

Part 1 Includes the following items

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 June 14, 2016 (Kim Carmody, Records Management Clerk)

Oakley City Council

- 3.2 **Award of Construction Contract to R & R Pacific Construction Co.**, for the Main Street Downtown Utility Improvement (Norcross Lane to 2nd Street) Project – CIP 165A (Kevin Rohani, Public Works Director/City Engineer)
- 3.3 **Acceptance of dedication of right of way** related to Assessor's Parcel Numbers 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and 037-160-020 for improvements associated with the Main Street Improvement project in downtown - CIP No. 165 (Kevin Rohani, Public Works Director/City Engineer)
- 3.4 **Authorize the City Manager to execute a Reimbursement Agreement between the City of Oakley and Brookfield Emerson Land LLC** for the City's portion of the frontage improvements related to the East Cypress Road Widening, north side between Cypress Grove to Emerson Ranch Way/Machado Lane (Kevin Rohani, Public Works Director/City Engineer)
- 3.5 **Adopt a Resolution Authorizing the City Manager to Execute an Agreement for Grazing Services with Damon Pombo** in an Amount not to Exceed \$50,000 from July 1, 2016 through June 30, 2018 (Kevin Rohani, Public Works Director/City Engineer)
- 3.6 **Adopt a Resolution Approving the Memorandum of Understanding between the City and the Oakley Police Officers Association** (Bryan Montgomery, City Manager)
- 3.7 **Authorize the City Manager to Execute an Agreement with Kennedy & Associates** to Provide Contract Storm Water and Land Surveyor Services for City of Oakley in an Amount not to Exceed \$50,000 Annually from July 1, 2016 through June 30, 2018 (Kevin Rohani, Public Works Director/City Engineer)
- 3.8 **Adopt a Resolution Authorizing the City Manager to Execute Temporary Use Agreement with Terracare Associates** for a Portion of Property Located at 5400 Neroly Road and 1033 Main Street (Kevin Rohani, Public Works Director/City Engineer)

- 3.9 Approval of Parcel Map MS 16-978 Neroly Road Child Care Parcel (Kevin Rohani, Public Works Director/City Engineer)**
- 3.10 Approve the Memorandum of Understanding with Contra Costa County and Participating Cities Regarding a [Technical Study](#) to Evaluate Alternatives for Potentially Implementing Community Choice Energy within the Jurisdictions Included in the Study (Joshua McMurray, Planning Manager)**

**Minutes of the Regular Joint Meeting of the Oakley City Council/Oakley City Council
Acting as the Successor Agency to the Oakley Redevelopment Agency
Tuesday, June 14, 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 and Oakley City Council
Acting as the Successor Agency to the Oakley Redevelopment Agency**

Mayor Romick called the meeting to order at 6:28 p.m. Sue Higgins, Doug Hardcastle, Vanessa Perry, Randy Pope and Kevin Romick were in attendance.

Mayor Romick asked everyone to join in a moment of silence in honor of those affected by the tragic events in Orlando Florida.

1.2 Pledge of Allegiance to the Flag

Mayor Romick led the Pledge of Allegiance

**1.3 Proclamation Designating June 2016 as Immigrant Heritage Month (You, Me, We =
Oakley Ambassadors)**

Mayor Romick read and presented the proclamation to Gabriela Banos-Galvan.

Gabriela thanked the Council for their support and recognition and mentioned that You, Me, We = Oakley will be hosting their 3rd citizenship drive on Sat June 18th.

1.4 Proclamations Honoring the Oakley Youth Advisory Council

Mayor Romick read and presented the proclamations to the Oakley Youth Advisory Council

2.0 PUBLIC COMMENTS

Online Comment Forms-None

Public Comment Cards

Charles Laswell mentioned an incident that happened at Burger King that involved law enforcement, when Burger King was asked about the security cameras, their response was that the cameras don't work, Mr. Laswell mentioned that for safety reasons, he would like to see businesses forced to put up security cameras; he also mentioned that at a previous meeting, he asked about putting a survey together to get residents opinions on what is happening in Oakley and he has not received a response.

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 May 24, 2016 (Kim Carmody, Records Management Clerk)**

Oakley City Council

- 3.2 Report out of Closed Session Memo (William Galstan, Special Counsel)**
- 3.3 Acceptance of Work Associated with Capital Improvement Project No. 170 – FY 2015-16 Frontage Gap Closure Improvement Project (Kevin Rohani, Public Works Director/City Engineer)**
- 3.4 Creating Zone 159 within the Oakley Special Police Tax Area for Minor Subdivision 14-978 (Bella Estates) (Kevin Rohani, Public Works Director/City Engineer)**
- 3.5 Resolution Naming Parcel A of Subdivision 9027, “Duarte Ranch Park” (Kevin Rohani, Public Works Director/City Engineer)**
- 3.6 Ordinance Accepting the Requirements Relating to Peace Officer Training and Recruitment (William Galstan, Special Counsel)**
- 3.7 Appointment of Citizen Planning Advisors (Kevin Romick, Mayor and Sue Higgins, Vice Mayor)**

It was moved by Councilmember Hardcastle, and seconded by Vice Mayor Higgins to approve the Consent Calendar. Motion was unanimous and so ordered.

4.0 PUBLIC HEARINGS

- 4.1 *Continued from May 24, 2016.* Hamman Tentative Parcel Map (TPM 02-16) Request for a Tentative Parcel Map (TPM 02-16) to subdivide 3.96-Acre Parcel into two lots with a remainder parcel. Parcel A will be 1.347-Acres, Parcel B will be 1.842-Acres and the Remainder Parcel will be .702-Acres. No Construction is Proposed at this time. The site is designated as Light Industrial in the Oakley 2020 General Plan and Zoned Light Industrial (LI) District. The Property is Located at 2540 Oakley Road (APN: 037-080-021) (Joshua McMurray, Planning Manager)**

Mr. McMurray reminded Councilmembers of the location of the property and mentioned the item was continued so the applicant could explore options with staff in regards to the

Deferred Improvement Agreement; after discussion between the applicant and staff, the applicant has requested to move forward with the project as originally conditioned.

It was moved by Councilmember Hardcastle and seconded by Councilmember Perry to adopt the resolution approving the Hamman Minor Subdivision MS 16-977 (Tentative Parcel Map TPM 02-16), as conditioned. Motion was unanimous and so ordered.

4.2 Emerson Ranch Neighborhood 6 - Woodbury (GPA 01-15, RZ 01-15, FDP 01-15, TM 01-15, and DR 05-15) - Adopt resolutions for a General Plan Amendment, Final Development Plan, Tentative Map, and Design Review, and waive the first reading and introduce an ordinance for a Rezone. (Ken Strelo, Senior Planner)

Ken Strelo presented the staff report and PowerPoint presentation and mentioned that the project is located within the Emerson Ranch Subdivision, he mentioned there are five different entitlement requests; A General Plan Amendment to designate approximately 16 acres from commercial to Multi-family residential, A Rezone to amend a planned unit development district, A Vesting Tentative Map to subdivide approximately 16 acres into 104 single family lots, A Final Development Plan for the portion of the P-1 district modified by the tentative map and A Design Review of house plans and architecture and a development plan, he also mentioned the applicant will place a roundabout at the entry to eliminate the need for a stop sign, applicant has also come up with an HOA which will maintain all front yards, right of entry landscaping, a majority of the entry, the roundabout and the storm water area.

Councilmember Perry asked what the size of the Lucky's and Raley's shopping centers are for comparison.

Staff responded that the Lucky's shopping center is approximately 9 acres, the Raley's shopping center is about 11 acres.

Vice Mayor Higgins asked why there are no single story homes and could the HOA be required to install security cameras at the entryway.

Staff responded that it becomes difficult to plot single story homes when the lot size is under 6,000 feet, homes and yards would be too small and currently the requirement of cameras is not in the conditions of approval, however, it could be asked of the applicant.

Michael Evans of Denova Homes responded that they would not have a problem installing cameras to enhance security.

Councilmember Pope asked what can be expected of the brook, will it only run when it is raining.

Staff responded that the idea for the brook is not to use treated water, just water that falls on the ground and is recirculated so therefore would only run during the rainy season

Councilmember Pope commented that he is against the project, however if approved by colleagues, he would like to see the brook run year round and the installation of security cameras.

Councilmember Hardcastle mentioned he likes the idea of security cameras and would like to see the brook be a year round feature.

Mayor Romick mentioned he is impressed with the project, likes that they're multi-family homes and that the HOA will take care of the front yards

It was moved by Councilmember Perry and seconded by Vice Mayor Higgins to adopt the resolution approving the General Plan Amendment, as conditioned. Ayes: Hardcastle, Higgins, Perry, Romick Noes: Pope

It was moved by Vice Mayor Higgins and seconded by Councilmember Hardcastle to waive the first reading and introduce the ordinance approving the rezone, as conditioned. Ayes: Hardcastle, Higgins, Perry, Romick Noes: Pope

It was moved by Vice Mayor Higgins and seconded by Councilmember Perry to adopt the resolution approving the Vesting Tentative Map, Final Development Plan, and Design Review, as conditioned. Ayes: Hardcastle, Higgins, Perry, Romick Noes: Pope

4.3 Adopt Ordinance No.09-16 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 158 within the Oakley Special Police Tax Area for Police Protection Services for Minor Subdivision 14-977 (Doyle Rd) (Kevin Rohani, Public Works Director/City Engineer)

Public Works Director/City Engineer Kevin Rohani presented the staff report.

There were no questions or comments from Councilmembers.

It was moved by Councilmember Pope and seconded by Councilmember Hardcastle to ratify the election and adopt ordinance No. 09-16 authorizing the levy of a special tax on parcels of land within Tax Area Zone 158 within the Oakley Special police tax area for police protection services for Minor Subdivision 14-977 (Doyle Road)

4.4 Adopt Ordinance No.08-16, Establishing Oakley Special Police Area Zone 157 within the Oakley Special Police Tax Area for a Special Tax for Police Protection Services for Subdivision 9027 (Duarte Ranch). (Kevin Rohani, Public Works Director/City Engineer)

Public Works Director/City Engineer Kevin Rohani presented the staff report.

There were not questions or comments from Councilmembers.

It was moved by Councilmember Hardcastle and seconded by Councilmember Pope to amend the boundaries of tax area zone 157, ratify the election and adopt ordinance No. 08-16 authorizing the levy of a special tax on parcels of land within tax area zone 157 of the Oakley special police tax area for police protection services for phase 1 of subdivision 9027 (Duarte Ranch)

4.5 Public Hearing to Consider Confirming the Diagrams and Assessments and Ordering the Levy and Collection of the Annual Assessments for Fiscal Year 2016-2017 for the City of Oakley Street Lighting and Landscape Assessment District No. 1 (Kevin Rohani, Public Works Director/City Engineer)

Public Works Director/City Engineer Kevin Rohani presented the staff report.

There were no questions or comments from Councilmembers.

It was moved by Vice Mayor Higgins and seconded by Councilmember Perry to adopt the resolution confirming the diagrams and assessments, and ordering the levy and collection of the annual assessments for FY 2016-2017 for the City of Oakley Street Lighting and Landscape Assessment District No. 1

Online Comment Forms - None

Public Comment Cards-None

5.0 REGULAR CALENDAR

Oakley City Council

5.1 Resolution setting forth the Salary and Compensation Plan for 2016-17 (Nancy Marquez-Suarez, Assistant to the City Manager)

Nancy Marquez-Suarez presented the staff report and mentioned that what is being proposed is a merit increase from 0-5%, and mentioned that typically in other cities they have an automatic step increase of 5%; in Oakley, increases are tied to performance evaluations, she mentioned a change this year is to add 16 hours of administrative leave to salaried employees and all other benefits would remain the same.

Councilmember Perry commented that staff is doing a great job and all their hard work is appreciated, she also mentioned she likes the idea of looking into the comparative cities.

Councilmember Hardcastle asked about the automatic step increases in other cities.

Ms. Marquez replied that most comparable cities are unionized and get an automatic 5% step increase and offer a merit increase on top of that, in Oakley no one gets an automatic increase.

Councilmember Pope asked how staff came up with the 16 additional hours of Administrative leave and how would it be used.

Ms. Marquez responded that due to the 9/80 work schedule, when there is a fifth Friday in a month, staff works four additional hours, salaried staff does not get paid for those hours; in 2016/2017 there are five months that have a fifth Friday which would be the equivalent of 20 hours, 16 additional hours is what was proposed. Administrative leave can be used by the employee within the year, if it's not used, they lose it, it can be used however staff would like.

It was moved by Councilmember Perry and seconded by Councilmember Hardcastle to adopt the resolution approving the 2016-2017 compensation and benefits program and employee salary ranges.

5.2 Adoption of Fiscal Year 2016-17 Budget and Capital Improvement Plan (Deborah Sultan, Finance Director)

Deborah Sultan presented the staff report and thanked staff and Council for their assistance during the budget process. She mentioned two changes, one is the addition of the dog park at Nunn Wilson Community Park for \$828,000, we received notice that we will likely receive a Land and Water Conservation Fund program grant for \$413,515 and that has a 50% match, we will use the park impact fees for the match, the other increase is due to the estimate received from the MPA on insurance and there is a \$38,000 increase in the budget based on those estimates.

Mayor Romick thanked Ms. Sultan.

It was moved by Councilmember Pope and seconded by Councilmember Perry to adopt the resolution adopting the FY 2016-2017 recommended budget, statement of financial policies, appropriations limit, and CIP for FY 2016-2017 through 2020-2021 and the City's recommended 5-year capital improvement plan for FY 16-17 through 20-21, confirming the plan is consistent with the adopted Oakley General Plan and meets the requirements of section 65401 of the Government code

5.3 Appeal of Order to Demolish building located at 150 Acme Street (Troy Edgell, Code Enforcement Manager)

Special Counsel William Galstan reviewed the procedures for the hearing.

Code Enforcement Manager Troy Edgell presented the staff report and informed the Council how the decision was made to demolish the building to protect the health, safety and welfare of the community, and mentioned that the property owner was

provided sufficient time and due process to avoid this action. He showed the Councilmembers photos of the building before an emergency abatement was performed. He mentioned that in August the building was red tagged and an order to demolish or repair was issued, he also mentioned that the property owner did not meet the timeline following the resolution that was approved on January 12th, 90 days later a notice of intent to demolish was issued. The property owner was informed of the time and date of the hearing on two occasions.

The appellant was not present at the point when he was to provide his statement.

Online Comment Forms

Peter Connell commented that this is a blighted area and it is a makeshift living space for several homeless individuals, the alleyways are often blocked with trash and he believes that demolishing this building would be a step in the right direction for revitalizing this section of downtown.

Jeff Wayne commented that the structure at 150 Acme Street has been an eyesore for many years and it's time that something is done about it.

Lynn Peterson commented that she has lived near the property at 150 Acme Street since 1978 and has never seen any maintenance or improvements done and believes it poses a safety hazard to the neighborhood and nearby businesses.

Public Comment Cards-None

It was moved by Councilmember Hardcastle and seconded by Councilmember Pope to deny the appeal of Order to demolish 150 East Acme Street. Motion was unanimous and so ordered.

Mayor Romick confirmed that the property owner was still not in attendance.

5.4 Main Street Downtown Improvement Project Gateway Design Monument Selection (Kevin Rohani, Public Works Director/City Engineer)

Kevin Rohani presented the staff report and mentioned that this report is a continuation of the report presented at the previous meeting and this monument is a major component to the downtown improvement project and will be located in the median at Main and 2nd Street, he also mentioned that at the previous meeting Councilmembers narrowed it down to three choices.

Nancy Marquez-Suarez mentioned that the three choices selected by Councilmembers at the previous meeting were posted on Engage in Oakley to solicit input from the community and option 7 had the most votes.

The consensus of the Councilmembers is to move forward with option 7.

Mayor Romick mentioned that at some point he would like to see a "Founders Plaza" in the Downtown to make mention of those that helped create this community.

Kevin Rohani mentioned that at 2nd Street, where Main Street bends, between the gateway and the Railroad tracks there will be landscaping done to enhance that area and perhaps that would be a good area for a Founders Plaza.

6.0 REPORTS

6.1 CITY MANAGER

(a) City Manager

City Manager Bryan Montgomery thanked staff and residents for helping to inform residents on the library measure, he mentioned that on Thursday night the Warriors game will be showing at Civic Center Park and reminded everyone that no alcohol is allowed, he also mentioned the Cityhood Celebration will be held on July 2nd at the Freedom Basin Park.

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

Councilmember Pope reported his attendance at the Fireboard Meeting on June 6th, and two big items were discussed, the Task Force reported on the Utility User Tax recommendation they came up with and it should come to the City Council in the near future to take action, he mentioned the other big item is to move the appointed Board to an elected board, the Board moved to place it on the ballot, the next Fireboard meeting will be June 20th, he also reported the next Habitat Conservancy Meeting will be June 27th in Pittsburg.

Vice Mayor Higgins reported that in May 2016 the Water District says we can water four days a week in Oakley, the Water District will also be doing Fire hydrant flushing to keep water free of sediment, she reported that she attended the Fire academy graduation and four new firemen were hired, she attend Oakley's Memorial day Ceremony as well as Brentwood's post 10789 and Auxiliary

Councilmember Perry thanked the Veterans of Oakley for a great car show, and mentioned they will be hosting a paint night on June 24th at Providence and the proceeds go back to the Veterans of Oakley.

(b) Requests for Future Agendas - None

7.0 WORK SESSIONS-None

8.0 CLOSED SESSIONS-None

9.0 ADJOURN

There being no further business, the meeting was adjourned at 7:55 p.m.

Respectfully Submitted,


Kim Carmody
Records Management Clerk



STAFF REPORT

Date: Tuesday, June 28, 2016
To: Bryan H. Montgomery, City Manager
From: Kevin Rohani, P.E. Public Works Director/ City Engineer

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

SUBJECT: Award of Construction Contract to R&R Pacific Construction for the Main Street Storm Drain Improvement Project – CIP 165 A

Background and Analysis

The City's adopted FY 2015/16 Capital Improvement Program (CIP) Budget designates funding for various infrastructure repair and replacement projects. This is consistent with the City's goals to improve the quality of the City's public infrastructure and to enhance the quality of life for our residents.

Capital Improvement Project No. 165 A includes the installation of a storm drain system between Norcross Lane and Second Street consisting of storm drain lines, manholes, and catch basins. Additionally, existing water meters and fire hydrants will be relocated and one new fire hydrant will be installed between Norcross Lane and O'Hara Avenue. Currently, Main Street between Norcross Lane and Second Street does not have a storm drain system to collect storm water during the rainy season. Traditionally, storm water drains from the crown of the roadway to both the north and south sides of the street, eventually getting to the drain inlets on the side streets (Norcross, Hall, and O'Hara) or through the properties to the north toward the railroad tracks. This project will construct a storm drain system to capture all of the storm water runoff between Norcross Lane and Second Street. The new storm drain system will connect to the existing system located northeast of Second Street. This project is the precursor to the Main Street streetscape project that will follow in the next coming months.

R&R Pacific Construction was the lowest bidder for the project at a cost of \$612,709.00. Staff is proposing an appropriated contingency of \$80,000 for a total project budget of \$692,709.00.

Fiscal Impact

The current FY 2015/16 budget for this project is \$350,000 in Main Street funds, \$150,000 in Stormwater Funds, and \$200,000 in General Capital Projects Funds.

The total funding for the Main Street Storm Drain Improvement Project comes from the following:

Fund	Amount	Account Number
General Capital Fund	\$ 200,000	201-75-165-0001
Stormwater Fund	\$ 150,000	145-75-165-0001
Main Street Fund	\$ 350,000	231-75-165-0001
Total Recommended	\$ 700,000	

Staff Recommendation

On June 16, 2016, three (3) bids were received for this project. Staff reviewed the bids and determined that R&R Pacific Construction was the lowest responsible entity and is most responsive to the City's formal bid process.

Staff recommends that the City Council adopt the resolution approving the construction agreement with R&R Pacific Construction for an amount not to exceed \$612,709.00, and authorizing the City Manager to execute said agreement.

Due to variables associated with construction projects, and to address unforeseen circumstances during the course of construction; staff further recommends that the City Council authorize staff to execute future change orders to the construction contract as necessary in an amount not to exceed \$80,000 for work beyond what is defined in the base project bid.

