatively, the City Council could direct Staff to monitor the County as they contemplate a Contra Costa County CCE. Staff has spoken with the County representative heading up this endeavor and they are in the early stages of gauging interest, compiling information and will still need to gain authorization from the Contra Costa County Board of Supervisors. The County representative mentioned this process, if the County chooses to move forward with a CCE, could take 18-24 months. Also, there is cost component that each participating member would have to deal with and at this time those costs are unknown.

Staff has also contacted Sonoma Clean Power and they have indicated they are not taking any new members at this time. They did say they are contemplating expansion into Mendocino County but not to the south or east. Sonoma Clean Power is not an option.

### Fiscal Impact

As long as the City is able to submit a complete Membership Application to MCE prior to the March 31, 2016 deadline, there would be no cost to the City for the membership analysis. If the membership analysis is favorable and then MCE approves the City's membership in the program, then there will be a small Staff time commitment upfront and will diminish over time. Staff estimates this to be a few hours a week at the most.

### CEQA

This action not a project as defined in accordance with California Environmental Quality Act (CEQA) Guidelines, Section 15378 because the proposed action will not result in any direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Joining a Community Choice Aggregator (CCA) such as MCE presents no foreseeable significant adverse impact to the environment because the California State regulations such as the Renewable

portfolio Standard (RPS) and Resource Adequacy (RA) requirements apply equally to CCAs as they do Investor-Owned Utilities. State CEQA Guidelines Section 15378(b)(5) states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Further, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable (Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)).

### **Recommendation**

Staff recommends the City Council waive the first reading and introduce the attached ordinance authorizing the City to join Marin Clean Energy.

### **Attachments**

- 1) December 8, 2015 Staff Report
- 2) MCE Letter
- 3) Draft Ordinance
- 4) Draft Resolution
- 5) Draft Memorandum of Understanding
- 6) Draft Request for load data from PG&E
- 7) Joint Rate Comparisons for MCE and Sonoma Clean Power
- 8) MCE JPA Agreement - Withdrawal and Termination





December 18, 2015

Kathrin Sears, Chair  
County of Marin

Tom Butt, Vice Chair  
City of Richmond

Bob McCaskill  
City of Belvedere

Alan Schwartzman  
City of Benicia

Sloan C. Bailey  
Town of Corte Madera

Greg Lyman  
City of El Cerrito

Barbara Coler  
Town of Fairfax

Kevin Haroff  
City of Larkspur

Jessica Jackson  
City of Mill Valley

Brad Wagenknecht  
County of Napa

Denise Athas  
City of Novato

Carla Small  
Town of Ross

Ford Greene  
Town of San Anselmo

Genoveva Calloway  
City of San Pablo

Andrew McCullough  
City of San Rafael

Ray Withy  
City of Sausalito

Emmett O'Donnell  
Town of Tiburon

Marin Clean Energy  
1125 Tamalpais Avenue  
San Rafael, CA 94901  
1 (888) 632-3674  
mceCleanEnergy.org

Bryan H. Montgomery  
City Manager  
City of Oakley  
City Hall  
3231 Main Street  
Oakley, CA 94561

RE: City of Oakley Letter of Intent

Dear Mr. Montgomery:

We are in receipt of your letter, dated December 11, 2015, expressing interest in exploring membership with MCE and are happy to consider your request. We are pleased to inform you that our Board has approved a six-month "inclusion period" that would allow no-cost membership consideration if your membership application is completed on or before March 31, 2016.

Membership application requirements are attached here and include the following:

- Adoption of the ordinance required by the Public Utilities Code Section 366.2(c) (10)
- Executed Memorandum of Understanding
- Signed request for load data from PG&E
- Designation of a staff person from your city to serve as a liaison to MCE

If you are interested in submitting a membership application please notify Alex DiGiorgio, MCE's Community Development Manager, and he will assist you with any questions you may have as you complete the checklist. You can reach Alex by email at: [ADiGiorgio@mceCleanEnergy.org](mailto:ADiGiorgio@mceCleanEnergy.org) or by phone at: 415-464-6031.