Attachments

- 1) Resolution
- 2) Bid Summary

RESOLUTION NO. __-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
APPROVING AN AGREEMENT WITH R & R PACIFIC CONSTRUCTION FOR
THE CONSTRUCTION OF THE MAIN STREET STORM DRAIN
IMPROVEMENT PROJECT – CIP 165 A**

WHEREAS, BKF Engineers prepared the plans, specifications, and estimates for the construction of the Main Street Storm Drain Improvement Project which includes storm drain lines, drainage inlets, water main extension, water meter and fire hydrant relocations, and other related work; and

WHEREAS, the plans, specifications and special provisions were publicly advertised for bidding, with the bid period closing at 2:00 P.M. on Thursday, June 16, 2016; and

WHEREAS, three (3) bids were received prior to the close of the bidding process; and

WHEREAS, R&R Pacific Construction submitted the lowest responsible bid for a total cost of \$612,709.00 for the work; and

WHEREAS, the FY 15/16 budget included \$700,000 for the project in the General Capital Projects Fund, Main Street, and Stormwater Funds; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oakley that the Agreement with R&R Pacific Construction for the construction of the Main Street Storm Drain Improvement Project - CIP 165 A, for an amount not to exceed \$612,709.00 is approved, and the City Manager is authorized to execute said Agreement and any change orders in an amount not to exceed \$80,000 as necessary.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 28th of June, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

City of Oakley Public Works Department

FY 2015-16 Main Street Utility Project Project #165 A

Certified Bid Tabulation Bid opening: June 16, 2016 at 2:00 P.M. at the Civic Center

Item No.	Description	Quantity	Unit	Engineers Estimate		R&R Pacific Construction 433 Second Street, Ste 103 Woodland, Ca., 95695		JW Backhoe P.O. Box 722 Knightsen, Ca. 94548		California Trenchless Inc. 2283 Dunn Road Hayward, Ca. 94545	
				Unit Price	Item Cost	Unit Price	Item Cost	Unit Price	Item Cost	Unit Price	Item Cost
1	Mobilization	1	LS	56,802.25	56,802.25	19,500.00	19,500.00	5,000.00	5,000.00	50,000.00	50,000.00
2	Traffic Control & Const Signs	1	LS	15,000.00	15,000.00	32,000.00	32,000.00	15,000.00	15,000.00	25,000.00	25,000.00
3	Storm Water Pollution Control Plan	1	LS	5,000.00	5,000.00	8,500.00	8,500.00	2,500.00	2,500.00	2,500.00	2,500.00
4	Remove Striping & Lead Compliance Plan	1	LS	500.00	500.00	15,000.00	15,000.00	3,800.00	3,800.00	5,400.00	5,400.00
5	HMA (Type A)	6	Ton	110.00	660.00	190.00	1,140.00	700.00	4,200.00	300.00	1,800.00
6	Remove Curb and Gutter	56	LF	20.00	1,120.00	55.00	3,080.00	80.00	4,480.00	30.00	1,680.00
7	Remove Concrete Sidewalk	80	SF	15.00	1,200.00	55.00	4,400.00	70.00	5,600.00	20.00	1,600.00
8	Remove and Replace Traffic Loops	4	EA	700.00	2,800.00	6,250.00	25,000.00	1,800.00	7,200.00	2,500.00	10,000.00
9	Thermo Striping & Markers	1	LS	852.50	852.50	17,000.00	17,000.00	3,500.00	3,500.00	45,000.00	45,000.00
10	New Drain Inlet	17	EA	2,250.00	38,250.00	4,500.00	76,500.00	8,000.00	136,000.00	3,500.00	59,500.00
11	New Storm Drain Manhole	8	EA	8,000.00	64,000.00	5,500.00	44,000.00	9,250.00	74,000.00	5,500.00	44,000.00
12	18" HDPE Storm Drain Line	998	LF	220.00	219,560.00	195.00	194,610.00	175.00	174,650.00	425.00	424,150.00
13	12" HDPE Storm Drain Line	654	LF	180.00	117,720.00	165.00	107,910.00	127.00	83,058.00	400.00	261,600.00
14	Connect to Ex. SDMH	2	EA	1,500.00	3,000.00	3,500.00	7,000.00	5,000.00	10,000.00	2,000.00	4,000.00
15	Connect to Ex SD Inlet	1	EA	1,500.00	1,500.00	3,500.00	3,500.00	3,500.00	3,500.00	1,800.00	1,800.00
16	12 inch SD Cap	8	EA	450.00	3,600.00	800.00	6,400.00	1,200.00	9,600.00	500.00	4,000.00
17	3 inch SD Cap	1	EA	250.00	250.00	300.00	300.00	750.00	750.00	400.00	400.00
18	3" PVC Pipe (Curb Drain)	14	LF	150.00	2,100.00	55.00	770.00	200.00	2,800.00	155.00	2,170.00
19	24x24 inlet	1	EA	1,500.00	1,500.00	4,800.00	4,800.00	5,000.00	5,000.00	3,000.00	3,000.00
20	Relocate Existing Fire Hydrant	2	EA	4,900.00	9,800.00	5,200.00	10,400.00	17,000.00	34,000.00	5,000.00	10,000.00
21	Install new 1.5' water meter and BFP	1	EA	5,700.00	5,700.00	5,500.00	5,500.00	15,000.00	15,000.00	10,000.00	10,000.00
22	Install new Fire Hydrant Bury	1	EA	3,700.00	3,700.00	8,000.00	8,000.00	6,000.00	6,000.00	10,000.00	10,000.00
23	Relocate Existing Water Meter	3	EA	9,700.00	29,100.00	1,833.00	5,499.00	10,000.00	30,000.00	1,800.00	5,400.00
24	Rearrange Ex. Water Meter & Valve	1	EA	2,000.00	2,000.00	2,000.00	2,000.00	3,000.00	3,000.00	3,500.00	3,500.00
25	Extend Ex. Fire Hydrant	1	EA	4,200.00	4,200.00	4,500.00	4,500.00	4,000.00	4,000.00	4,500.00	4,500.00
26	Reconnect Ex. Water Meter	2	EA	9,500.00	19,000.00	1,200.00	2,400.00	7,750.00	15,500.00	1,500.00	3,000.00
27	Install new 8" Water Main and Rev. Tap	1	EA	12,200.00	12,200.00	3,000.00	3,000.00	35,000.00	35,000.00	6,000.00	6,000.00
TOTAL					621,114.75		612,709.00		693,138.00		1,000,000.00

This certifies that all bids were received and opened on June 16, 2016, and that this is a copy of the bid tabulation with bids corrected for errors in addition and multiplication. By:






STAFF REPORT

Date: Tuesday, June 28, 2016
To: Bryan H. Montgomery, City Manager
From: Kevin Rohani, P.E. Public Works Director/ City Engineer

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Subject: Acceptance of dedication of right of way related to Assessor's Parcel Numbers 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and 037-160-020 for improvements associated with the Main Street Improvement project in downtown - CIP No. 165

Introduction

The City's adopted FY 2015/16 Capital Improvement Program (CIP) budget designates funding for various infrastructure repair and improvement projects. This is consistent with the City's goal to improve the quality of the City's public infrastructure and to enhance the quality of life for Oakley residents.

Background and Analysis

The City undertook a project to reconstruct Main Street and create a new downtown in Oakley in 2012. The above referenced project, CIP 165, is a continuation of the downtown improvement project which is currently in design, with construction to start later this summer.

For decades the State of California Department of Transportation (Caltrans) had the old Highway 4 under their jurisdiction. It ran through the current downtown area, and was the primary access route to the community. As part of the growth and development of the community, nearly 5 years ago the City of Oakley and Caltrans agreed on the relinquishment of the entire stretch of old Highway 4 to the City of Oakley, which is now the new Main Street.

When reviewing the right of way during the design process it was revealed that a total of six parcels need to dedicate a portion of their frontage along Main Street between Norcross Lane and Fifth Street in order to construct both phases of the project. Of the six parcels that require dedication, four are located in the first phase of work and two are located in the second phase of work. The first phase of the Main Street downtown improvement project is from Norcross Lane to Second Street, CIP 165, and includes four of the six parcels. This phase of the Main Street project is funded in part by a Federal grant which is processed by Caltrans. One of the requirements of the project approval by Caltrans is

certification of the right of way by the City to ensure that all project right of way needs are addressed. In order to certify the project right of way, the City needs to accept the offered right of way dedications; which staff has been working on securing over the past several months. The second phase of the Main Street downtown improvement project is from Second Street to Fifth Street and is associated with the Nature Properties development that was approved for Design Review at the May 24th City Council meeting. As a part of the Nature Properties Conditions of Approval, they are required to dedicate their frontage along Main Street, which comprises the last two of the six parcels.

Fiscal Impact

There is no fiscal impact as result of this right of way dedication acceptance by the City, as the City is not buying any right of way from itself or the private property owners, simply accepting the dedication.

Conclusion

Staff recommends that the City Council adopt the resolution approving the acceptance of right of way dedication for the Main Street improvement project in downtown associated with Assessor's Parcel Number 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and 037-160-020.

Attachments

- 1) Resolution
- 2) Exhibit A – ROW Dedication 035-111-007
 - a. Exhibit A – Map
- 3) Exhibit B – ROW Dedication 035-112-016
 - a. Exhibit B – Map
- 4) Exhibit C – ROW Dedication 035-112-018
 - a. Exhibit C – Map
- 5) Exhibit D – ROW Dedication 035-122-008
 - a. Exhibit D – Map
- 6) Exhibit E – ROW Dedication 035-164-002
 - a. Exhibit E – Map
- 7) Exhibit F – ROW Dedication 037-160-020
 - a. Exhibit F – Map

RESOLUTION NO. ___-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
ACCEPTING A RIGHT-OF-WAY DEDICATION REGARDING
APN 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and
037-160-020**

WHEREAS, Capital Improvement Project Number 165 is to construct the improvements associated with Main Street in downtown; and

WHEREAS, said improvements included construction of curb, gutter, sidewalks, streetscape, street lights, medians, and paving on Main Street; and

WHEREAS, the Project requires the acquisition of right of way from six (6) properties on Main Street, identified as Assessor's Parcel Number 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and 037-160-020; and

WHEREAS, property owners identified as Assessor's Parcel Number 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and 037-160-020 have offered right of way dedication along main Street for the improvements associated with CIP 165 – Main Street Improvement Project; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oakley that the Right-of-Way Dedication offer at APN 035-111-007, 035-112-016, 035-112-018, 035-122-008, 035-164-002, and 037-160-020 is hereby accepted in the form attached hereto as Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, and Exhibit F.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 28th of June, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

PURSUANT TO GOVERNMENT CODE
§6103 NO FEE IS REQUIRED FOR THE
RECORDATION OF THIS DOCUMENT

WHEN RECORDED MAIL TO:

City Clerk
City Of Oakley
3231 Main Street
Oakley, Ca 94561

RECORDING REQUESTED BY:

City Of Oakley
3231 Main Street
Oakley, CA 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

OFFER OF DEDICATION – ROADWAY PURPOSES

A. Meadows Investment Properties I, LLC, the undersigned, being the present title owner(s) of record of the herein described parcel of land, does hereby make an irrevocable offer of dedication to the **CITY OF OAKLEY** (hereinafter CITY), a political subdivision of the State of California, and its successors or assigns, for the purposes of a public road, together with all necessary appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, upon the real property situated in the CITY, described in Exhibit "A" (written description) and shown on Exhibit "B" (plat map) attached hereto.

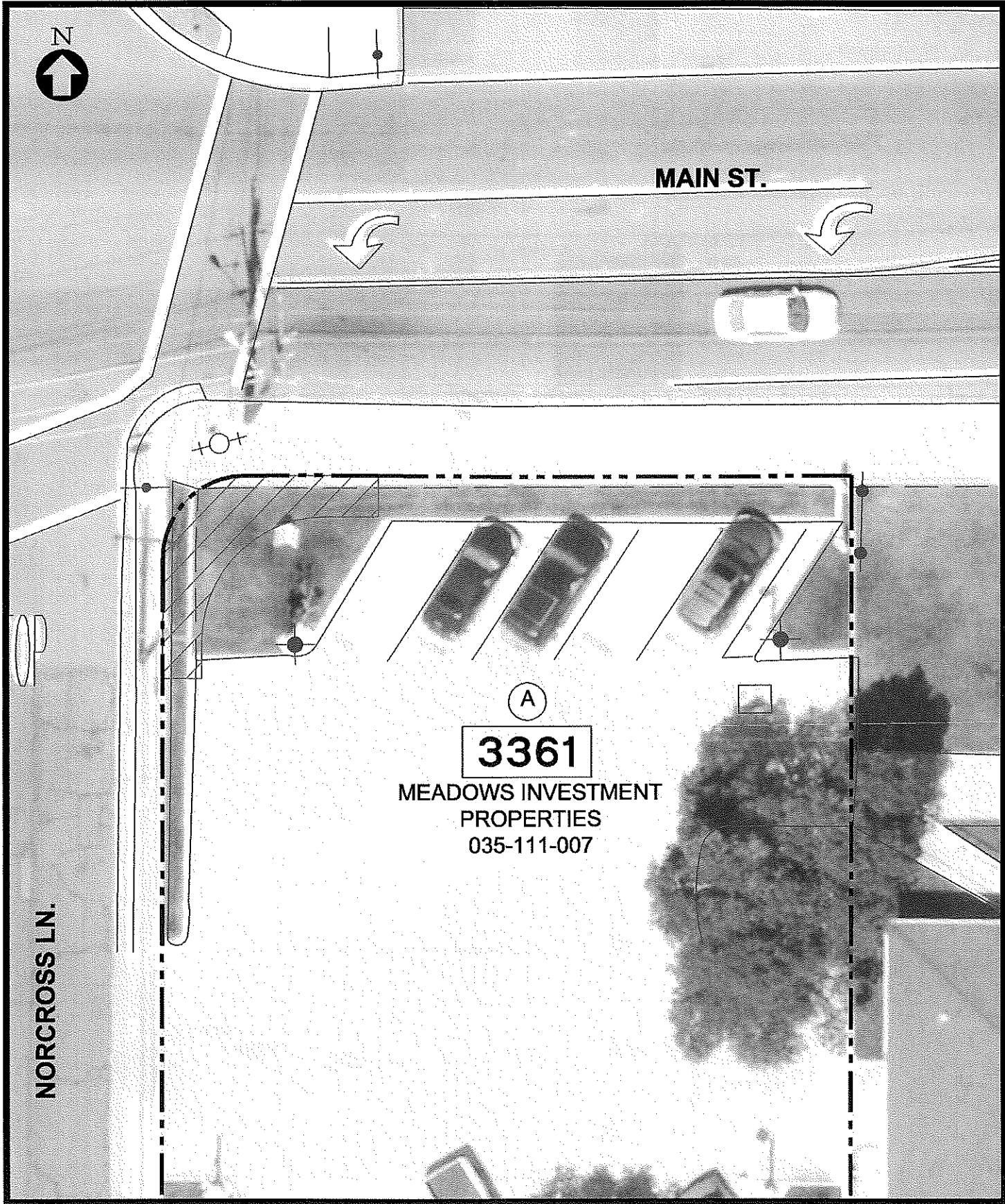
It is understood and agreed that the City and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council or the governing body of any successor or assign.

The provision hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, those present have executed this instrument this ___ day of _____, 201_.

Aaron Meadows

(see attached notary)



NORCROSS LN.


MAIN ST.

A

3361

MEADOWS INVESTMENT
PROPERTIES
035-111-007

LEGEND

 AREA OF DEDICATION

 RIGHT OF WAY

PURSUANT TO GOVERNMENT CODE
§6103 NO FEE IS REQUIRED FOR THE
RECORDATION OF THIS DOCUMENT

WHEN RECORDED MAIL TO:

City Clerk
City Of Oakley
3231 Main Street
Oakley, Ca 94561

RECORDING REQUESTED BY:

City Of Oakley
3231 Main Street
Oakley, CA 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

OFFER OF DEDICATION – ROADWAY PURPOSES

Tower Energy Group, the undersigned, being the present title owner(s) of record of the herein described parcel of land, does hereby make an irrevocable offer of dedication to the **CITY OF OAKLEY** (hereinafter CITY), a political subdivision of the State of California, and its successors or assigns, for the purposes of a public road, together with all necessary appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, upon the real property situated in the CITY, described in Exhibit "A" (written description) and shown on Exhibit "B" (plat map) attached hereto.

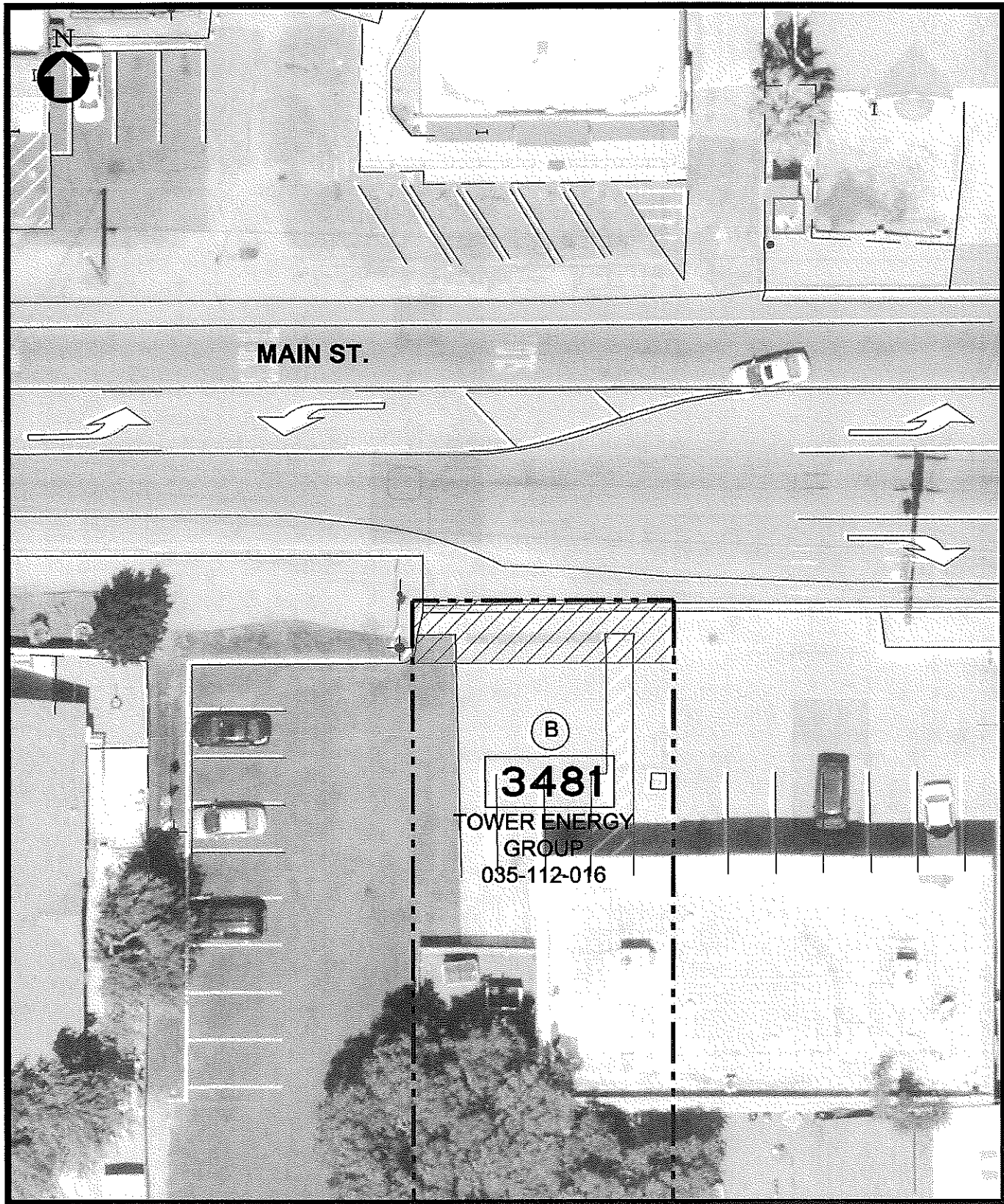
It is understood and agreed that the City and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council or the governing body of any successor or assign.

The provision hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.



IN WITNESS WHEREOF, those present have executed this instrument this ___ day of _____, 201_.

Sign Name

(see attached notary)



LEGEND

-  AREA OF DEDICATION
-  RIGHT OF WAY

PURSUANT TO GOVERNMENT CODE
§6103 NO FEE IS REQUIRED FOR THE
RECORDATION OF THIS DOCUMENT

WHEN RECORDED MAIL TO:

City Clerk
City Of Oakley
3231 Main Street
Oakley, Ca 94561

RECORDING REQUESTED BY:

City Of Oakley
3231 Main Street
Oakley, CA 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

OFFER OF DEDICATION – ROADWAY PURPOSES

Tower Energy Group, the undersigned, being the present title owner(s) of record of the herein described parcel of land, does hereby make an irrevocable offer of dedication to the **CITY OF OAKLEY** (hereinafter CITY), a political subdivision of the State of California, and its successors or assigns, for the purposes of a public road, together with all necessary appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, upon the real property situated in the CITY, described in Exhibit "A" (written description) and shown on Exhibit "B" (plat map) attached hereto.

It is understood and agreed that the City and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council or the governing body of any successor or assign.

The provision hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.



IN WITNESS WHEREOF, those present have executed this instrument this ____ day of _____, 201_.

Sign Name

(see attached notary)



LEGEND

-  AREA OF DEDICATION
-  RIGHT OF WAY

PURSUANT TO GOVERNMENT CODE
§6103 NO FEE IS REQUIRED FOR THE
RECORDATION OF THIS DOCUMENT

Attachment 5

WHEN RECORDED MAIL TO:

City Clerk
City Of Oakley
3231 Main Street
Oakley, Ca 94561

RECORDING REQUESTED BY:

City Of Oakley
3231 Main Street
Oakley, CA 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

OFFER OF DEDICATION – ROADWAY PURPOSES

Nature Properties LLC, the undersigned, being the present title owner(s) of record of the herein described parcel of land, does hereby make an irrevocable offer of dedication to the **CITY OF OAKLEY** (hereinafter CITY), a political subdivision of the State of California, and its successors or assigns, for the purposes of a public road, together with all necessary appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, upon the real property situated in the CITY, described in Exhibits "A" (written descriptions) and shown on Exhibits "B" (plat maps) attached hereto.

It is understood and agreed that the City and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council or the governing body of any successor or assign.

The provision hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

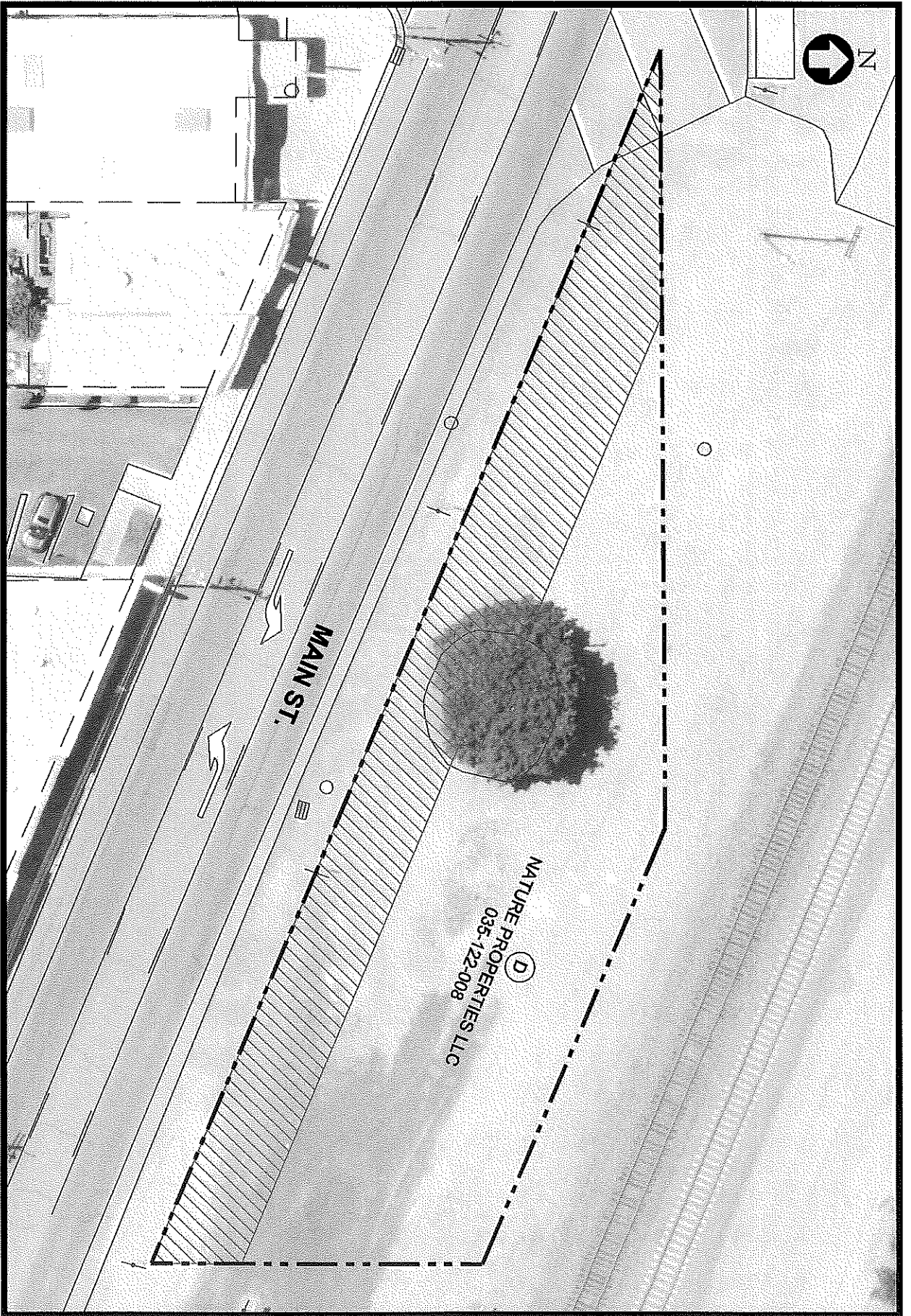
IN WITNESS WHEREOF, those present have executed this instrument this ____ day of _____, 201_.

Hooshang T. Fard

Ezatollah Saiidnia

Farshid Ezazi

(see attached notary)



LEGEND



AREA OF DEDICATION



RIGHT OF WAY

PURSUANT TO GOVERNMENT CODE
§6103 NO FEE IS REQUIRED FOR THE
RECORDATION OF THIS DOCUMENT

Attachment 6

WHEN RECORDED MAIL TO:

City Clerk
City Of Oakley
3231 Main Street
Oakley, Ca 94561

RECORDING REQUESTED BY:

City Of Oakley
3231 Main Street
Oakley, CA 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

OFFER OF DEDICATION – ROADWAY PURPOSES

Nature Properties LLC, the undersigned, being the present title owner(s) of record of the herein described parcel of land, does hereby make an irrevocable offer of dedication to the **CITY OF OAKLEY** (hereinafter CITY), a political subdivision of the State of California, and its successors or assigns, for the purposes of a public road, together with all necessary appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, upon the real property situated in the CITY, described in Exhibits "A" (written descriptions) and shown on Exhibits "B" (plat maps) attached hereto.

It is understood and agreed that the City and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council or the governing body of any successor or assign.

The provision hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

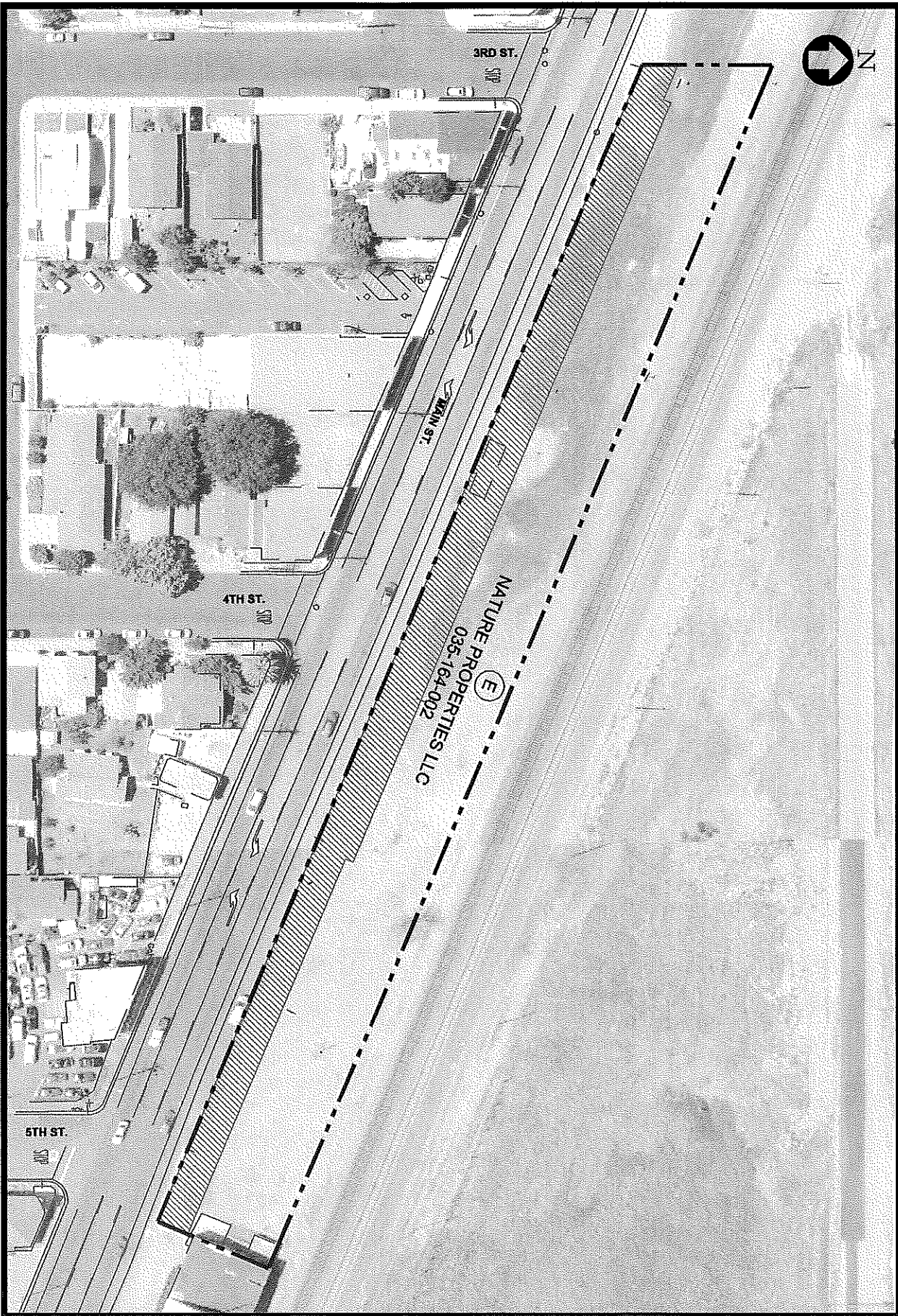
IN WITNESS WHEREOF, those present have executed this instrument this ____ day of _____, 201_.

Hooshang T. Fard

Ezatollah Saiidnia

Farshid Ezazi

(see attached notary)



LEGEND



AREA OF DEDICATION



RIGHT OF WAY

PURSUANT TO GOVERNMENT CODE §6103 NO FEE IS REQUIRED FOR THE RECORDATION OF THIS DOCUMENT

WHEN RECORDED MAIL TO:

City Clerk
 City Of Oakley
 3231 Main Street
 Oakley, Ca 94561

RECORDING REQUESTED BY:

City Of Oakley
 3231 Main Street
 Oakley, CA 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

OFFER OF DEDICATION – ROADWAY PURPOSES

Michael J. Painter, the undersigned, being the present title owner(s) of record of the herein described parcel of land, does hereby make an irrevocable offer of dedication to the **CITY OF OAKLEY** (hereinafter CITY), a political subdivision of the State of California, and its successors or assigns, for the purposes of a public road, together with all necessary appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, upon the real property situated in the CITY, described in Exhibit "A" (written description) and shown on Exhibit "B" (plat map) attached hereto.

Pay for and construct any and all improvements to the Property necessary to complete the Project, including but not limited to pavement, curb, gutter, sidewalk, remove palm tree, relocate existing sign and construct new concrete base, installing of new electrical conduits and making the sign operational, and any other public facilities necessary to complete the Project.

The CITY hereby waives its right to reimbursement under Oakley Municipal Code Section 6.3.126 for the cost of installing said improvements on the Property and agrees that in the event of any future development of or construction on the GRANTOR's Parcel, or any part of it, that the requirements of Oakley Municipal Code section 6.3.102 shall be deemed fully satisfied and that Grantor shall have no further liability or obligations under Oakley Municipal Code section 6.3.126.

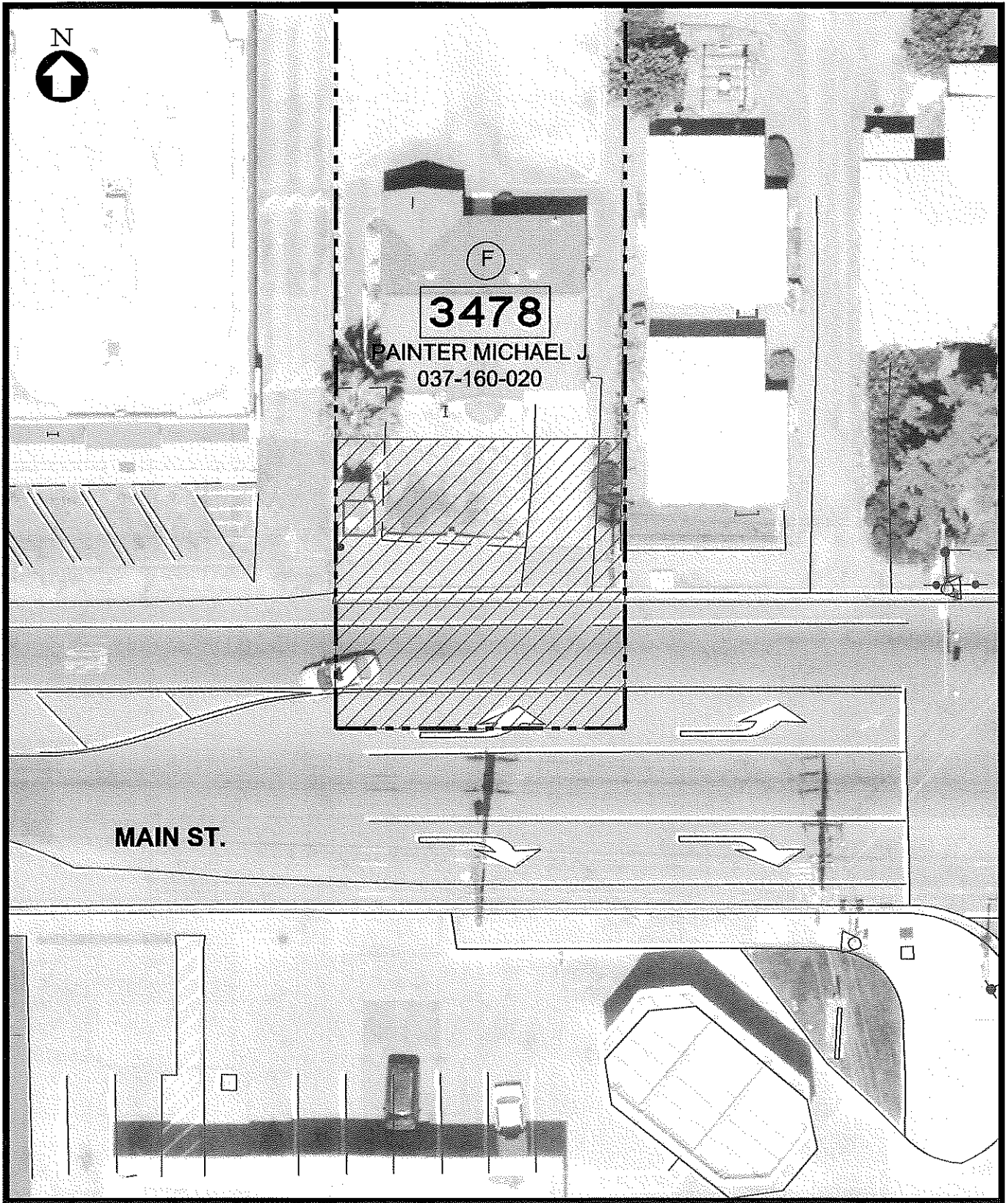
It is understood and agreed that the City and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council or the governing body of any successor or assign.

The provision hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS WHEREOF, those present have executed this instrument this ____ day of _____, 2016.

Michael J. Painter

(see attached notary)



LEGEND

 **AREA OF DEDICATION**

 **RIGHT OF WAY**



STAFF REPORT

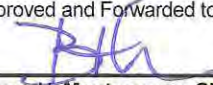
Date: Tuesday, June 28, 2016

To: Bryan H. Montgomery, City Manager

From: Kevin Rohani, P.E., Public Works Director/City Engineer

Subject: Approval of Reimbursement Agreement for East Cypress Road Widening, Adjacent to Emerson Ranch

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Background and Analysis

On September 14, 2010 the City Council adopted Resolution 107-10, conditionally approving the tentative map for Subdivision 9032, Emerson Ranch at the northwest corner of East Cypress Road and Sellers Avenue. Condition of Approval #49 requires the developer to construct the frontage of East Cypress Road adjacent to the project. Condition #49 also states that part of the cost of the work may be eligible for reimbursement from the City's Traffic Impact Fee Program. Exhibit A shows the areas of reimbursement.

The developer, Brookfield Emerson Land LLC (Brookfield Land), has completed construction of the first segment of the East Cypress Road widening, between the west project boundary and Emerson Ranch Way/Machado Lane, and has requested reimbursement of the eligible costs.

Staff has worked with Brookfield Land and their engineer to ascertain the value of the reimbursable work for the first segment. The total amount which includes construction costs, design costs and bonding costs was determined to be \$465,000.

Brookfield Land has requested a cash reimbursement of \$400,000 and the balance to be applied to Traffic Impact Fees for future building permits. The cash reimbursement would be to Brookfield Emerson Land LLC, and the impact fee credits would be applied to permits issued to Brookfield Emerson Merritt LLC, which is the entity doing the home construction at Emerson Ranch.

Fiscal Impact

Approval of the reimbursement agreement will obligate the City to reimburse \$400,000 to Brookfield Emerson Land LLC from the Traffic Impact Fee Program and

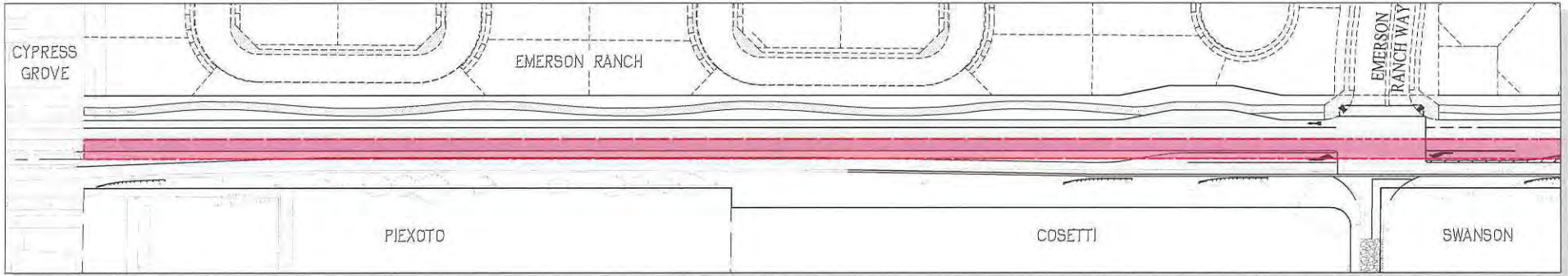
to credit Traffic Impact Fees for approximately 4.5 building permits to Brookfield Emerson Merritt LLC.

Staff Recommendation

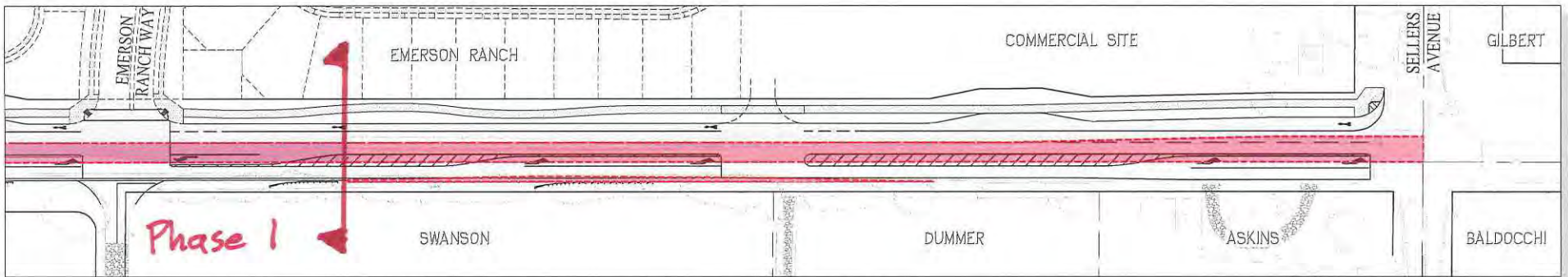
Staff recommends that the City Council adopt the Resolution authorizing the City Manager to execute the Reimbursement Agreement.

Attachments

- 1) Exhibit A
- 2) Reimbursement Agreement Resolution
- 3) Reimbursement Agreement with cost breakdown



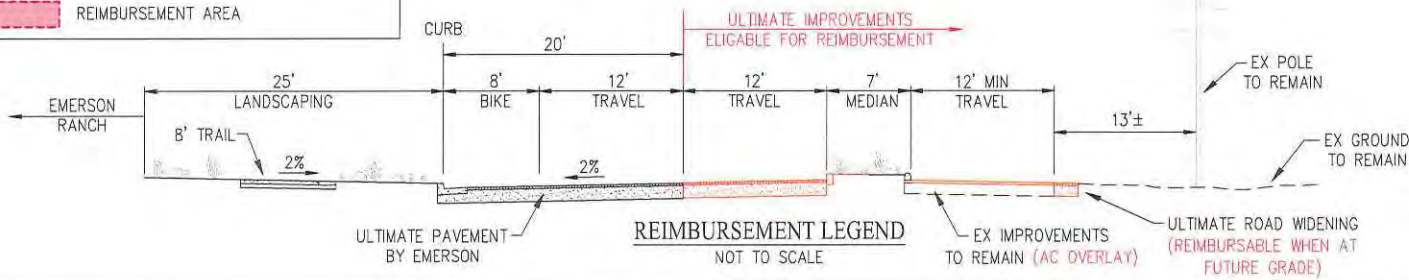
CYPRESS ROAD
CYPRESS GROVE TO EMERSON RANCH WAY



CYPRESS ROAD
EMERSON RANCH WAY TO SELLERS AVENUE

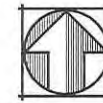
LEGEND

- ULTIMATE PAVEMENT BY EMERSON RANCH
- EXISTING PAVEMENT TO REMAIN
- REIMBURSEMENT AREA



**EMERSON RANCH
CYPRESS ROAD
REIMBURSEMENT AREAS**

CITY OF OAKLEY CONTRA COSTA COUNTY CALIFORNIA
DATE: JUNE 3, 2016 SCALE: 1" = 100'



cbg Carlson, Barboe & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2855 CAMPFORD BLVD, SUITE 350
SAN RAMON, CALIFORNIA 94583 (925) 948-8332
www.cbgi.com

RESOLUTION NO. __-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT
AGREEMENT WITH BROOKFIELD EMERSON LAND, LLC FOR THE FIRST
SEGMENT OF THE EAST CYPRESS ROAD WIDENING**

WHEREAS, on September 14, 2010 the City Council adopted Resolution 107-10 conditionally approving the tentative map for Subdivision 9032 Emerson Ranch at the north west corner of East Cypress Road and Sellers Avenue; and

WHEREAS, Condition of Approval #49 requires the developer to construct the frontage of East Cypress Road adjacent to the project and also states that part of the cost of the work may be eligible for reimbursement from the City's Traffic Impact Fee Program; and

WHEREAS, Brookfield Emerson Land, LLC (Brookfield Land), has completed construction of the first segment of the East Cypress Road widening, between the west project boundary and Emerson Ranch Way/Machado Lane, and has requested reimbursement of the eligible costs; and

WHEREAS, Staff and Brookfield Land have reviewed the cost estimate prepared by Carlson, Barbee & Gibson, Inc. and agree the total reimbursable cost of this segment is \$465,000; and

WHEREAS, Brookfield Land has requested a cash payment of \$400,000 and the remainder of the reimbursement to be applied as Traffic Impact Fee credits for future building permits to be issued to Brookfield Emerson Merritt, LLC;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that the City Manager is authorized to execute the reimbursement agreement, to reimburse \$400,000 in cash to Brookfield Emerson Land, LLC and to apply Traffic Impact Fee credits for future building permits to be issued to Brookfield Emerson Merritt, LLC.