Please note that (1) adoption of your Ordinance to join MCE will be subject to approval by the MCE Board, and (2) MCE will conduct an

economic feasibility analysis prior to approving membership. Also, if membership is approved, timing of procurement and customer enrollment would be determined by the MCE Board. We will remain in close contact with your city about the most likely target dates for each process.

To streamline communications and policy setting, any participating cities and towns in your county may have the option to select one shared representative and one alternate to serve on the MCE Board as a voting member. If you choose this option, the selected representative would have a weighted vote based on the combined customer load of all participating cities and towns within your county.

We are happy to meet with you or your council to answer questions or provide additional information. We look forward to the opportunity to work with you on your membership application for MCE service. Please let me know if we can be of any further assistance.

Sincerely,



Dawn Weisz  
CEO  
Marin Clean Energy (MCE)

Attachments

cc: Alex DiGiorgio, Community Development Manager

**ORDINANCE NO. XX-16**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
APPROVING THE MARIN CLEAN ENERGY JOINT POWERS AGREEMENT  
AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE  
AGGREGATION PROGRAM**

**WHEREAS**, the City of Oakley has been actively investigating options to provide electric services to constituents within its service area with the intent of promoting use of renewable energy and reducing energy related greenhouse gas emissions; and

**WHEREAS**, on September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the "Act"), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation; and

**WHEREAS**, the Act expressly authorizes participation in a Community Choice Aggregation (CCA) program through a joint powers agency, and on December 19, 2008, the Marin Clean Energy (MCE) was established as a joint power authority pursuant to a Joint Powers Agreement, as amended from time to time; and

**WHEREAS**, on February 2, 2010 the California Public Utilities Commission certified the "Implementation Plan" of the MCE, confirming the MCE's compliance with the requirements of the Act; and

**WHEREAS**, in order to become a member of the MCE, the Act requires the City of Oakley to individually adopt an ordinance electing to implement a Community Choice Aggregation program within its jurisdiction by and through its participation in the MCE.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of Oakley as follows:

**SECTION 1:** This action not a project as defined in accordance with California Environmental Quality Act (CEQA) Guidelines, Section 15378 because the proposed action will not result in any direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Joining a CCA presents no foreseeable significant adverse impact to the environment because the California State regulations such as the Renewable portfolio Standard (RPS) and Resource Adequacy (RA) requirements apply equally to CCAs as they do Investor-Owned Utilities. State CEQA Guidelines Section 15378(b)(5) states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Further, it can be seen with certainty that there is no

possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable (Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)).

**SECTION 2:** Based upon all of the above, the City Council elects to implement a Community Choice Aggregation program within the City of Oakley's jurisdiction by and through the City of Oakley's participation in the Marin Clean Energy. The Mayor is hereby authorized to execute the MCE Joint Powers Agreement.

**SECTION 3:** This ordinance shall take effect on the later of (a) the date the Board of Directors of MCE adopts a Resolution adding the City as a member of MCE, or (b) 30 days after its adoption and, before the expiration of 30 days after its passage, a summary of this ordinance shall be published once with the names of the members of the Council voting for and against the same in the East County Times a newspaper of general circulation published in the City of Oakley.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on \_\_\_\_\_, 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

**RESOLUTION NO. XX-16****A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL  
REQUESTING MEMBERSHIP IN MARIN CLEAN ENERGY**

**WHEREAS**, the City of Oakley has been actively investigating options to provide electric services to constituents within its service area with the intent of achieving greater local involvement over the provision of electric services and promoting competitive and renewable energy.

**WHEREAS**, on September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, Ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the "Act"), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation ("CCA").

**WHEREAS**, the Act expressly authorizes participation in a CCA program through a joint powers agency, and on December 19, 2008, Marin Clean Energy (MCE) was established as a joint power authority pursuant to a Joint Powers Agreement, as amended from time to time.

**WHEREAS**, on February 2, 2010, the California Public Utilities Commission certified the "Implementation Plan" of MCE, confirming MCE's compliance with the requirements of the Act.

**WHEREAS**, the City of Oakley fully supports the mission of MCE, which states that the purpose of MCE is to address climate change by reducing energy related greenhouse gas emissions and securing energy supply, price stability, energy efficiencies and local economic and workforce benefits. It is the intent of MCE to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar and wind energy production at competitive rates for customers.

**WHEREAS**, the City of Oakley fully supports MCE's current electricity procurement plan, which targets for more than 50% renewable energy content.

**WHEREAS**, in order to become a member of MCE, the MCE Joint Powers Agreement requires the City of Oakley to individually adopt a resolution requesting membership in MCE and an ordinance electing to implement a Community Choice Aggregation program within its jurisdiction.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, by the City of Oakley City Council as follows:

1. Based upon all of the above, the Council requests that the Board of Directors of Marin Clean Energy approve the City of Oakley as a member of the MCE.
2. The City Manager is hereby directed to forward a copy of this resolution to MCE.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the \_\_\_\_\_ of \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

## **Memorandum of Understanding between MCE and the City of Oakley Exploring Inclusion in MCE**

This Memorandum of Understanding (MOU), regarding MCE membership consideration is entered into by and between MCE and the City of Oakley.

**WHEREAS**, the City of Oakley has expressed interest in exploring membership in MCE, and

**WHEREAS**, MCE has a Policy to consider new community inclusion, subject to receipt of a complete application and subject to MCE analysis and approval, and

**WHEREAS**, MCE and City of Oakley are collaborating to determine the feasibility of including the City of Oakley within MCE's Service area and approving the City of Oakley's application for membership; and

**WHEREAS**, MCE and the City of Oakley have a mutual interest in following the guidelines below,

**NOW THEREFORE**, the parties hereto agree as follows:

1. The City of Oakley agrees to assign one staff member as primary point of contact with MCE. Assigned staff member will support and facilitate communication with other City staff and officials, as well as provide input and high-level assistance on community outreach.
2. The City of Oakley will work with MCE to conduct public outreach about the MCE program to aid in outreach and education and to collect feedback from the community. Options to publicize include, but are not limited to, website, social media, public events, community workshops, and newsletter announcements, as well as distribution of flyers and handouts provided by MCE.
3. The City of Oakley will complete and submit 'MCE Membership Application' to MCE.
4. After receipt of complete Membership Application MCE will conduct a quantitative analysis to determine feasibility of adding the City of Oakley to the MCE Service Area, and approve membership if analysis results are positive.
5. Subject to membership approval by the MCE Board, the City of Oakley agrees to publicize and share information about MCE within its community during the 6 month enrollment period. Options to publicize include, but are not limited to, website, social media, public events, community workshops, and newsletter announcements (where

feasible), as well as distribution of flyers and handouts provided by MCE at the City of Oakley offices.

- 6. Subject to membership approval by the MCE Board, the City of Oakley agrees to provide desk space for up to 2 MCE staff during the 6 month enrollment period, and agrees to consider ongoing desk space availability if needed for effective and efficient outreach.

**IN WITNESS WHEREOF**, the parties hereto have executed this MOU.

MCE:

By: \_\_\_\_\_  
Dawn Weisz, CEO Date  
MCE

[CITY/COUNTY]:

By: \_\_\_\_\_  
Bryan H. Montgomery, City Manager Date  
City of Oakley





**DECLARATION BY MAYOR OR CHIEF COUNTY ADMINISTRATOR  
REGARDING INVESTIGATION, PURSUIT OR IMPLEMENTATION OF  
COMMUNITY CHOICE AGGREGATION**

I, \_\_\_\_\_ [name], state as follows:

1. I am the mayor or chief county administrator of  
\_\_\_\_\_ [name of city or county].

2. I am authorized to make this declaration on behalf of  
\_\_\_\_\_ [check appropriate box]

a city, or

county,

which is investigating, pursuing or implementing community choice aggregation as a community choice aggregator as defined by Section 331.1 of the California Public Utilities Code ("CCA" or "Potential CCA").

3. I understand that all of the confidential information provided by PG&E to the city or county indicated above is subject to the terms and conditions of the Nondisclosure Agreement between these two entities and is provided for the sole purpose of enabling the city or county to investigate, pursue or implement community choice aggregation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_, \_\_\_\_\_ [city, state].

\_\_\_\_\_ [Signature]