PASSED AND ADOPTED by the City Council of the City of Oakley, California, this 28th day of June 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

REIMBURSEMENT AGREEMENT
EAST CYPRESS ROAD WIDENING, NORTH SIDE
BETWEEN THE EAST SIDE OF CYPRESS GROVE
TO EMERSON RANCH WAY/MACHADO LANE

This REIMBURSEMENT AGREEMENT ("**Agreement**"), is entered into as of this _____ day of _____, 2016, by and between the CITY OF OAKLEY, a municipal corporation in the State of California ("**City**") and BROOKFIELD EMERSON LAND LLC, A Delaware Limited Liability Company, ("**Developer**"). City and Developer are individually referred to as a "**Party**" and collectively, the "**Parties.**"

RECITALS

A. Developer is constructing the improvements associated with the Emerson Ranch development project (Subdivision 9032) as required by the conditions of approval (COAs) for the project as adopted by the City of Oakley City Council via Resolution Number 107-10 in accordance with the requirements and conditions set forth in approvals.

B. The COAs require, among other things, that certain roadway improvements along the East Cypress Road frontage be constructed by Developer. The funding for a portion of these improvements is the responsibility of the developer and a portion is eligible for reimbursement under the Traffic Impact Fee Program.

C. Developer has fully completed the first phase of the East Cypress frontage improvements and has requested Developer and City enter into this reimbursement agreement to clearly identify the improvements eligible for reimbursement and the costs incurred by Developer for construction of the eligible improvements.

D. Developer has provided the breakdown of costs associated with the construction of the City's portion of the Cypress Road Phase 1 construction and, after review, City agrees the costs listed in the breakdown are correct and complete.

NOW THEREFORE, in consideration of the mutual covenants and promises of the Parties herein contained, the Parties agree as follows:

AGREEMENT

1. **SCOPE OF WORK.** Subject to the terms of this Agreement, City agrees to reimburse Developer for all costs and expenses related to the construction and installation of the City's portion of the improvements depicted in the plans titled, "*Subdivision 9032 Cypress Road Phase 1 Improvement Plans*" on file in the office of the City Engineer. City acknowledges that City shall be responsible to reimburse Developer for all contractor's invoices, fees and expenses incurred in completing the Improvements. Shared costs specifically for construction staking, materials testing and observation services will be reimbursed to the Developer at the cost of such items.

2. **AMOUNT AND PAYMENT OF REIMBURSEMENT.** The total cost of the reimbursement is \$465,000 as shown in *Exhibit A* ("**Cost Breakdown**"). The reimbursement amount shall be paid by City to Developer in cash, in credits against traffic impact fees due for

issuance of building permits or in a combination to the two as agreed upon by the Parties. Fee credits may be assigned to other entities by Developer.

3. **OWNERSHIP OF THE IMPROVEMENTS.** From and after the City's acceptance of the Improvements in accordance with this Agreement, ownership of the Improvements shall be vested exclusively in City.

4. **INDEMNIFICATION.** Developer shall defend, indemnify and hold City, its elected officials, officers, employees, and agents free and harmless from and against any and all claims, actions, causes of action, demands, expenses, costs, fines, penalties, fees, and/or liability, including from loss, damage, or injury to or death of persons or property in any manner, to the extent caused by Developer's intentional misconduct in connection with the construction and installation of the Improvements. Developer's indemnity obligations hereunder shall expire upon the statute of limitations having run on any claim arising prior to the City's acceptance of the improvements. Developer's indemnity obligations hereunder shall include attorney's fees and court costs, and shall include: (i) any liability related to or arising out of the design, drawings, plans, and/or specifications for the Improvements, (ii) any costs, expenses, fees, fines, or liability for any hazardous substances or toxic material and any required remediation, (iii) any liability to the extent caused by the negligence or intentional acts or omissions of General Contractor. All of each Party's indemnity obligations hereunder shall survive expiration of this Agreement. City's indemnity obligations hereunder shall include attorney's fees and court costs, but shall exclude any liability to the extent caused by the intentional misconduct of Developer or its agents, representatives, consultants, and/or contractors.

5. **NOTICES.** Any notice to either Party shall be in writing and given by delivering the notice in person or by sending the notice by registered or certified mail or express mail, return receipt requested with postage prepaid, to the Party's mailing address, or transmitted by facsimile equipment if receipt is acknowledged. The respective mailing addresses and contact information of the Parties are, until changed, the following:

City: City Engineer
Attn: Kevin Rohani
City of Oakley
3231 Main Street
Oakley, CA 94561
Facsimile: (925) 625-9194

With a Copy to: City Attorney
City of Oakley
3231 Main Street
Oakley, CA 94561
Facsimile: (925) 625-4230

Developer: Brookfield Emerson Land LLC
Attn: Gonzalo Rodriguez
500 La Gonda Way, Suite 100
Danville, CA 94526

Either Party may change its mailing address at any time by giving ten (10) days notice of such change in the manner proved in this Section. All notices shall be deemed given, received,

made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

6. **NON-ASSIGNMENT.** The license granted herein is personal to Developer and shall not be assignable; provided, however, Developer may, at its discretion and on terms and conditions it determines, and subject to the terms of this Agreement, contract with consultants and contractors to construct and install the Improvements. Developer's right to Reimbursement, as set forth herein, may be assignable by Developer at its discretion and with notice to the City.

7. **SEVERABILITY.** In the event any one or more of the provisions of the Agreement shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remaining provisions of the Agreement shall remain in effect and the Agreement shall be read as though the offending provision had not been written or as the provision shall be determined by such court to be read.

8. **GOVERNING LAW.** This Agreement is made under, shall be governed by and construed in accordance with the laws of the State of California.

9. **CONSTRUCTION.** This Agreement has been reviewed and revised by legal counsel for both Developer and City and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of the Agreement.

10. **FURTHER ASSURANCES.** Each Party covenants, on behalf of itself and its successors and assigns, to take all actions and do all things, and to execute, with acknowledgment or affidavit if required, any and all documents, instruments and writings as may be necessary or proper to achieve the purposes and objectives of the Agreement.

11. **RECITALS.** All of the facts and background information set forth in the RECITALS, above, are incorporated into this Agreement and constitute a part hereof.

12. **ATTORNEY'S FEES.** In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in addition to costs and any other relief, the prevailing party shall be entitled to reasonable attorney's fees. Jurisdiction and venue in the event of any legal action shall be in Contra Costa County, California.

13. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the Parties hereto with respect to the matters contained herein.

14. **FORCE MAJEURE.** Any prevention of or delay in the performance by a party hereto of its obligations under this Agreement caused by governmental restrictions, regulations, controls, action or inaction, or other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party of its obligations hereunder for a period of one day for each such day of delay.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Brookfield Emerson Land LLC

**CITY OF OAKLEY, a Municipal Corporation
in the State of California**

By:

By:

Name

Bryan H. Montgomery, City Manager

Title

Attest:

Libby Vreonis, City Clerk

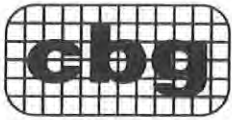
Signature

Approved as to Form:

Derek P. Cole, City Attorney

Exhibit: A – Cost Breakdown

EXHIBIT A
COST BREAKDOWN



Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS

ENGINEER'S PRELIMINARY ESTIMATE
REIMBURSEMENTS / FEE CREDITS
EMERSON RANCH
CYPRESS ROAD - PHASE 1
 CITY OF OAKLEY, CALIFORNIA

April 4, 2016
 Job No.: 0878-060

Item	Description	Quantity	Unit	Unit Price	Amount
DEMOLITION / SITE PREPARATION					
1	Clearing and Grubbing (<i>Areas of Widening and Northern Frontage</i>)	0.25	AC	\$ 750	\$ 188
2	Remove Existing Pavement and Baserock	22,860	SF	\$ 1.80	\$ 41,148
3	Remove Concrete Section	1	LS	\$ 20,551.50	\$ 20,552
4	Remove Existing Median, Gutter Pan and Brick Banding	25	LF	\$ 35	\$ 875
5	Rough Grading (<i>Assume 18" Thick</i>)	1,675	CY	\$ 4.75	\$ 7,956
Subtotal Demolition / Site Preparation					\$ 70,718
SANITARY SEWER					
6	Adjust Existing Vault to Grade	1	EA	\$ 1,290	\$ 1,290
Subtotal Sanitary Sewer					\$ 1,290
STREET IMPROVEMENTS					
7	Fine Grading	30,000	SF	\$ 0.40	\$ 12,000
8	Import Material to Proposed Median (<i>Assume 18" Thick</i>)	550	CY	\$ 10	\$ 5,500
9	6" Asphalt Concrete	20,450	SF	\$ 3.10	\$ 63,395
10	21" Aggregate Base	20,450	SF	\$ 2.65	\$ 54,193
11	AC Overlay - Eastbound Lane	1	LS	\$ 57,600	\$ 57,600
12	Median Curb	1,280	LF	\$ 18.50	\$ 23,680
13	Striping	1	LS	\$ 3,000	\$ 3,000
14	Subgrade Fabric	1	LS	\$ 14,481	\$ 14,481
Subtotal Street Improvements					\$ 233,849
LANDSCAPING					
15	Median Landscape and Irrigation	3,500	SF	\$ 5	\$ 17,500
Subtotal Landscaping					\$ 17,500
MISCELLANEOUS					
16	Mobilization	1	LS	\$ 6,185	\$ 6,185
17	Erosion Control	1	LS	\$ 2,000	\$ 2,000
18	Guardrail at Pole (<i>Cypress Grove</i>)	1	EA	\$ 14,875	\$ 14,875
19	Traffic Control and Construction Sequencing	1	LS	\$ 61,200	\$ 61,200
20	Existing Gas Line Protection	1,550	LF	\$ 5	\$ 7,750
Subtotal Miscellaneous					\$ 92,010
SUBTOTAL CYPRESS ROAD REIMBURSEMENT					\$ 415,367
10% PROFESSIONAL SERVICES					\$ 41,537
2% BONDING AND FINANCING					\$ 8,307
TOTAL CYPRESS ROAD REIMBURSEMENT					\$ 465,000
<i>(to the nearest \$1,000)</i>					

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SAN RAMON • SACRAMENTO



STAFF REPORT

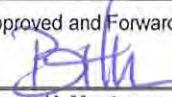
Date: Tuesday, June 28, 2016

To: Bryan H. Montgomery, City Manager

From: Kevin Rohani, Public Works Director/City Engineer

Subject: Approval of Contract with Damon Pombo Livestock for On-Call Maintenance Grazing Services

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Background and Analysis

On December 15, 2014, an agreement was executed between the City of Oakley and Damon Pombo Livestock for goat grazing services for weed and brush removal in various locations within the City of Oakley. This approach towards weed and brush maintenance is not only cost effective comparing to using contractors with mechanized equipment, but also environmentally sensitive.

The use of the goats for weed clearing has been very successful in Oakley for the past two years and has been popular with many of the Oakley residents who enjoy the sight of the goat herd grazing in the community.

Staff is requesting that the City Council authorize the City Manager to execute the agreement for a two year contract for FY 2016/17 and 2017/18 for a not to exceed amount of \$50,000 per fiscal year.

Fiscal Impact

The proposed work will be paid for from the Stormwater maintenance fund.

Staff Recommendation

Staff recommends that the City Council adopt the Resolution approving the agreement with Damon Pombo Livestock and authorizes the City Manager to execute the agreement.

Attachments

- 1) Resolution
- 2) Proposal

RESOLUTION NO. XX -16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
APPROVING THE AGREEMENT WITH DAMON POMBO LIVESTOCK FOR
ON-CALL MAINTENANCE GRAZING SERVICES**

WHEREAS, each year weeds grow in various locations throughout the City of Oakley and require removal and cleanup; and

WHEREAS, in late 2014 a contract was executed with Damon Pombo Livestock for grazing services for weed removal; and

WHEREAS, on May 26, 2015 the City Council adopted Resolution Number 73-15 which approved Contract Amendment #1 to allow additional sites to be cleared; and

WHEREAS, Staff recommends extending the contract with Damon Pombo Livestock for FY 2016/17 and FY 2017/18 for clearing weeds throughout the City; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the agreement with Damon Pombo Livestock is hereby approved and the Council Authorizes the City Manager to execute an agreement in a not to exceed amount of \$50,000 annually for each FY 2016/17 and FY 2017/18.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 28th of June, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

ATTEST:

Kevin Romick, Mayor

Libby Vreonis, City Clerk

Date

Damon Pombo Livestock

6381 Canal Boulevard
Tracy, CA 953041
(209) 481-2423 cell

June 2, 2016

Mr. Kevin Rohani
Public Works Director/City Engineer
City of Oakley
3231 Main Street
Oakley, CA 94561

Subject: Statement of Qualifications for On-Call Grazing Service Work

Dear Mr. Rohani,

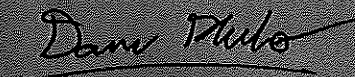
Thank you for selecting Damon Pombo Livestock to provide professional grazing service work to the City of Oakley on an on-call basis. Damon Pombo Livestock has provided exceptional service to the City by clearing all sorts of undesirable vegetation from City property.

We appreciate and look forward to the opportunity to continue to provide our high level of service and support to the City of Oakley for grazing service needs.

If you have any questions, please call me on my cell at (209) 481-2423. You may also reach me via email at damonpombolivestock@yahoo.com

Sincerely,

Damon Pombo



Grazing Contract

**Damon Pombo Livestock
City of Oakley
Oakley CA**

SCOPE OF SERVICES

A. Tenant (Damon Pombo) will provide:

1. 100-200 goats
2. Guard dog if necessary
3. Portable electric fencing to fence grazing area
4. Water tank, water troughs for goats
5. Food and water for the dog
6. All supplies required for the care of the goats
7. Tenant will keep the goats contained to a designated grazing area
8. Monitor goats daily
9. Keep records
10. Will provide certified proof of insurance

B. Tenants fee will be \$1,000 an acre for two acres or more, \$1,350 an acre for less than two acres

1. This Proposal does not include any additional services

C. About Damon Pombo Livestock Operation:


I have been in the Cattle and Goat business for over 15 years. I currently run about 600 head of Goats. On grazing contracts I use all portable electric fences that are set up in small sections and move the goats often to get the best brush and weed abatement results. I have contracts with multiple Reclamation Districts and do many small jobs around San Joaquin, Stanislaus, Alameda, Contra Costa and Calaveras Counties.

D. References

1. Pescadero Reclamation District # 2058
2. Kasson Reclamation District # 2085
3. Paradise Junction Reclamation District # 2095



STAFF REPORT

Date: June 28, 2016
To: City Council
From: Bryan Montgomery, City Manager 
SUBJECT: **Approval of the Memorandum of Understanding between the City and the Oakley Police Officers Association**

Background and Summary

On August 11, 2015 the City Council approved a Personnel Policies Manual for the to-be-formed Oakley Police Department. This document set forth the conditions of employment for the incoming police officers and assisted them in making a decision of whether to join the Police Department or not. At that time, no Police Officers Association was formed and the document was not considered a Memorandum of Understanding that is typical in a collective bargaining arrangement with law enforcement.

The transition of police services from the County to the City is now complete and an employee association, the Oakley Police Officers Association, has been formed. This new arrangement calls for the evolution of the Police Personnel Policies Manual to a formal Memorandum of Understanding (MOU). The proposed MOU is attached and the recommended changes between the two documents are identified in track changes.

Fiscal Impact

The costs to implement the Memorandum of Understanding are included in the budget and were part of the Police Services Study that was conducted prior to the decision to transition the delivery of police services to the City.

Recommendation

Adopt a resolution approving the Memorandum of Understanding between the City and the Oakley Police Officers Association and authorize the City Manager to execute the document.

Attachments

1. Resolution
2. Proposed Memorandum of Understanding

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
APPROVING THE MEMORANDUM OF UNDERSTANDING WITH THE OAKLEY
POLICE OFFICERS ASSOCIATION AND AUTHORIZING THE CITY MANAGER
TO EXECUTE THE DOCUMENT**

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the Memorandum of Understanding, a true and accurate copy of which is attached as Exhibit A, and authorizes the City Manager to execute the document.

The foregoing resolution was adopted at a regular meeting of the City Council held on the 28th day of June, 2016 by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk Date

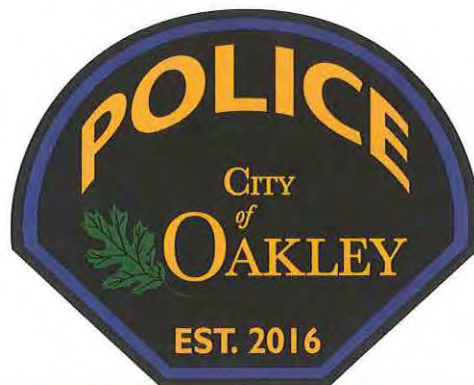
OAKLEY



CALIFORNIA

MEMORANDUM OF
UNDERSTANDING
between the City of Oakley and the
Oakley Police Officers Association

August 2015 June 28, 2016



DEFINITIONS

Appointing Authority: the City Manager or his/her designee.

Association: the Oakley Police Officers Association – recognized as the collective bargaining unit for the positions of Police Officer and Police Sergeant.

Immediate Family: an employee shall include his or her spouse and the following relatives: children of either spouse, step-children, parent of employee or spouse, brother or sister, half-brother or half-sister, either grandparent and grandchildren.

Newly-Hired Employee: a person who has not completed a probationary period in any position within the organization or a person who has previously completed a probationary period, but has had more than a three (3) month break in service from the City.

Probationary Employee: an employee working a test period during which he or she is required to demonstrate his or her fitness to perform the duties of the class of position to which he or she is appointed by actual performance of those duties.

Regular Full-Time Employee: a person employed by the City in a full-time capacity, who has successfully completed a probationary period, and has been retained according to the provisions of the City of Oakley Police Personnel Policies Manual MOU.

Regular Part-Time Employee: a person employed in a regularly budgeted class or position which a regular employee may be appointed, and whose normal work schedule is less than the standard hours of work, but at least twenty (20) hours per workweek.

OAKLEY POLICE DEPARTMENT OFFICERS ASSOCIATION
PERSONNEL POLICIES MANUAL MEMORANDUM OF UNDERSTANDING

TABLE OF CONTENTS

Section 1	RECOGNITION	1
Section 2	NO DISCRIMINATION	1
Section 3	EMPLOYEE RIGHTS	1
Section 4	CITY RIGHTS	2
Section 5	PROBATIONARY PERIOD	5
Section 6	COMPENSATION	6
Section 7	HOURS OF WORK AND OVERTIME COMPENSATION	11
Section 8	STANDBY AND CALLBACK PAY	13
Section 9	HOLIDAYS	14
Section 10	VACATION	15
Section 11	SICK LEAVE	18
Section 12	OTHER LEAVES OF ABSENCE	22
Section 13	LAYOFFS	27
Section 14	EMPLOYEE BENEFITS	29
Section 15	UNIFORMS	30
Section 16	DISCIPLINARY PROCEEDINGS	31
Section 17	GRIEVANCE PROCEDURE	37
Section 18	SAFETY	39
Section 19	CITY'S EXISTING PERSONNEL POLICIES MANUAL	39
Section 20	SEPARABILITY AND SAVINGS	39

This Memorandum of Understanding supercedes and replaces the previously approved Personnel Policies Manual adopted in August of 2015

Section 1. APPLICABILITY AND RECOGNITION

1.1 Applicable Employees and ~~Recognized Employees~~ Association Recognition

~~The Oakley Police Department Personnel Policies Manual~~ The City of Oakley hereby recognizes the following classifications of employees as represented by this Memorandum of Understanding (hereinafter "MOU"): Police Officer and Police Sergeant. Lieutenants may become associate members of the Association; however, they are not represented herein). ~~shall be applicable to all sworn officers within the Department. The "Oakley Police Officers Association" is the formally recognized employee organization for collective bargaining.~~

1.2 City Recognition

The City Manager, or any person or organization duly authorized by the City Manager, is the representative of the City of Oakley, hereinafter referred to as the "City" in employer - employee relations.

Section 2. NO DISCRIMINATION

Discrimination or harassment based on age, sex, religion, color, disability, race, national origin, ancestry, citizenship, marital status, veteran status, medical condition, or sexual orientation is prohibited.

The City shall not interfere with, intimidate, restrain, coerce or discriminate against employees because of the exercise of their rights under the Meyers Milias Brown Act.

Section 3. EMPLOYEE RIGHTS

3.1 Right to Representation

An employee, upon the employee's request, shall be entitled to have representation, at employee's expense, by the designated law firm (currently the law firm of Rains, Lucia Stern) present during any meeting which is disciplinary or a meeting which the employee reasonably believes may result in disciplinary action.

3.2 Personnel Files

There shall be one (1) official personnel file and one internal affairs file, maintained in the Administrative offices of the Police Department. An employee shall be permitted to review his/her personnel/Internal Affairs file provided the employee makes a request twenty-four (24) hours prior to the time the employee wishes to review the file. A representative of Human Resources shall be present during the review of the personnel file. ~~An employee's representative, with written permission from the employee and twenty-four (24) hours' notice to the City, shall also be permitted to review the employee's personnel file.~~ The City Manager, Chief of Police, or Administrative Lieutenant will be present should an employee request to review his/her Internal Affairs file An employee shall be entitled to receive copies of any material in his/her personnel file or any

material which will be submitted to the personnel file.

3.3 Notice

The employee shall be provided copies of all notices related to discipline which results in a loss of pay. At the request of the employee, a copy will also be provided to the law firm of Rains, Lucia Stern. The request must be in writing and addressed to Human Resources.

Section 4. CITY RIGHTS

It is understood and agreed that the City retains all of its powers and authority to manage municipal services and the work force performing those services.

It is agreed that the following rights shall remain solely a function of management except as may be limited by this agreement and/or by applicable state and federal law:

1. Determine and modify the organization of City government and its constituent work units.
2. Determine the nature, standards, levels, and mode of delivery of services to be offered to the public.
3. Determine the methods, means, and the number and kinds of personnel by which services are to be provided.
4. Determine whether goods or services shall be made or provided by the City, or shall be purchased, or contracted for.
5. Direct employees, including scheduling and assigning work, work hours, and overtime.
6. Establish employee performance standards and to require compliance therewith.
7. Discharge, suspend, demote, reduce in pay, reprimand, and withhold salary increases and benefits, or otherwise discipline employees, subject to the requirements of applicable law.
8. Relieve employees from duty because of lack of work or lack of funds or for other legitimate reasons.
9. Implement rules, regulations, and directives consistent with law and the specific provisions of this ~~Personnel Policies Manual~~ MOU.
10. Take all necessary actions to protect the public and carry out its mission in emergencies.

To the extent that management's exercise of these rights enumerated above impacts the employees' terms and conditions of employment, the City is not relieved of its obligation to meet and confer on these impacts as required by law.

Section 5. PROBATIONARY PERIOD

5.1 Probationary Period

All appointments, promotional appointments and reappointments shall be tentative and subject to a probationary period dated from the time of appointment to a regular full-time or regular part-time position. The probationary period shall be for a one (1) year period of actual service. The City Manager, upon written request of the Chief of Police, may grant an extension of the probationary period up to a maximum of six (6) months beyond the end of such probationary period, for a maximum total probation of eighteen (18) months.

An employee remains on probation until such time as the City takes formal, written action to remove the probationary employee from probationary status. This is done by the employee's supervisor completing a written performance evaluation at the approximate date of the probationary employee completing one (1) year in the probationary position. This performance evaluation must be signed by the Chief of Police and forwarded to the City Manager for final review and approval.

5.2 Dismissal of Newly-Hired Employees

During the probationary period, a newly hired employee may be suspended, demoted or dismissed at any time by the appointing authority without the right of appeal. A probationary employee is an "at-will" employee. Notification of dismissal in writing shall be served on the newly-hired employee and a copy filed with Human Resources.

5.3 Demotion of Promoted Employees

An employee who is promoted to a new position in a higher classification may be demoted to his/her previous position at any time during the one (1) year probationary period without recourse to right of appeal. The employee shall be returned to the position which he/she held prior to the promotion and shall be placed at the salary level held prior to the promotion.

Section 6. COMPENSATION

6.1 Merit System

In order to properly compensate an employee, adjustments in salary shall be based on a merit system as outlined in the City's Compensation Policy. Adjustments shall not be automatic, but shall depend upon results of the annual performance evaluation. All merit adjustments are recommended by the Police Chief and approved by the City Manager.

6.2 Salary and Wage Plan

The City Manager and his/her designee(s) shall administer the Compensation Policy for employees.

1. All initial employment shall be at a salary level which is within the salary range for the classification for which the employee is hired. ~~The current salary ranges are as follows:~~

Table 6.2.1 – Salary Ranges for Fiscal Year ~~2015~~2016-1617, effective the first pay period in August

<i>Position</i>	SALARY RANGE
Sergeant	\$7,500 - \$10,500 <u>11,135</u>
Patrol Officer	\$6,200 - \$8,800 <u>9,350</u>

~~2. New employees who are hired shall be placed within the salary range. For employees serving as sworn officers assigned in Oakley prior to April 15, 2015 shall be placed in the salary range at the approximate location of the step they were at with the Contra Costa County Sheriff's Office as of the date of hire. The table below indicates where in the salary range employees will be placed:~~

~~Table 6.2.2 – Initial placement in City range for sworn officers assigned to Oakley as of the date of hire~~

<i>Position</i>	Non S.O.	S.O. Step 1	S.O. Step 2	S.O. Step 3	S.O. Step 4	S.O. Step 5	S.O. Step 6
Sergeant	\$7,500	\$8,500	\$8,866	\$9,247	\$9,644	\$10,059	\$10,500
Officer	\$6,200	\$7,000	\$7,329	\$7,673	\$8,034	\$8,412	\$8,800

All initial employment shall be at a salary level which is within the salary range for the classification for which the employee is hired. No employee shall be hired at or promoted to a level below the salary range minimum without mutual agreement between the City and the employee.

3. New or any modifications to salary ranges will be recommended by the City Manager and adopted by the City Council. It is the City's objective to establish ranges that closely use the salary ranges of surveyed classifications at the mean (average) of the survey agencies plus 13% for the top end of the range. After reaching the maximum point, an employee has the opportunity to earn a lump sum merit award based on outstanding performance, but may not be considered for base salary increases unless his or her salary range is adjusted.

4. The City desires to set salary ranges that are competitive and comparable to relevant cities near Oakley. The comparative cities currently utilized by the City are:

- Antioch
- Brentwood
- Hercules
- Pittsburg
- Benicia
- Pleasant Hill

City and Association agree to review and confer on a recommendation to the City Council for modification to the list of comparative cities. Said recommendation shall be presented to the City Council for consideration prior to January 30, 2017.

5. At least every two years, the City's individual job classifications will be surveyed to assess the City's position relative to the comparative cities as described above. City and Association agree that updated salary ranges will be in place prior to fiscal year 2017-18. Benchmark classifications will be included in the survey along with other positions that may be common among the survey agencies. Salary ranges will be adjusted at the discretion of the City Council, if necessary to maintain the City's competitive position in the market, taking into consideration the City's financial situation.

6.3 Salary Adjustments

1. Individual compensation adjustments within the salary ranges will not be "automatic," step-oriented or based solely on cost-of-living adjustments, but will be based on 1) fiscal prudence, 2) objectives achieved, and 3) exceptional individual performance.

2. Adjustments in salary shall be based upon employee performance as determined by the performance evaluation. It is the duty of the supervisor and Police Chief to give a fair and unbiased evaluation based on job performance of the employee. Adjustments in salary shall be determined as pursuant to the Compensation Policy, approved by the City Manager and within the merit increase range approved by the City Council.

3. At the time employees are evaluated, the level of performance for each employee will be determined. The range for the percentage of any merit increase (x % - x %) will be determined by the City Council before July 1st of each year depending upon the City's competitive position in the market and taking into consideration the City's financial situation. Performance evaluations for all employees will then be conducted and any merit increase considered by the City Manager to be effective the first full pay period of August. (The City Manager will consider, when determining any merit increase, if an employee began employment near the first full pay period of August).

After reaching the maximum point of the salary range, an employee has the opportunity to earn a lump sum merit award based on outstanding performance, but may not be considered for base salary increases unless his or her salary range is adjusted.

6.4 Salary Following Promotion

1. A promoted employee will be placed in the appropriate classification salary range and such employee shall be placed in the new salary range at least five percent (5%) above the promoted employee's previous salary level, unless that amount exceeds the maximum salary of the new classification's range.

2. Future salary increases will be considered prior to July 1st and effective the first full pay period of August, pursuant to the Compensation Policy.

6.5 Salary Following Demotion

1. In the case of the demotion of an employee, such employee shall be moved to ~~three and one-half~~ five percent (5%) below the employee's salary prior to the demotion or the top of the new range, whichever is less.

2. The annual performance review schedule shall be maintained and there shall be no additional probationary period.

6.6 Salary on Reclassification of Positions

If an employee is reclassified, the employee shall be placed in the salary range of the new classification at the same amount as the employee's salary prior to the reclassification plus ~~three and one-half~~ a five percent (5%) increase in salary. There shall be no additional probationary period.

6.7 Salary for Work Performed in a Higher Classification

1. On occasion an employee may be required to perform duties of another classification with a higher salary range because of a temporary vacancy in that position. In such cases, the employee's salary may be adjusted to compensate for the higher level of duties.

2. In order to receive adjusted compensation for working in a higher classification the employee must be assigned, assume and perform substantially all the duties and responsibilities of the position, and perform them for at least one week (five consecutive working days, without regard to the calendar week).

3. Adjusted compensation for working in a higher classification shall consist of a flat five percent (5%) increase above the employee's current salary, or the lowest salary within the higher salary range, whichever is greater, but not to exceed the maximum of the range established for the higher classification.

4. Each case will be evaluated on an individual basis and recommendation for compensation for work in a higher classification will be made by the Police Chief and approved by the City Manager. Such approval should be made in advance whenever possible.

6.8 Designation of Beneficiary

When termination is caused by the death of the employee, pay for unused vacation shall be paid to the beneficiary the employee has designated. Such designation shall be in writing, signed by the employee and filed with Human Resources. If the employee is married and designates a beneficiary other than the spouse for more than fifty percent (50%) of the benefits payable, the signature of the spouse also shall be required on the designation. In the event an employee has not designated a beneficiary, the payment shall be made to the estate of the employee.

6.9 Differential and Longevity Incentive Pay

a. POST Certifications

All sworn personnel with an Intermediate POST Certification shall receive a two and one-half percent (2.5%) augmentation to base salary and an additional two and one-half percent (2.5%) for an Advanced POST certification. Such augmentations will take place with first complete pay period following documentation being received by Human Resources of these certifications.

b. Field Training Officer (FTO) Duty

Any officer assigned as an FTO shall receive five percent (5%) augmentation to base salary for actual time served as an FTO. ("Time served" is defined as the time training an officer in this capacity).

c. Motorcycle Officer Duty

Any officer assigned to motorcycle duty shall receive a five percent (5%) augmentation to base salary for time served as a motorcycle officer.

d. Graveyard Shift

Any officer assigned to the Graveyard Shift shall receive a 5% augmentation to base salary in the first full pay period following being assigned to Graveyard.

e. Detective Duty

Any officer formally assigned as a Detective shall receive a 5% augmentation to base salary in the first full pay period following being assigned as a Detective.

f. Bilingual Pay

Any officer deemed full professionally proficient in the Spanish language will receive a one and on-half (1.5%) augmentation to base salary as Bilingual Pay.

g. Longevity Incentive Pay for former Contra Costa Sheriff's Office Personnel

All sworn officers that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall be eligible for Longevity Incentive Pay, which shall be a two and one-half percent (2.5%) augmentation to base salary at the completion of year 5 and two and one-half percent (2.5%) for every five (5) years of service thereafter until twenty five (25) total years have been served. The augmentation shall take commence the first full pay period following Human Resources being notified and confirming the years served. Time already served with the Contra Costa Sheriff's Office will count towards this calculation.

h. Sworn officers not serving with the City as of April 15, 2015, will be eligible for Longevity Incentive Pay at a rate of two and one-half percent (2.5%) augmentation to base pay at the completion of five (5) consecutive years of service as a City employee, and two and one-half percent (2.5%) for every five (5) years of service thereafter until twenty five (25) total years have been served. The augmentation shall take commence the first full pay period following Human Resources being notified by the officer and confirming the years served.

Section 7. HOURS OF WORK AND OVERTIME COMPENSATION

7.1 Hours Worked

Police Services has a variety of different work shifts to meet the needs of the City and the Department. The work hours cover a period of seven (7) days a week and twenty-four (24) hours a day. ~~An employees work week will be considered (40) hours.~~

The regular work hours for unit employees shall be four (4) shifts of ten (10.0) work hours in a seven (7) day work period. Additionally, regular work hours may be considered (3) shifts of thirteen hours and twenty minutes (13.3) in a seven (7) day period.

Alternative schedules may be used to accommodate the needs of the Department.

7.2 WorkWeek

The workweek for employees, consistent with the 7(k) exemption of the Fair Labor Standards Act, is one hundred seventy-one (171) hours per 28-day period. The workweek is not necessarily the same as the calendar week. The workweek for all sworn police officers, begins at 12:00 a.m. ~~Monday-Sunday~~ and ends at 11:59 p.m. ~~SundaySaturday~~.

7.3 Overtime Policy

It is the policy of the City to avoid the necessity for overtime work. When overtime work is necessary, such overtime shall be authorized by the Police Chief or his/her designated representative, but shall be kept at a minimum.

Overtime work for employees, except as otherwise provided, shall be defined as any time worked beyond ten (10) hours or thirteen hours and twenty minutes (13.3)-, depending on shift assignment, in a twenty four (24) hour period, or over forty (40) hours during the calendar week, or over 171 hours in any work week (the FLSA 28-day period). Vacation and Sick Leave as well as compensatory time used count as hours worked for the purposes of overtime calculations.

7.4 **Overtime Compensation and Computation Policy**

All overtime pay is compensated for at the rate of one and one-half (1-1/2) times the employee's base rate of pay, not including any differentials or shift pays. Any special differentials which are applicable during overtime hours worked will be computed on the employee's base rate of pay (not on the overtime rate of pay).

Employees may choose to be compensated for overtime work through compensatory time-off (comp time) at the rate of one and one-half (1.5) hours comp time per overtime hour worked instead of receiving cash payment. The decision to receive overtime pay or compensatory time credit shall be made at the end of the pay period in which the overtime is worked. There is no provision for converting compensatory time to overtime pay except at termination. Compensatory time may be accrued up to a maximum of forty (40) hours per employee.

If an employee has any unused accrued comp time at termination, the employee will be paid for such unused comp time at his/her regular rate of compensation at termination.

In case of less than one-hundred seventy-one (171) hours worked in a workweek, due to vacation, holidays, sick leave, or other paid or unpaid leave, employees who work approved additional hours shall be paid overtime compensation for those hours paid in excess of ten (10) hours per workday; or thirteen hours and twenty minutes (13.3), if assigned to an alternative schedule.

7.5 **Overtime - Conditions of Civil Disaster or Local Peril**

In case of civil disaster, state of extreme emergency or local peril, the procedure for payment of overtime may be suspended temporarily by the City Manager for the period of the emergency. During such period, the City Manager shall determine the compensation procedure. However, such procedure shall not change the rate of overtime compensation.

7.6 **Pay Periods**

Payday shall be every other Friday (bi-weekly) for the two (2) ~~work~~-calendar week period ending on Sunday of the preceding week.

7.7 Court Appearance Compensation

If a Police Services employee appears on a court subpoena during his/her off-duty time, he/she will be compensated. Employees shall be compensated for off-duty court appearances on work days as follows:

- An employee shall be compensated with a three (3) hour overtime minimum or actual time in court, whichever is greater, for any court appearance that starts more than one-half (.50) hour before an employee's shift or more than one-half hour after the conclusion of an employee's shift.
- For court appearances which begin during an employee's shift or within a half- hour of the start or conclusion of an employee's shift, the employee shall be compensated for the actual time worked.
- An employee shall be entitled to not more than two (2), three (3) hour minimum each day.

Employees shall be compensated for court appearances on scheduled days off as follows:

- An employee shall be compensated with a four (4) hour minimum or actual time in court, whichever is greater.
- An employee shall be entitled to not more than two (2), four (4) hour minimums per day.
- An employee shall be entitled to only one(1) four (4) hour minimum per court session, e.g. one in the morning, one in the afternoon, or one in the evening (after 6:00 p.m.)

7.8 Shift Trades

1. Employees may trade one or more work shift(s) with each other, subject to the following conditions:
 - a. Shift trades shall be made only with the prior approval of the Police Chief or his/her designee.
 - b. Requests and approvals shall be documented by email
 - c. Both employees involved in the shift trade document the trade on the applicable timesheets
 - d. Employees trading shifts shall be qualified to work for each other.

2. An employee not able to fulfill a shift trade agreement shall either:
 - a. Secure another employee to work the shift, subject to the provisions of this section; or
 - b. Notify the Police Chief that the shift will be vacant due to the inability of the employee to fulfill the shift trade and the Department will deduct the appropriate number of Vacation Leave hours from the employee's Vacation Leave accruals (from the employee not able to fulfill a shift trade agreement) and fill the vacant shift with an employee selected by the Department. If the Department must fill the vacant shift with an employee on overtime status, Vacation Leave at the rate of the time and one-half will be deducted from the employee's Vacation Leave accruals (from the employee not able to fulfill a shift trade agreement).
3. The Police Chief reserves the right to cancel any and all shift trades if he/she deems AND to restrict the number of shift trades if it is deemed to be in the best interests of the Department.

Section 8. STANDBY AND CALLBACK PAY

8.1 Standby Status and Standby Pay

When it is necessary to require an employee to leave work where he/she can be reached for emergency call out or other services during a specified period of time, other than scheduled hours of work, such employee shall be considered on standby status. (This provision does not apply to court ordered standby status issued by the District Attorney's Office or Judge.)

The following provisions apply to standby status:

Compensation:

1. Any employee formally placed on stand-by status in writing shall be paid two-hundred and fifty dollars (\$250) per week (7 days). A partial week on stand-by status shall be prorated.
2. If an employee is called out for an emergency while on standby status, he/she will be compensated for a minimum of two (2) hours work at one and one-half (1.5) times the regular hourly pay rate. Any time worked in addition to the two-hour minimum will be compensated at one and one-half (1.5) times the normal hourly rate for each additional hour or fraction thereof. Work time shall commence from the time the employee is called to work until the time the employee returns home.
3. Employees called back to work after midnight may elect to arrive at work

that same day an amount of time past the normal starting time equivalent to the time worked past midnight. If an employee elects to exercise this privilege, he/she must notify the supervisor in advance of the normally scheduled workday or within one-half hour (30 minutes) of normal start time. If it is deemed to be detrimental to the operation of the City to grant this time off, the supervisor may deny the request. Employees who use this option will be paid the regular hourly rate for hours actually worked that day.

4. The employee shall not use alcohol or prescription medication which may impair job performance during the entire period he/she is on stand-by status.

8.2 Call Out Procedure

Employees may be called out during other than normal work hours to perform necessary work. In the event that an employee is called back to work before or after normal working hours, he/she will be compensated for a minimum of two (2) hours work at one and one-half (1.5) times his/her normal rate of pay. Any time worked in addition to the minimum two (2) hours will be compensated at one and one-half (1.5) times the normal hourly rate of pay for each additional hour or fraction thereof. In the event an employee is called in to work and the time worked runs into the employees regular work shift, the employee will be compensated at his/her regular rate of pay once the regular work shift begins. Work time shall commence from the time the employee is called to work.

Section 9. HOLIDAYS

9.1 Holidays

The following holidays are recognized as regular holidays for pay purposes. Regular full-time employees who work a minimum of forty (40) hours per week on a continuous basis are entitled to receive eight (8) hours of holiday pay at a rate of one and one half (1.5) times their normal hourly rate.

~~Regular and probationary full-time employees shall have the following days off with pay~~The City will observe the following holidays:

- December 31st - New Year's Eve Day
- January 1st - New Year's Day
- Third Monday in January - Martin Luther King Jr. Day
- Third Monday in February - President's Day
- Last Monday in May - Memorial Day
- July 4th - Independence Day
- First Monday in September - Labor Day
- November 11th - Veteran's Day
- Fourth Thursday in November - Thanksgiving Day
- Fourth Friday in November - Day After Thanksgiving

- December 24th - Christmas Eve Day
- December 25th - Christmas Day
- Employee's Birthday

~~When any day recognized as a holiday by the City falls on a Sunday, the following Monday shall be considered the holiday. When any day recognized as a holiday by the City falls on a Saturday, the preceding Friday shall be considered the holiday.~~

An employee who wishes to be excused from work in observance of a religious holiday (not listed as a "Regular Holiday for Pay Purposes") shall request approval of such absence from the Police Chief. If approved, such time off shall be charged against the employee's accumulated compensatory time, discretionary holidays, or vacation leave.

9.2 Holiday Pay Eligibility_

If a holiday falls on an employee regular work day or scheduled day off the employee will receive eight (8) hours of holiday pay. If a holiday falls on an employee regularly scheduled work day and the employee calls in sick on that day, the employee will not receive holiday pay.

If a holiday falls on an employee's regular work day, and the employee is on a scheduled vacation, the employee will receive eight (8) hours of ~~vacation-holiday pay; however, the vacation hours taken that day will be deducted from time credited to~~ his/her vacation accrual ~~in lieu of holiday pay.~~

Section 10. VACATION

10.1 Eligibility

There is no waiting period before an employee can request to take accrued vacation time; however, vacation hours cannot be used in the pay period within which they are earned. An employee may not accrue vacation while on any unpaid leave of absence or while on Family Medical Leave.

10.2 Initial Accruals

The City Manager, upon recommendation of the Police Chief, may grant up to additional vacation leave and sick leave at the time of initial appointment to new employees who enter City employment with prior local government experience as necessary to recruit and retain employees.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive an initial accrual of forty (40) hours of vacation and forty (40) hours of sick leave on the date of hire.

10.3 Holiday during Vacation

An employee will not be charged vacation leave for a holiday (as specified herein) occurring during the employee's scheduled and approved vacation

10.4 Illness during Vacation

Vacation leave may be changed to sick leave IF an employee submits a doctor's certificate/note satisfactory at the discretion of Human Resources that the employee was ill and unable to work during the employee's scheduled vacation.

10.5 Vacation Accrual

The City recognizes its employees' loyalty and longevity of service by granting an increase in vacation hours at milestone anniversary dates. Regular full-time employees shall be entitled to accrue paid vacation for active completed service according to the following schedule:

YEARS OF SERVICE	VACATION HOURS ACCRUED PER YEAR
Year 0-3	80 hours per year
Year 4-7	120 hours per year
Year 8+	160 hours per year

The increase in rate of vacation accrual is effective on the next pay period following the anniversary of the employee's hire date. For example, if an employee completes three full years of service on July 1st and the next full pay period begins on July 5th, the employee will begin accruing the 120 hours per year on July 5th. Vacation accruals are calculated on a bi-weekly basis with the City's pay period schedule and are reflected on the employee's paycheck.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive credit for years served with the Contra Costa Sheriff's Office to determine rate of vacation accrual.

10.6 Vacation Accumulation

The City provides vacation leave to encourage employees to take time away from work on a regular basis. For this reason, employees may earn and accumulate vacation leave up to a maximum of two and one-half (2.5) times the amount of the accrual of the employee

Each regular full time and probationary employee shall accrue vacation at the following rate for continuous service performed as follows:

Year 0-3	200 hours maximum
Year 4-7	300 hours maximum
Year 8+	400 hours maximum

10.3 Use of Vacation

Vacation shall be requested via email as far in advance as possible with the employee's supervisor or Police Chief. An employee shall submit an email request to the Police Chief and approval of the Police Chief or designee is required prior to taking vacation time off. The Police Chief or designee shall respond to the employee via email within seven (7) calendar days after submission of the request. Vacation leave shall not be used beyond the time accrued. The time at which an employee may use her/his accrued vacation leave and the amount taken at any one time shall be determined by the Police Chief, or the Police Chief's designated representative, with particular regard for the needs of the Department.

10.5 Vacation at Separation

A regular full-time or regular part-time or new hire probationary employee whose employment with the City terminates shall be paid for that part of his/her vacation accumulation that remains unused at the time of separation. Payment for unused vacation shall be made at the rate of pay in effect for the employee at the time of separation.

10.6 Vacation sell back

1. Employees are eligible to exchange up to forty (40) hours of accrued vacation for a lump sum payment at the employee's current base salary rate up to two timestwice each fiscal year as follows:

- a. The lump sum payments will occur in conjunction with the last pay period for March and for October of each year.
- b. Although there is no qualifying period to be eligible to exchange vacation for pay in March, the employee must have successfully completed her/his probationary period to be eligible.
- c. The employee desiring to exchange vacation leave has taken at least two weeks (the equivalent of ten (10) 8-hour working days) off from work during the previous twelve (12) months. This could be in the form of vacation, compensatory time off, or management leave. Use of sick leave or leave without pay does not satisfy this program requirement.
- d. The employee, after the requested exchange of vacation leave, will still have at least one-hundred and twenty (120) hours of vacation leave remaining.

2. In the event that an employee, eligible for vacation accrual, experiences a financial hardship due to circumstances beyond their control, they may submit a request to the Human Resources to receive cash payment of accrued vacation at

any time during the year. Hardship Request forms are available in the Human Resources. Examples of qualifying hardship requests include: unexpected legal expenses, unbudgeted medical expenses not covered by other means, or situations that cannot be planned or anticipated.

In order to keep hardship requests and the circumstances surrounding such a request as confidential as possible, all hardship requests will be reviewed within the following manner:

- a. The employee submits a completed Hardship Request form to Human Resources.
- b. The Human Resources office will obtain an updated copy of the employee's absence schedule from payroll to verify the number of vacation hours available. The employee must still have at least one-hundred and twenty (120) hours of vacation leave remaining to be eligible for a Hardship Request.
- c. If clarification is necessary, Human Resources will contact the requesting employee to obtain additional information.
- d. A request that meets the qualifications described above will be reviewed by Human Resources and then presented to the City Manager with a recommendation for denial or final approval.
- e. The employee will receive a response regarding the status of their request within five (5) working days from the date it is received by Human Resources.
- f. The approved request will be delivered to payroll. A check will be prepared within three (3) business days.

Section 11. SICK LEAVE

11.1 Statement of Policy

Paid sick leave is an employee benefit of time off granted to an employee in cases of personal illness or accident, medical or dental treatment, or as described in this Manual. It is not an "entitlement" benefit such as vacation. The employee shall make notification by contacting the on-duty Supervisor as soon as possible after determining leave will be taken and prior to the time set for reporting to work on the first day of such leave and as often thereafter as directed by his/her Supervisor or the Police Chief. Notifications shall be made by telephone to the Supervisor. If the Supervisor is out of the office, the employee shall notify Dispatch of the sick call and provide a telephone number where the employee can be contacted. Dispatch will notify the on-duty Supervisor of the call.

With advance written notice from the Police Chief: an employee may be required to provide a written statement from the attending health care practitioner or dentist that the employee is or was incapacitated and unable to

perform his/her duties. The written notice shall state the reason that the employee is required to provide such a statement. The Police Chief also may require a health care practitioner or dentist's statement that the employee is capable of and released to return to all his/her duties.

Any employee who is absent from work due to sick leave shall not engage in any activity or work which would inhibit his/her ability to return to work at the earliest possible time.

11.2 Accrual

Regular full-time employees earn 3.69 hours per pay period. Sick leave is earned during any paid leave of absence, but is not earned during any unpaid leave of absence, or during Family Medical Leave. Employees that are off of work due to illness or injury shall not accrue sick leave once they begin to received disability benefits or are no longer receiving wages through payroll, beginning with the first full pay period that they are off payroll, unless required by law.

11.3 Accumulation

An employee may accrue seven hundred and twenty (720) hours of sick leave. Once the accrual maximum is reached, the employee can earn no other paid sick leave until the accrual balance is reduced.

11.4 Use

Sick leave may be used by the employee for purposes as described in this Manual MOU. As stated herein, a written health care practitioner's statement may be required before approval of sick leave pay. In the event of continued, regular absence requested as sick leave, an employee may be further counseled by the Police Chief and required to see the City's physician at no cost to the employee. Pay for approved sick leave shall be authorized until the employee's accumulated total sick leave hours have been exhausted and at such time the employee shall receive no further pay for sick leave.

An employee shall be granted time off chargeable to sick leave for a visit to a health care practitioner or dentist.

An employee shall have his/her accumulated sick leave balance reduced by an amount equal to the number of sick leave hours for which pay is received.

Sick leave will not be granted for any of the following causes:

1. Disability arising from any sickness or injury purposely self-inflicted or caused by employee's own willful misconduct.
2. Disability arising from any sickness and injury related to employment other

than with the City of Oakley.

Abuse of sick leave, i.e., used for unauthorized purposes, may result in disciplinary action.

11.5 Depletion of Sick Leave

In the event of an employee's continued illness after depletion of his/her sick leave, such absence may, with the approval of the Police Chief, be charged to vacation time accrued. Upon depletion of leave benefits, a medical leave without pay may be granted with approval of the City Manager.

11.6 Leave Chargeable to Sick Leave

An employee may be granted time off with pay for the following:

1. Absence due to the illness or injury of a member of the employee's immediate family, defined as employee's spouse, child, domestic partner, or parent.
2. Absence beyond three (3) days, or five (5) days if outside the state, due to the death of a member of the employee's immediate family.
3. Birth of child to employee's spouse- while spouse is hospitalized.

Such time off shall be considered as sick leave and shall be charged against the accumulated sick leave of the employee.

11.7 Abuse of Sick Leave

The City of Oakley provides a generous amount of sick leave hours and encourages employees to use these hours wisely and maintain a comfortable number of hours available for unforeseen situations. The City considers the abuse of sick leave as a serious offense and evidence substantiating use of sick leave for willful injury, gross negligence, intemperance, or any instances of misrepresentation will result in disciplinary action, up to and including termination from employment.

Other examples of abuse of sick leave include the following:

- Failure to notify supervisor of medical absence
- Failure to provide physician's verification when required
- Fraudulent physician verification
- Use of sick leave for that which it was not intended or provided
- Continued pattern of maintaining zero or near zero leave balances or seeking approval of leave without pay because sick leave accrual has been exhausted
- Pattern of abuse, for example, the routine use before, and/or after holidays;

before, and/or after weekends or regular days off; after pay days; of any one specific day; following overtime worked; frequent use of half days; and/or any routine use of any combination of the above.

The City maintains minimum staffing levels and excessive absenteeism creates a negative impact on the workplace by disrupting work schedules, increasing overtime costs, leaving projects incomplete, decreasing organizational efficiency, moving additional work upon others, and creating an overall negative morale within the organization.

11.8 Sick Leave Conversion at retirement or resignation

Sick leave is forfeited and not cashed out upon separation from employment, unless an employee has completed five (5) years or more with the City at the date of separation and then fifty percent (50%) of the value of accrued sick leave will be paid to the employee at separation. If an employee is retiring at separation, the cash payment for sick leave may be disbursed to the retiring employee through a lump sum cash payment that is deposited into the employee's deferred compensation account (as allowed under terms and conditions of the plan and Internal Revenue Service regulations); used as a payment to CalPERS to buy service time, if eligible; placed in a retiree health savings account; or, a combination of these options at the election of the employee.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive credit for years served with the Contra Costa Sheriff's Office to determine eligibility for sick leave conversion.

11.9 SICK LEAVE DONATION FOR CATASTROPHIC CIRCUMSTANCES

An employee may be eligible to receive donations of up to four-hundred eighty (480) hours of paid sick leave to be included in the employee's sick leave balance, if exhausted, with the City Manager's written approval and only if she/he has suffered a catastrophic illness or injury which prevents the employee from being able to work, and only if the employee is in good standing. A catastrophic illness or injury is a medically-certified illness, injury impairment, or physical condition that prevents an eligible employee from returning to work for a period of sixty (60) or more calendar days.

1. *Rules of Sick Leave Donation Program*
 - a. An employee is not eligible to receive sick leave donations if she/he is currently receiving workers' compensation, short-term or long-term disability benefits.
 - b. No sick leave or other leave accruals are accrued by an employee using donated sick leave; however, other benefits, such as insurance and participation in the CalPERS retirement defined benefit plan, will be

- provided to employee while utilizing donated sick leave.
- c. Donated leave shall be considered sick leave, but shall never be converted into a cash benefit.
2. An Employee may donate sick leave if the donating employee:
- a. Voluntarily elects to donate sick leave and does so with the understanding that donated leave will only be returned if not used by the affected employee within ninety (90) days of the donation;
 - b. Donates a minimum of eight hours;
 - c. Retains a combined leave balance (vacation and sick) of at least one-hundred sixty (160) hours;
 - d. Donates time in one (1) hour increments. For every one (1) hour of sick leave time donated by the donor, the recipient will be credited with one (1) hour of sick leave. The pay levels of the two employees shall not affect the transaction;
 - e. No sick leave or other leave accruals are accrued by an employee using donated sick leave; however, other benefits, such as insurance and retirement, will be provided to employee while utilizing donated sick leave;
 - f. Donated leave shall be considered sick leave, but shall never be converted into a cash benefit.
3. Donations are Voluntary and the City Manager shall respect an employee's right to privacy, however, she/he may, with the permission of the employee who is in need of leave, inform employees of their co-worker's critical need for sick leave hours. The City Manager or any other employee shall not directly solicit leave donations from employees. The donation of leave shall occur on a strictly voluntary basis.

11.10 On-the-Job Injury

An employee injured in the course of employment must report the accident to his/her supervisor. The supervisor is responsible for submitting a statement signed by the employee and giving all details within twenty-four (24) hours of the accident.

When an employee is off work as the result of a valid on-the-job injury or illness sustained in the service of the City, the City shall continue his/her pay in the amount of his/her monthly rate for up to but no longer than one (1) year of compensated time off as dictated by California Government Code Section 4850. Such pay shall be considered as on-the-job injury leave and shall not be charged as sick leave.

During the time that an employee is off work as the result of a valid on-the job injury, the employee will retain his/her Department seniority.

11.11 Off-the-Job injury

Any injury/illness occurring other than in the service of the City may be compensated for through the provisions of the long-term disability insurance plan provided by the City.

Section 12. OTHER LEAVES OF ABSENCE

12.1 Personal Leave of Absence without Pay

Upon recommendation of the Police Chief, the City Manager may grant an employee a leave of absence without pay in cases of emergency or where such absence would not be contrary to the best interests of the City. No such leave shall be granted except upon written request, and the approval must be in writing. Requests should be made as far in advance as practical. Such leave shall not exceed three (3) calendar months duration. Loss of service credit will occur for the duration of the leave; no benefit credit will be accrued toward vacation or sick leave. Employee insurance benefits will remain in effect. Performance review will be deferred if necessary or may be rescheduled upon return to work.

12.2 Family Care and Medical Leave

Employees are entitled to a total of twelve (12) workweeks of leave during any twelve (12) month period. The twelve (12) month period for calculating leave entitlement will be a "rolling period" measured backward from the date leave is taken and continuing with each additional leave day taken. Thus, whenever an employee requests leave, the City will look back over the previous twelve (12) month period to determine how much leave has been used to determine how much leave an employee is entitled to.

Leave is only permitted for the following reasons:

1. The birth of a child or to care for a newborn of an employee;
2. The placement of a child with an employee in connection with the adoption or foster care of a child;
3. Leave to care for a child, parent or spouse who has a serious health condition;
or
4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

An employee is eligible for leave if the employee has been employed for at least twelve (12) months and has worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the leave.

An employee's entitlement to leave for the birth of a child or placement of an adopted or foster care child expires twelve (12) months after the birth or placement.

Leave under this section is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. Employees on leave may make appropriate contributions to continue other benefits. Employee contribution rates are subject to any changes in rates that occur while the employee is on leave. If an employee fails to return to work for a period of at least thirty (30) days, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover the cost of premiums through deduction from any sums due the employee (e.g., unpaid wages, vacation pay, etc.).

If an employee requests leave for any reason permitted under this section, he/she must exhaust all accrued leave (except sick leave) in connection with the leave. The exhaustion of accrued leave will run concurrently with the leave under this section.

If an employee requests leave for his/her own serious health condition, in addition to exhausting accrued leave, the employee also must exhaust accrued sick leave.

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of his/her position.

The City reserves the right to require a medical opinion from a second health care provider chosen by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee. The opinion of the third provider will be binding.

The cost of the second and third opinion shall be borne by the City.

If an employee requests leave intermittently (a few days or hours at a time) or requests a reduced work schedule to care for an immediate family member with a serious health condition or the employee's own medical condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave.

Although the City recognizes that emergencies arise, which may cause employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that he/she will need leave in the future but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If the City determines that the employee knew about the requested leave in advance of the request or that the employee's notice is inadequate, the City may delay the granting of the leave until, in the City's discretion, it can cover the position adequately with a substitute.

As a condition of restoration of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of restoration.

12.3 Pregnancy Disability Leave of Absence

Pregnancy Disability leave of absence, paid or unpaid, shall be granted to an employee with a health care practitioner's statement regarding disability due to pregnancy for a period not to exceed four (4) calendar months, provided the practitioner's statement complies with applicable State and Federal law. Employees shall be entitled to use any accrued vacation, compensatory time off, or sick leave during this period of time. Upon the request of the employee and the recommendation of the Department Head, the City Manager may approve an extension of pregnancy disability leave of absence.

While on paid pregnancy disability leave of absence, employees will continue to accrue vacation, sick leave or PERS service credit and be covered by all insurance plans to the same extent that coverage is provided to employees while on the job. In the event any insurance plans which the employee is provided require contributions on part of the employee and such employee contribution rates increase for employees who are on the job, such increases shall apply to the employee who is on leave. Scheduled performance reviews may be deferred if necessary and scheduled upon return to work.

While on unpaid pregnancy disability leave of absence, employees will not be eligible to accrue vacation, sick leave or PERS service credit. Employee insurance benefits will remain in effect to the same extent coverage is provided to employees while on the job. In the event any insurance plans which the employee is provided require contributions on the part of the employee and such employee contribution rates increase for employees who are on the job, such increases shall apply to

the employee who is on leave. Scheduled performance reviews may be deferred if necessary and scheduled upon return to work.

12.4 Bereavement Leave

Employees shall be granted up to three (3) working days leave with pay by the Police Chief in the event of death in the immediate family of the employee if death occurred within the State and up to five (5) days if death is outside of the State. ("Immediate family" is defined in "Definitions" section of this [Manual/MOU](#))

Additional time off in excess of three (3) or five (5) days may be taken by an employee with prior approval of his/her Police Chief and the City Manager. Such additional time off is to be charged in the following order:

- a. Accumulated sick leave
- b. Accumulated vacation leave
- c. Accumulated compensatory time
- d. Leave of absence without pay.

12.5 Military Leave of Absence

Military leave shall be granted in accordance with the provisions of State Law. All employees entitled to military leave shall give the appointing authority an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

Whenever possible, the employee involved shall notify his/her department of such leave requested at least ten (10) working days in advance of the beginning date of such leave.

Upon termination of military leave, the employee, in accordance with applicable law, may return to his/her classification without loss of seniority or other benefits.

12.6 Military Reserve Training

Employees attending the two (2) week Summer Camp Sessions held by branches of the military are paid the difference between their regular City base salary and military pay received. Employees should notify their Police Chief as soon as their dates of training are known and submit a copy of their military orders. These sessions do not constitute breaks in employment, and benefits accrue as usual.

12.7 Subpoena

Employees, who are subpoenaed to appear as witnesses on behalf of the Federal Government or any of its agencies, the State of California or any of its agencies, or the City of Oakley or any of its agencies, shall be granted a leave of absence, upon presentation of the subpoena to the Police Chief. Said employees

shall receive full pay for such appearances, provided the employee remits to the City all fees as soon as received by the employee for such appearances.

For appearances in Contra Costa County as a result of a subpoena from the District Attorney, Public Defender, Department of Motor Vehicles or any other Government Agency, compensation shall be as indicated in Section 7 of this ~~Manual~~[MOU](#).

Compensation or expenditures of the employee, for mileage or subsistence allowances, shall not be considered as a fee and shall be retained by the employee.

12.8 Jury Duty

Employees required to report for jury duty shall be granted leave for such purpose, upon presentation of jury notice to the Police Chief. Said employees shall receive full pay for the time served on a jury, provided the employee remits to the City all fees as soon as received by the employee for such duties. Compensation for mileage or subsistence allowances shall not be considered as a fee and shall be retained by the employee.

12.9 Medical Leave/Work Related

All employees are covered by Workers' Compensation as required by law. Employees shall be provided leave consistent with these laws.

12.10 Medical Leave/Non-Work Related

An employee who is disabled due to a non-work related injury or illness shall be granted an unpaid leave of absence for the period of the disability provided the practitioner's statement complies with applicable State and Federal law; however, the period shall not exceed three (3) months, inclusive of the time provided under the "Family Care and Medical Leave" provisions (Section 12.2).

12.11 Return from Leave

Upon expiration of leave, an employee is entitled to be restored to the position of employment held when the leave commenced, or to an equivalent position.

12.12 Unauthorized Leave of Absence

Unauthorized leave of absence shall be considered as days, or portion of days, not worked in which the employee was scheduled to work. Unauthorized leave will be deducted from the employee's pay in an amount equivalent to the time absent. An unauthorized leave of absence will result in disciplinary action. Unauthorized leave of absence for more than three (3) days shall be cause for automatic termination of employment with no right of

appeal.

Section 13. LAYOFFS

13.1 City Council Action

The City Council shall determine which position(s) shall be eliminated within the organization. Human Resources shall determine and notify the employee(s) to be laid off as a result of the eliminated position(s).

13.2 Order of Layoffs

To determine which employee is to be laid off as a result of an eliminated position, Human Resources shall use the following procedure:

1. Prepare a list of every employee in the affected classification. (A classification is defined as a position or group of positions sufficiently similar in duties and responsibilities in which the same title, qualifications, test of fitness and salary range can be applied.)
2. Determine which employee(s) within the classification will be laid off. If there is only one (1) employee in the classification, that employee shall be given a layoff notice.

If there are two (2) or more employees within the same classification, Human Resources shall apply the following order in determining which employee shall be laid off:

First, temporary employees in the classification shall be laid off. The City Manager shall determine which temporary employee(s) shall be laid off.

Second, if there are no temporary employees in the classification, layoff will be determined by seniority in City service.

3. Seniority shall be defined as follows:

As determined by official City payroll records, all service in the employ of the City shall be counted toward the establishment of an employee's City seniority service ranking including temporary, regular part-time, probationary and regular full time, as well as obligatory leaves for military service while an employee of the City. Loss of service credit will occur for the period of a leave of absence without pay. Less than full time service will be consolidated in equivalencies of full-time service for the purpose of establishing City seniority service ranking.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive credit for years served with the Contra Costa Sheriff's Office to determine seniority.

13.3 Displacement Rights

An employee designated to be laid off shall receive written correspondence with at least a minimum thirty-day layoff notification and displacement rights.

13.4 Notification of Displacement

An employee scheduled to be laid off must request displacement in writing to Human Resources within seven (7) working days of receipt of notice of layoff. An employee displacing to a lower or related classification shall be placed at the salary tier representing the least loss of pay. In no case shall the salary be increased above the amount received in the classification from which the employee was laid off.

Employees assuming a lower or related classification shall serve a probationary period in the new classification unless they previously have completed a probationary period in the classification.

13.5 Reemployment

The names of employees laid off or displaced shall be entered on a reemployment list in the inverse order specified in Section 13.2 of this Section. As reemployment opportunities become available in the classification from which the employee was laid off: the employees on the list, commencing with the highest score, shall be offered return to those positions. Reemployment lists shall remain in effect for two (2) years.

Laid-off or displaced employees will be notified of reemployment opportunities by certified mail at the last official known address of the laid-off or displaced employee. It shall be the responsibility of the laid-off or displaced employee to inform the City in writing of any changes in his/her address.

The laid-off or displaced employee must notify Human Resources of his/her acceptance within three (3) work days of receipt of the mailing as reflected on the postal service certified return receipt. The employee shall be notified of such time limit in the written reemployment offer. Failure to contact the designated City official within such period shall be deemed as rejection of the vacant position and will remove the employee from the reemployment list.

Section 14. EMPLOYEE BENEFITS

14.1 Retirement Plan

Employees shall participate in the California Public Employees Retirement System (PERS) 2.7% at 57 plan pursuant to the terms and conditions of the California Public Employees' Pension Reform Act of 2013 (PEPRA). The plan includes the 4th Level 1959 Survivor's Benefit and a 3% C.O.L.A.

The City does not participate in the Social Security Plan with the exception of the

mandatory Medicare (FICA) deduction.

14.2 Disability Insurance

During the term of this agreement, the employee shall pay the cost of long term disability insurance. The cost for this insurance shall be paid monthly through the employee's monthly association dues.

14.3 Health/Life Insurance Program

The City shall provide a health, dental, vision, and life insurance plan for employees and their dependents consistent with benefits currently in effect with other City employees. Currently, the monthly allotment for health insurance is \$1,235 per month. Dental and vision coverage for employee and dependents is currently paid for by the City. Also, at City expense a life insurance policy of \$50,000 is provided to the employee.

14.4 COBRA - Continuation of Health Coverage

As required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) the City's health insurance plans provide for continuation of group health coverage to employees and eligible family members, upon a qualifying event, at the employee or family member's expense according to the provisions set forth in COBRA.

14.5 Deferred Compensation

Employees may participate in the deferred compensation plan in accordance with the guidelines of that plan as long as such a plan is offered to any employees through the City.

14.7 Mileage Reimbursement/Allowance

Whenever an employee is required to use a private vehicle in the conduct of City business, such employee is entitled to reimbursement for actual mileage. Mileage is reimbursed at the rates prescribed by the IRS. Also, in the event of an accident while using a private vehicle on City business, the employee's insurance will be primary; however, the City will cover the employee's deductible cost.

14.9 Retiree Medical

Employees will participate in the Peace Officers Research Association of California (PORAC) Medical Trust. The City will pay four hundred and fifty dollars (\$450) per month into the PORAC Medical Trust on behalf of the employee from the date of hire until the employee's separation date. The \$450 dollar amount will be reviewed annually for increases to reflect increases in salary. After retirement, employees will receive benefits from the Trust based on the years of service and

credits accrued once the minimum age and years of the Trust's participation requirements have been met. Contributions will be made for all employees in the Oakley Police Officers Association and employees may not individually elect against participation in the PORAC Medical Trust Plan.

14.10 Legal Defense Representation

The employee shall pay the cost of the membership subscription to the Legal Defense fund through monthly association dues.

Section 15. UNIFORMS, BOOTS & SAFETY EQUIPMENT

The City shall pay the full cost of employee uniforms and safety equipment. In the event these uniforms are damaged in the course of work or are worn out as a result of normal wear, the uniforms shall be replaced at no cost to the employee. On a trial basis, the City will also cover the cost of laundering/drycleaning the uniforms at a designated location.

Each employee shall receive a boot allowance of two hundred dollars (\$200) per calendar year. Boots shall be purchased from vendors and with specifications approved by the Police Chief, and worn as directed. Uniformed employees required to ride a motorcycle as part of their duties will be issued one pair of motorcycle boots every two years, paid for by the City.

Section 16. DISCIPLINARY PROCEEDINGS

16.1 Causes for Disciplinary Action

Employees may be disciplined for just cause including, but not limited to the following:

- a. Fraud of any kind, including in securing appointment or making a false statement on an application for employment
- b. Incompetence, inefficiency, carelessness, inattention, or neglect of duty
- c. Insubordination \ willful disobedience
- d. Less than satisfactory performance
- e. Dishonesty or immorality
- f. Being under the influence of alcohol or medications while on duty
- g. Illegal possession, use, or addiction to the use of narcotics or controlled substances
- h. Unauthorized leave of absence
- i. Abuse of sick leave
- j. Tardiness
- k. Failure to immediately report a an accident involving damage to City vehicles and/or equipment
- l. Conviction of a felony or conviction of a misdemeanor involving moral turpitude

- m. Discourteous treatment of the public or other employees
- n. Prohibited political activity in violation of the California Government Code.
- o. Abuse or misuse, or appropriation for personal use, of City property
- p. Violation of any of the provisions of the Personnel Rules and Regulations, Departmental Rules and Regulations, and/or any provision of this ~~Personnel Manual~~ MOU.
- q. Any willful act of conduct undertaken in bad faith, either during or outside of duty hours, which is of such a nature that it causes discredit to the agency, the employee's department or division.
- r. Outside employment not specifically authorized by the Police Chief and City Manager
- s. Any other conduct equal to the reasons enumerated about as determined by the Chief of Police

16.2 Types of Disciplinary Action

Types of disciplinary action, which may be taken, in order of severity, are: dismissal, disciplinary demotion, disciplinary suspension, written reprimand, oral warning, or an appropriate combination of these disciplinary actions. The aforementioned types of disciplinary action are defined as follows:

a. Dismissal

The discharge of an employee from City service.

b. Disciplinary Demotion

A permanent change in classification of an employee to a position of lower responsibility and pay for unsatisfactory performance or disciplinary reasons.

c. Disciplinary Suspension

The temporary suspension of an employee from City service, without compensation, for a period not to exceed thirty (30) calendar days in any one (1) calendar year.

d. Written Reprimand

Notification in writing to the employee that there is a cause for dissatisfaction with the employee's services and that further disciplinary measures may be taken if the cause is not corrected.

e. Oral Warning

Verbal notification to employee that performance did not meet expectations.

16.3 Persons by Whom Disciplinary Action May Be Taken

The City Manager, Police Chief or his/her designee may take disciplinary action

against an employee under his/her control for cause. The employee shall be informed of the disciplinary action to be taken within two weeks after the completion of the City's investigation.

16.4 Disciplinary Action Procedure

All disciplinary actions taken against a sworn police employee will be pursuant to and in compliance with the Peace Officer's Bill of Rights as specified in the Government Code.

I. Pre-Disciplinary Action Procedure

disciplinary action, which would result in loss of employee salary, shall conform to the following procedural safeguards prior to imposition of disciplinary action:

a. *Notice*

Written notice of the proposed disciplinary action shall be served upon the employee;

b. *Reasons*

Reasons shall be cited for the proposed disciplinary action;

c. *Charge and Material*

A copy of the charges and access to material upon which the action is based shall be included;

d. *Employee Response*

The employee shall have the right to respond, either orally or in writing, to the authority initially imposing the disciplinary action.

The above stated notice and charges shall be served upon the employee either personally or by certified mail. The charges shall be detailed so as to give the employee fair opportunity to review and respond to the charges.

Upon receipt of the notice and charges, the employee shall have not less than three (3) working days within which to respond in writing or to request an informal non-evidentiary hearing before the person by whom disciplinary action was taken and /or the Police Chief. The purpose of this hearing is to allow the employee's representative and/or the employee to make any representations believed relevant to the case. The hearing shall be held as expeditiously as possible but not more than three (3) working days after the request for hearing unless there is an agreement to extend by both parties. The hearing shall be subject to taping or transcription.

An employee may be relieved from duty and placed on paid leave pending the final decision of the proposed action if such leave is necessary to protect the public service or public interest.

II. Final Disciplinary Action Procedure

Disciplinary action causing loss of employee salary and any other form of discipline shall be imposed in accordance with the following procedure: A written notice shall be served on the employee and filed with the City Manager with a copy to Human Resources as soon as reasonably possible, but not later than five (5) working days after the date discipline is imposed. The notice shall be served on the employee either personally or by certified mail and shall include:

- a. A statement of the nature of the disciplinary action;
- b. The effective date of the action;
- c. A statement of the cause for the discipline and citing the rule(s) violated;
and
- d. Said notice may include conditions or future actions to be taken.

16.5 Right of Appeal - Procedure

An employee shall have the right of appeal from any disciplinary action taken under this article. Such appeal must be filed in writing with the Police Chief with a copy to Human Resources within ten (10) calendar days after receipt of written notice of such disciplinary action. The appeal must state specifically the issue(s) in controversy and the facts upon which the issue(s) is based. The Police Chief will respond within ten (10) days of receipt of the appeal. If the employee is not satisfied with the Police Chief's review, the employee may appeal to the City Manager.

Such appeal must be filed in writing with the City Manager with a copy to Human Resources and the Police Chief within ten (10) calendar days of receipt of the Police Chief's response. In the case of suspensions of three (3) days or more, the City Manager may conduct, upon the employee's request, an independent review of the discipline imposed for the purpose of affirming, modifying or reversing the discipline. The City Manager will respond within ten (10) calendar days of receipt of the appeal.

If the employee is not satisfied with the City Manager's review, the employee may appeal the matter to final appeal hearing officer whom shall be selected by the City Manager with input from the employee. The final appeal hearing officer shall be independent, have had no role in the matter and shall have had previous experience serving in such a capacity. The appeal shall be made in writing to Human Resources within ten (10) calendar days of receipt of the City Manager's

decision.

The fees and expenses of the final appeal hearing officer shall be shared equally by employee and the City. Each party, however, shall bear the cost of its own presentation.

The final appeal officer shall conduct a hearing and identify the facts in the case and shall make a final decision on the matter within thirty (30) days of the hearing. The decision of the final appeal officer shall be binding upon both parties.

16.6 Waivers/Withdrawal of Appeal

Notwithstanding any provisions in this article, any time limit or stage of procedure herein provided may be waived upon consent of both parties involved.

At any time after an appeal has been filed, an employee shall have the right to withdraw his/her appeal by written notification to the City Manager.

Failure of the employee to file an appeal within the period specified constitutes a waiver of appeal.

Failure of the employee to appear at the hearing shall be deemed a withdrawal of his or her appeal and the action of the Police Chief shall be final.

16.7 Effect of Certain Disciplinary Action Interpretive Suspension

An employee suspended from the City service shall forfeit all rights, privileges and salary, except that the employee shall not forfeit his/her health plan, pension, long-term disability, nor life insurance while on suspension.

Discharge

An employee who has been discharged from City service shall be paid salary accumulated to the effective date of termination, and any accrued compensatory time or vacation leave.

Demotion

An employee who has been demoted shall be reduced from a position in one classification to a position in a lower classification having lesser duties and responsibilities and a lower maximum rate of pay for disciplinary purposes.

Official Reprimand

An employee who has been issued an official reprimand shall be given a written notice, and a copy shall be placed in the employee's personnel file. The employee shall sign an acknowledgment that he/she has received a copy of the written notice.

16.8 Informal Corrective Counseling

1. Purpose

The effective and efficient operation of the Oakley Police Department requires employees to conform to Oakley Police Department standards. The Chief of Police believes that positive correction is often more effective than punishment. Therefore, an informal system of training and counseling has been established to assist employees in improving behavior and performance without the negative effects of lasting disciplinary measures.

The corrective counseling system is designed to give the employee an opportunity to correct behavior by clearly identifying the problem and defining a course of action to correct the problem. This informal written counseling session will remain in the officer's personnel file for the duration of the annual evaluation period. Employees may be placed into the corrective counseling system by a supervisor of the rank of sergeant or above.

2. Interview

The initial step for placement into the corrective counseling system is a meeting between a supervisor and the employee. Prior to the meeting the supervisor should review available information and conduct any necessary investigation. This meeting allows the employee an opportunity to present an explanation of the incident or behavior and provides the supervisor an opportunity to remind the employee of any rules, policies or procedures that were violated.

At the conclusion of the interview, the supervisor may indicate the need for corrective action, additional training, or increased supervision or the supervisor may require further investigation into the behavior.

If at any time during this process the supervisor should determine that informal corrective counseling is not appropriate and disciplinary action may be recommended the supervisor should discontinue the informal corrective counseling procedure and request further investigation be conducted by an internal affairs investigation through the chain of command.

3. Corrective Action

Each incident requires timely corrective action which directly addresses the employee's behavior problem. Appropriate corrective action can be as simple as the counseling which is provided during the meeting with an employee. Other circumstances may require more stringent monitoring of employee behavior, a more structured work environment, increased supervision, specific training, counseling programs, and medical or psychological evaluation and intervention.

4. Documentation

The supervisor will prepare an informal corrective counseling memorandum to be forwarded through the chain of command and placed into the officer's personnel file, for six (6) months. This memorandum will be addressed to the employee and it will document the issues discussed during the interview and will clearly describe the course of action to be taken to correct the unacceptable behavior.

The employee will have the opportunity to read and sign the memorandum prior to its placement into the officer's personnel file. The signing of the document by the employee is not an admission of culpability. If the employee refuses to sign the memorandum, the supervisor will note the refusal on the memo. The employee will not be ordered to sign the memo. The employee will be given the original memorandum, and a copy will be forwarded through the officer's chain of command.

The officer may prepare a separate memorandum setting forth that officer's position on the situation. This written memo shall be submitted no later than thirty (30) days after the interview and forwarded through the same chain of command as the informal corrective counseling memorandum. The officer's memo shall remain with the informal corrective counseling memo in the officer's personnel file, until they are both purged at the time of the officer's annual evaluation.

The informal corrective counseling system is designed improve an officer's behavior and performance and is not disciplinary. Placement into the informal corrective counseling system is not subject to the grievance procedure.

Section 17. GRIEVANCE PROCEDURE

17.1 Definition

A grievance is a complaint or problem, which arises from the application and/or interpretation of this Memorandum of Understanding.

17.2 Procedural Steps

Any grievance arising from the application and/or interpretation of the provisions of this Manual MOU, wherever possible, should be considered within the Department. Use of this procedure shall not reflect unfavorably on the employee, the supervisor (s), the Police Chief or the general management of the City. Retaliatory or discriminatory action against an employee for using this procedure or discrimination in the application of a rule or policy shall be a violation of City policy.

1. Purpose of Rules

- a. To promote full communication between the City and its employees by providing a reasonable method of resolving disputes regarding the provisions of this ~~Manual~~MOU, wages, hours and other terms and conditions of employment between the City and the employee.
- b. To assure the employee of a prompt and fair discussion of the issue involved.
- c. To provide that complaints shall be settled as near as possible to the point of origin.
- d. To encourage the prompt resolution of problems and complaints of any employee.
- e. To enable employees to make their complaints known by an orderly process.
- f. To provide that complaints shall be heard and settled informally.

2. Submission of a Complaint, Grievance or Problem

In the informal complaint procedure, the complainant may present his/her complaint or problem verbally or in writing. If presented verbally, the complainant may, at any stage of the process or review, submit his/her complaint or problem in writing. The City Manager, the Police Chief or the supervisor may, at any stage of the process or review, request that the complaint or problem be put in writing and submitted.

3. Discussion of Complaint, Grievance or Problem

Any complaint or problem arising out of employment should, wherever possible, be considered within the Department. When a complaint or problem arises, it shall be brought to the attention of the immediate supervisor by the employee involved as soon as possible. Should the employee fail to bring his complaint or problem to the attention of the supervisor within three (3) working days of the date of the action or incident causing his complaint, it shall be considered as a waiver by the employee of his right to submit the complaint.

The supervisor must take action on the complaint and notify the complainant of his action or decision within three (3) working days from the date the complaint was submitted.

If the matter is one which can be adjusted by the immediate supervisor to the satisfaction of the employee, this shall terminate the complaint.

If the matter cannot be adjusted or settled by the immediate supervisor within three (3) working days from the date of submission, or if the complainant is still dissatisfied after the decision of the immediate supervisor, he/she may submit his/her complaint to the Police Chief. The complaint must be submitted to the Police Chief within three (3) working days from the date of the supervisor's decision or the complaint shall be terminated.

The Police Chief shall confer with the complainant, the supervisor and such other persons as may be necessary to gather all the facts and to find a solution. He/she

must take action and notify the complainant of his/her action or decision within five (5) working days from the date the complaint was submitted.

4. City Manager Review of Complaint, Grievance or Problem

If the complainant is not satisfied after informal discussions and the Police Chief's decision, he/she may, within ten (10) calendar days of the date of the Police Chief's decision, request in writing a meeting with the City Manager. Failure of the complainant to make such a request within the ten (10) day period shall terminate the complaint.

Upon receiving the written request, the City Manager shall within seven (7) calendar days, discuss the complaint or problem with the complainant, his/her representative, if any, and all principals involved for the purpose of resolving the complaint or problem.

The City Manager may make or cause to be made any inquiry, investigation or compilation of facts he deems necessary to assist him/her in reaching a decision. The City Manager shall render a decision in writing to the complainant with a copy to the Police Chief within fourteen (14) calendar days of the date the complainant's written request was received. The decision of the City Manager shall be final.

Section 18. SAFETY

18.1 Safety Committee Appointment

The Police Department may appoint one (1) employee representative to the City Safety Committee.

18.2 Injury and Illness Prevention Program

The City will provide a comprehensive Injury and Illness Prevention Program (IIPP) which is designed to prevent workplace accidents, injuries and illnesses.

Section 19. CITY'S EXISTING PERSONNEL POLICIES MANUAL

Reference and guidance for action on any other matters of policy not included in this ~~Personnel Manual~~ MOU for the Police Department, can be found in the City's existing Personnel Policies Manual.

Section 20. SEPARABILITY AND SAVINGS

If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be inoperative but all other provisions shall not be affected thereby and shall continue in full force and effect.

Section 21. DURATION OF THE AGREEMENT

This MOU shall continue in full force and effect from July 1, 2016 to and including June 30, 2019. City and Association agree that any provision of this MOU may be modified during this time frame, but only by mutual, written agreement.

Approved by the City Council: 0806/1128/20152016

CITY OF OAKLEY, CA OAKLEY POLICE OFFICERS ASSOCIATION

Bryan H. Montgomery, City Manager

Kevin Morris, President

ATTEST:

Libby Vreonis, City Clerk

APPROVED AS TO FORM:

Bill Galstan, Special Counsel



STAFF REPORT


Date: Tuesday, June 28, 2016

To: Bryan H. Montgomery, City Manager

From: Kevin Rohani, P.E. Public Works Director/ City Engineer

Subject: Authorize the City Manager to execute an agreement for Professional Services with F. J. Kennedy & Associates, Inc. for "On-Call" City Surveyor, Cleanwater Program Assistance and Stormwater improvement Planchecking Assistance

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Introduction

F. J. Kennedy & Associates, Inc. (Kennedy & Associates) has been providing On-Call services to the City since June 2014 as the contract City Surveyor as well as providing assistance with Cleanwater Program items and Stormwater Improvement Planchecking. The services Kennedy & Associates has provided have been invaluable and have enabled staff to manage a very heavy workload.

Background and Analysis

As the City continues to grow with the construction of private development projects, Kennedy & Associates has continued to assist City staff submit timely annual reports to the State Waterboards and to complete other tasks as required under the NPDES permit. Kennedy & Associates has also been providing Stormwater improvement plan checking services to assist staff in meeting turnaround time requirements and continues to provide City Surveyor services.

Fiscal Impact

Approval of the resolution will authorize the City Manager to execute a professional services agreement with F. J. Kennedy & Associates, Inc. for a not-to-exceed amount of \$50,000 per fiscal year, beginning July 1, 2016 through June 30, 2018 with an option to extend the agreement at the City Manager's discretion. Private development projects and the City's Cleanwater Program will fund the services on an as needed basis. There will not be any City General Funds used in this contract.

Conclusion

Staff recommends that the City Council adopt the resolution approving the Professional Services Agreement with F. J. Kennedy & Associates, Inc. for "On-Call" City Surveyor, Cleanwater Program and Stormwater Improvement Planchecking services and authorizing the City Manager to execute the agreement.

Attachments

- 1) Resolution
- 2) Proposal and Rate Schedule

RESOLUTION NO. - 16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH F. J. KENNEDY & ASSOCIATES, INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR ON-CALL CITY SURVEYOR, CLEANWATER AND STORMWATER IMPROVEMENT PLANCHECKING SERVICES

WHEREAS, F. J. Kennedy & Associates, Inc. has been under contract with the City of Oakley since June 2014 to provide On-Call City Surveyor and Cleanwater services; and

WHEREAS, F. J. Kennedy & Associates, Inc. has provided excellent service to the City during this period; and

WHEREAS, the need for this type of service as well as improvement planchecking services has greatly increased over the past several years primarily due to the large number of subdivision developments being approved and designed; and

WHEREAS, the costs associated with the agreement will be funded by private development projects and the City's Cleanwater Program.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the Professional Services Agreement with F. J. Kennedy & Associates, Inc. is approved and the City Manager is authorized to execute the agreement beginning on July 1, 2016 and running through June 30, 2018 with an option to extend the agreement at the discretion of the City Manager.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Oakley at a meeting held on this 28nd day of June, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

ATTEST:

Kevin Romick, Mayor

Libby Vreonis, City Clerk

Date



Kennedy and Associates

*Project Management
Construction Management
Program Management
Engineering Services*

May 31, 2016

City of Oakley
3231 Main Street
Oakley, CA 94561

Attention: Keith Coggins, Sr. Engineer

Subject: Proposal for On-Call Consultant Services for Civil Design for the Stormwater Program, City Surveyor and Current Development Engineering

Dear Mr. Coggins:

Thank you for the opportunity to present this proposal for On-Call Consultant Services for Civil Design for the Stormwater Program, City Surveyor, and Current Development Engineering. As we enter into our 14th year of business, FJ Kennedy and Associates, Inc (Kennedy and Associates) primary focus is support to public agencies. We have provided this support through staff augmentation in Stormwater permit compliance, Capital Improvement Projects, Project and Construction Management, and Development Plan review. We have served as municipal management staff, City Surveyor, and City Engineer. Currently, 100% of our work is for public agencies.

The specialty of Kennedy and Associates centers on Current Development Engineering with a focus on Stormwater Program Support. We have provided this service to the majority of our clients. We support both Phase I and Phase II agencies. We currently represent our clients on the Contra Costa Clean Water Program (CCCWP) Management Committee as the alternate representative for the City of Concord, City of Pleasant Hill, City of Pinole and Town of Moraga. We represent the City of Pleasant Hill on the CCCWP Development Committee. We are also certified as QSDs and QSPs and have assisted clients with compliance with the Construction General Permit.

FIRM DESCRIPTION AND EXPERIENCE

Year Firm Established: 2002

Primary Contact within the Company:

Our Principal for this proposal is Frank Kennedy, President of the firm.

Frank Kennedy, P.E.

City of Oakley
Proposal for Civil Design & Surveying
May 31, 2016
Page. 2

Principal
925-451-4294
fjk@fjkennedy.com

Number of Employees in Firm. Kennedy & Associates currently has five employees. Kennedy and Associates has a staff of three licensed engineers, an engineering technician and a construction inspector.

Consultant Specialties. The types of work the firm specializes in are as follows:

City Surveyor services
Current Development Review
Stormwater Program Management
Project Management
Project Engineering
SWPPP development, review and implementation

Current/Prior Experience with Municipal Projects:

City of Oakland - Oakland Army Base Redevelopment.

Since 2009, Kennedy & Associates has served as the Project Engineer for the Oakland Army Base Redevelopment project located at the base of the Bay Bridge abutting the Port of Oakland. In 2013, Kennedy & Associates role was changed to serving as the City of Oakland City Engineer reviewing and approving all plans for horizontal infrastructure. We also approve all storm water control plans for this multi-phased project as well as the SWPPP. As the project proceeded in the horizontal phase construction in October 2013, we began providing construction inspection services for the infrastructure and the stormwater treatment devices. We will also be ensuring that the necessary O&M agreements and plans are in place for implementation by the Watershed Management Division of the Public Works Agency. We are also ensuring that the multitude of mitigation measures and conditions of approval for the project are met and implemented to regulatory agency satisfaction.

In addition to the services provided to the City of Oakland for the Oakland Army Base Redevelopment, Kennedy & Associates has also served as the City of Oakland's Major Project Review Engineer from 2005 to 2013. Other Oakland projects in the last five years include Oak Knoll Communities. Added references for Oak Knoll can be provided if desired.

The contact information for this work is:

Douglas H. Cole

City of Oakley
Proposal for Civil Design & Surveying
May 31, 2016
Page. 3

Project Manager III, Oakland Army Base
City of Oakland
250 Frank H. Ogawa Plaza, Suite 5313
Phone: (510) 238-7661
dcole@oaklandnet.com

City of Vallejo - Stormwater Program Support

We are providing staff support to the City of Vallejo in the mobilization of a fully compliant and functioning storm water program. Prior to the MRP being issued in 2009, the City of Vallejo was subject to an NPDES permit issued in 1999 and thus had a sharp increase in the both the number and range of stormwater requirements to implement. We have assisted the City in responding to a Notice of Violation letter and continue to create the necessary tools and programs including a municipal ordinance to enable enforcement of the MRP. We have provided training to Engineering, Planning, Building and Maintenance staff in the compliance aspects of the MRP including plan check, SWCP and O&M plan check, construction site controls inspection and tracking, O&M inspection of installed C.3 facilities, corporation yard inspection, municipal maintenance practices, and Integrated Pest Management. We are also providing support for the land development review, including interactive C.3 plan check services as a training tool for City staff.

City of Concord – Stormwater Program Manager and Current Development Manager

For the City of Concord, we served as the Current Development Engineering Manager from 2009 until 2012. We also filled the role of Stormwater Program Manager. We continue to provide Stormwater Program Support by conducting project plan review, Stormwater Control Plan (SWCP) and O&M plan review and approval, preparation of the Annual Report, and most recently assistance with meeting trash reduction provision requirements.

For inclusion in the annual report and in support of the Long Term Trash Reduction Plan, staff ground truthed the trash generation maps in July and August 2013 with extensive time being spent with staff at EOA working to prepare an accurate and effective map for Concord based on a multitude of factors encountered during this process. Kennedy and Associates prepared two draft map submittals and completed the Tracking Sheets (Confirmation of Trash Generation Rate Categories and Trash Sources, and Identification of Primary and Secondary Trash Management Areas).

Other services provided to the City of Concord include construction and annual O&M inspections of C.3 devices, QSP services for capital work, and serving as City Surveyor.

The contact information for this work is:

City of Oakley
Proposal for Civil Design & Surveying
May 31, 2016
Page. 4

Kevin Marstall
Senior Engineer
City of Concord
1950 Parkside Drive
Concord, CA94519
Phone: (925) 671-3031
Email: kevin.marstall@cityofconcord.org

Town of Moraga – Land Development Engineering Review and Stormwater Program Services

Kennedy & Associates currently provides staff support to the Town of Moraga on an on-call basis for stormwater program services and land development engineering review. From 2002 until 2009 we served as the Town of Moraga's Stormwater Program Manager. We prepared the Town's commercial/industrial inspection program and currently assist staff in the compliance aspect of the MRP including corporation yard inspection, site inspection, and O&M inspection. We annually assist the Town in the preparation of the annual report, and for the most recent report, provided guidance to Town staff for ground-truthing of the trash generation map and completion of the tracking sheets. In addition, we continue to provide guidance to the Town for preparation of its Long-Term Trash Management Plan and meeting reduction goals.

For land development engineering review, we provide plan check services with special emphasis on review of Stormwater Control Plans and Operation & Maintenance Plans and Agreements. Recent plan reviews performed for the Town include the new recreation center and north parking lot expansion at St. Mary's College. Staff also completed development engineering review for the Palos Colorado Development. Frank Kennedy has assisted the Town with review and approval of the Vesting Tentative Map in 2008 and completed the Final Map approval in 2016.

The contact information for this work is:

Edric Kwan, P.E.
Public Works Director/Town Engineer
Town of Moraga
329 Rheem Boulevard
Moraga, CA 94556
Phone: (925) 888-7025
Email: ekwan@moraga.ca.us

City of Oakley – Land Development Review, City Surveyor and Stormwater Program Support

In addition to serving as the City Surveyor, we provide staff support to the City of Oakley on an on-call basis for stormwater compliance. From 2002 until 2009, we served as the City of Oakley's Stormwater Program Manager and now perform program support on an On-Call basis. We have performed Oakley's commercial/industrial inspections and currently assist staff in the compliance aspect of the MRP including plan check, SWCP and O&M plan check, corporation yard inspection, site inspection, and O&M inspection. We are currently assisting Oakley with stormwater control plan review, map review, and development plan check.

The contact information for this work is:

Keith Coggins, P.E.
Senior Engineer
3231 Main Street
Oakley, CA 94561
Phone: (925) 625-7155
Email: coggins@ci.oakley.ca.us

CUSTOMER SERVICE

Kennedy and Associates works as a team. Team members have wide authority to act independently, but always consult and collaborate on work products presentation and deliverables to ensure that what was requested and required is what is delivered. We do this through sharing ideas and approaches to problems, critiquing each other's work, and sharing in the responsibility of proofing and editing work product.

APPROACH TO COMPLETING SCOPE OF SERVICES

The greatest asset Kennedy and Associates in approach to the services we provide is the focused experience. We undertake tasks that we know how to do and have a long and strong resume in performing. We work within and focus our area of expertise

Based on the scope of services required by a project, Kennedy & Associates will assign the appropriate staff to best meet the project needs. A listing of the lead professional personnel at Kennedy & Associates is provided in the organization chart. Resumes can be provided on request



Figure 1. Kennedy & Associates Organization Chart

Kennedy & Associates is independent, properly licensed to practice in California, and has no conflict of interest with regard to any other work performed by the firm for the City of Oakley.

Our current rate sheet is attached. We thank you for this opportunity to submit a statement of our qualifications.

Very truly yours,

F.J. Kennedy, P.E., PWLF
President

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

*Project Management
Construction Management
Program Management
Engineering Services*

Billing Rates

Effective November 1, 2015

Principle Engineer	Design and Consulting Services	\$181.50/hr
Sr Engineer	Design and Consulting Services	\$159.50/hr
Engineering Technician	Design and Consulting Services	\$ 93.50/hr
Administration	Office Support	\$71.50/hr
Reproduction other than incidental prints or electronic media copies		Actual Cost
Travel Expenses – Local (Greater Bay Area/Driving Distance) – Included in Billing Rate		
Dedicated project vehicle		\$865.00/month
Travel Expenses – Commercial Carriers		Actual Cost

Rates are subject to annual review.



STAFF REPORT

Date: Tuesday, June 28, 2016
To: Bryan H. Montgomery, City Manager
From: Kevin Rohani, P.E. Public Works Director/ City Engineer

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

SUBJECT: Resolution approving the temporary Use Agreement between the City and Terracare Associates for a portion of property located at 5400 Neroly Road and 1033 Main Street.

Background and Analysis

The City owns the property located at 5400 Neroly Road and the adjoining property at 1033 Main Street, which is currently being used temporarily by the City Public Works Department to store equipment, fixtures, large trash dumpsters, and supplies. Terracare Associates needs to vacate its current leased space in Oakley by July 1st. Unfortunately, Terracare Associates has not been able to locate a new acceptable location to move operations and is continuing its search. In the interim, Terracare Associates has approached Staff with a proposal to pay for the use of a portion of this property on a temporary basis for its operations in Oakley.

Terracare Associates has proposed to pay \$1,000 per month and pay any utility charges associated with its use. The primary use shall be the parking of employee vehicles by day, parking of company trucks and trailers overnight, placement of two porta-potties, a small portable office, and the storage of some equipment and supplies. All ingress and egress will be through the Neroly Road access.

Since the usage will be similar to the existing City use, and is temporary as Terracare seeks a more permanent location, Staff is supportive of the use and lease payment arrangement.

Fiscal Impact

The City will receive a monthly lease payment of \$1,000.

Staff Recommendation

Adopt a resolution approving the Use Agreement between the City and Terracare Associates

Attachments

1. Resolution
2. Agreement and Exhibit

RESOLUTION NO. __-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
AUTHORIZING THE CITY MANAGER TO EXECUTE A USE AGREEMENT
WITH TERRACARE ASSOCIATES FOR A PORTION OF THE PROPERTY
LOCATED AT 5400 NEROLY ROAD IN OAKLEY, CALIFORNIA**

BE IT RESOLVED by the City Council of the City of Oakley hereby approves the Use Agreement between the City and Terracare Associates and authorizes the City Manager to sign the Agreement on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Oakley City Council held on the 28th day of June, 2016, by Councilmember _____, who moved its adoption, which motion was duly seconded by Councilmember _____, was upon voice vote carried and the resolution adopted by the following vote.

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

USE AGREEMENT

This Use Agreement ("User"), by and between the City of Oakley, a municipal corporation ("City"), and the Terracare Associates, hereinafter collectively designated as ("User"), is made on the following terms and conditions:

Recitals

- A. City is the owner of that real property located at 5400 Neroly Road and 1033 Main St. (Parcels 037-050-013 & 015) in Oakley, California.
- B. User desires to temporarily use the property for a small portable office, its employee parking, equipment, and storage (local maintenance operations) on a month-to-month basis.

Agreement

Now, therefore, the parties agree as follows:

1. **DESCRIPTION.** City hereby enters this temporary Use Agreement with User, and User hereby accepts the terms and conditions of this Use Agreement as hereinafter set forth, those certain premises hereinafter referred to as the "Premises" and described as follows:

Those certain premises located at 5400 Neroly Road and 1033 Main St, Oakley, California, and further described in Exhibit A, which is attached hereto

2. **TERM.** The term of this Agreement shall be month-to month, commencing on the 1st day of July, 2016. City shall have the right to terminate this Agreement prior to expiration of this term upon ninety (90) days written notice to City

2. **RENT.** The rent for the use of premises shall be collected as follows:

ONE THOUSAND DOLLARS AND NO CENTS (\$1,000.00) per month, payable on or before 1st of each month. Rent payments shall be mailed or hand-delivered to:

City of Oakley
Attn: Parks and Landscape Manager
3231 Main Street
Oakley, CA 94561

3. **SECURITY DEPOSIT:** City holds a deposit in the amount of FIVE-HUNDRED DOLLARS (\$500), as security for the full and faithful performance by User of all terms, conditions, and covenants of this Agreement.

Upon termination of this Agreement, the City may use any portion of the security deposit as may be reasonably necessary to remedy User's defaults of the provisions of this Use Agreement, including, but not limited to, payment of unpaid rent due under paragraph 3 of this Agreement, cleaning of the Premises, repair of damage, or for storage of personal property which has been abandoned by User. Any remaining portion of the security deposit after such deduction shall be mailed to User at User's last known address.

5. **USE:** The premises are leased to User for the purpose of: Maintenance office, employee parking, and storage, and for no other purpose without the written consent of the City. User shall conduct and carry on only the type of business specifically set forth herein, and in the areas outlined in Exhibit A. No maintenance or construction equipment shall be visible from Main Street.

6. **COMMON AREAS:** The City reserves the right to regulate the use of ingress and egress, and for parking, whether within or without the area of the premises described above. No part of any parking area adjoining the premises is leased hereunder, but City agrees that a parking area shall be available to be used by User as designated by City. User, its employees and agents shall park their automobiles in such a place or places as shall be designated by City.

7. **UTILITIES COST.** User agrees to pay for garbage service directly to the garbage provider and for water and electrical usage directly metered to the space.

8. **ALTERATIONS AND REPAIRS.** User shall make no alterations of or additions to said premises without the written consent of City. Any such additions to or alterations of the premises shall be made at the expense of the User, and any such alterations of or additions to the premises, including any locks, bolts or security grating and hardware, shall become at once a part of the realty and belong to City. User, at User's sole cost, is responsible for all repairs and maintenance of the Premises and shall keep and maintain said premises in good condition and repair, making replacements as necessary. User hereby waives all right to make repairs at the expense of City as provided in Section 1942 of the Civil

Code of the State of California, and all rights provided for by Section 1941 of said Civil Code. If, during the term of this Use Agreement, in the judgment of City, the User shall fail to keep and maintain the premises in any respect required by this paragraph, City may do anything necessary to correct the problem by restoring the good and sanitary order and condition, or make the repair, provided that the User shall have failed to correct such problem or make such repair within fifteen (15) days after receipt of notice from City. Any amounts expended by City to correct such problem or make such repair shall be deemed to be additional rental and is payable as such on the next day upon which rent becomes due.

By entry hereunder, User accepts the premises in their present order, condition and repair and agrees on the last day of said term or sooner termination of this Use Agreement, to surrender unto City said premises in the same condition as when received, reasonable use and wear thereof excepted. User understands that City makes no representations or warranties as to the physical or mechanical qualities of the premises. Any costs at the outset necessary to make the Premises tenantable shall be borne by the User.

9. **FIXTURES.** Subject to the provisions of this Agreement, User at User's expense may install in or on the Premises such fixtures, equipment, and property as it may consider advisable for the conduct of its business, provided that any such installation shall not cause any material damage to the improvements on the Premises. User shall remove all fixtures and equipment installed on the premises by User and the same shall be removed by User at or before the expiration or termination of this Agreement, or any renewal term hereof, and if damage is caused by such removal, User agrees to repair such damage at its own cost forthwith.

10. **FREE FROM LIENS.** User shall keep the Premises and the property in which the leased premises are situated free from any liens arising out of any work performed, materials furnished, or obligations incurred by or for User.

11. **COMPLIANCE WITH GOVERNMENTAL REGULATIONS.** User shall, at its sole cost and expense, comply with all of the requirements of all County, Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the premises, and shall faithfully observe in the use of the premises all County, Municipal, State and Federal laws now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the

admission of User in any action or proceeding against User, whether City be party thereto or not, that User has violated any such laws in the use of the premises, shall be conclusive of that fact as between City and User.

12. **ASSIGNMENT OR SUBLETTING.** User shall not assign this Agreement, nor any right hereunder, nor sublet the premises.

13. **TAXES AND ASSESSMENTS.**

13.1 **PERSONAL PROPERTY AND FIXTURES.** User shall be liable for all taxes and assessments levied against personal property and fixtures or improvements placed by or for User in, on or about the leased premises.

14. **ADVERTISEMENTS AND SIGNS.** User shall not place or permit to be placed any sign, marquee, lettering, decoration, advertising, light or awning on the outside of the leased premises or on the inside of the said premises if the same be visible from the outside of the leased premises, without the written consent of City. User shall comply with all sign requirements as set forth in the Oakley Municipal Code.

15. **USER'S INSURANCE.** During the term of this Lease, User at its own cost and expense, shall procure from reliable insurance satisfactory to City, and keep in full force and effect at all times during this Lease term, a public liability and property damage insurance policy in amounts of not less than the following: Bodily injury liability - \$1,000,000 each person, \$1,000,000 each occurrence; property damage liability - \$500,000 each occurrence. Said policy shall cover injuries to and/or death of all persons and loss of or damage to property (including loss of use) occasioned by or arising from or out of the acts or omissions of User, its agents and/or employees and/or the condition of the premises. Such insurance shall expressly inure to the benefit of City, its agent or employees, for liability arising or alleged to have arisen from such acts or omission on the leased premises or the operations of User or anyone directly or indirectly employed by User. Said insurance policy shall name both City and User as insureds, with a copy of said policy being furnished directly to City.

User is to obtain a written obligation on the part of the insurance carriers to notify City in writing at least ten (10) days prior to any cancellation or expiration without renewal thereof, and User agrees if it does not keep said insurance in full force

and effect the City may take out the necessary insurance and pay the premium, and the repayment thereof shall be deemed to be a part of the rental and is payable as such on the next day upon which rent becomes due.

The User shall, at its sole cost and expense, comply with any and all recommendations and requirements pertaining to the leased premises of any insurance organization or company in connection with the maintenance of fire and public liability insurance covering the leased premises and the shopping center.

16. **WASTE.** The User shall not commit, or suffer to be committed, any waste upon the leased premises or any public or private nuisance.

17. **PROHIBITED USES.** User shall not use the Premises for, or carry on or permit upon said leased premises, any offensive, unlawful, noisy or dangerous trade, business, manufacture or occupation, or any nuisance or anything against the public policy. User shall not conduct or permit any auction sale, sidewalk sale or parking lot sale to be held in or about the Premises, solicit business, distribute handbills, or erect any signs on any sidewalk. No maintenance or construction equipment shall be visible from Main Street.

18. **ENTRY BY CITY.** User shall permit the City and its designees to enter into and upon the leased premises after reasonable (24 hours) notice is given to User. In instances of emergency, entry by City, its designees or its invitees, User waives any claim to damages.

19. **INDEMNIFICATION OF CITY.** User, as a material part of the consideration to be rendered to City, hereby waives all claims against City for damages to goods or property of User in, upon or about said premises and for injuries to persons in or about said premises, from any cause arising at any time, and User will hold City exempt and harmless from any damage or injury to any person, or to the goods or property of any person, occurring in, upon or about the leased premises, sidewalks or parking areas adjacent thereto, from any cause arising at any time during the term of this Lease or any extension hereof. User agrees that if City is involuntarily made a party defendant to any litigation concerning this Lease or the demised leased premises, for any reason other than because of any act or omission of City, then User shall hold City harmless from all liability by reason thereof, including reasonable attorney's fees incurred by City in such litigation and all taxable court costs.

20. **INSOLVENCY.** The following shall constitute a breach of this Lease by User: (a) the insolvency of the User; (b) the commencement of any bankruptcy proceedings whether begun by or against the User; (c) the appointment of a receiver to take possession of all or substantially all of the assets of User; (d) an assignment by User for the benefit of creditors.

21. **NOTICES.** Any notice, demand or communication under or in connection with this Lease may be served by either party upon the other by personal service, or by mailing the same by registered mail in the United States Post Office, postage thereon fully prepaid, and directed to City at 3231 Main Street, Oakley, California 94561 and may, likewise, be served on User by personal service, or by mailing the same, addressed to User at 921 Arnold Drive, Martinez, CA 94553 whether or not User has departed from, abandoned or vacated said leased premises. Either City or User may change its address by notifying the other party in writing as to such new address as may be desired used and which same shall continue as the address until further written notice.

22. **TIME IS OF THE ESSENCE.** Time is hereby expressly declared to be of the essence of this Lease and of all the covenants, agreements, conditions and obligations herein contained.

23. **NON-WAIVER OF BREACH.** The waiver by City of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such terms, covenants or conditions or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by City shall not be deemed to be a waiver of any preceding breach by User of any term, covenant or condition of this Lease, regardless of City's knowledge of such preceding breach at the time of acceptance of such rent.

24. **EFFECT OF EXERCISE OF PRIVILEGE BY CITY.** The exercise of any right or option or privilege hereunder by City shall not exclude City from exercising any and all other rights, privileges, and options hereunder and City's failure to exercise any right, option or privilege nor shall it relieve User from User's part to be performed hereunder nor from damage or other remedy for failure to perform or meet the obligations of this Lease.

25. **VACATING OR ABANDONMENT OF PREMISES.** User shall not vacate or abandon the leased premises any time during the lease term; and if User shall abandon, vacate or surrender said leased premises, or be dispossessed by process of law, or otherwise, any personal property belonging to the User and left on the leased premises shall be deemed to be abandoned, at the option of the City, except such property as may be mortgaged to the City, if any.

26. **SURRENDER OF USE NOT MERGER.** The voluntary or other surrender of this Agreement by the User, or a mutual cancellation thereof, shall not work a merger.

27. **DESTRUCTION OF PREMISES.** In the event of destruction from fire or other catastrophe, User shall fully repair or replace its own structures and improvements, fixtures, equipment, and other installations installed by User at its expense.

28. **REMEDIES OF CITY OR DEFAULT.** This Lease is made upon the express condition that if default be made in the payment of the rent above reserved, or any part thereof, or if User falls or neglects to perform, meet or observe any of User's obligations hereunder, or if User shall abandon or vacate said leased premises, City or the legal representative of City, at any time thereafter, without notice or demand, may lawfully declare said term ended, and re-enter the said demised premises, or any part thereof, either with or without process of law, and expel, remove and put out User or any person or persons occupying said leased premises and may remove all personal property therefrom, and store the same in a public warehouse at the cost of and on account of User, using such force as may be necessary to again repossess and enjoy said leased premises as before this demise, without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant or condition, and without liability to any person for damages sustained by reason of such removal.

29. **SUBORDINATION.** User covenants that this Agreement is an shall be at all times subject and subordinate to the liens of any mortgage or mortgages, deed of trust or deeds of trust now existing or which City, or any subsequent owner of the demised premises shall make hereafter covering said premises, and to any and all advances made or to be made thereunder, and to the interest thereon and to any and all renewals thereof. User covenants to execute,

acknowledge, and deliver upon request, all documents demanded by City to subordinate this Lease to any such indebtedness as herein provided.

30. **WAIVER OF RELOCATION BENEFITS:** User acknowledges that the term of this Agreement is month-to-month and City reserves the right to terminate this Lease for any reason with sixty (60) days notice to User.

User warrants and represents to City that User does not have nor shall User claim any right to relocation benefits under any provision of any State of California or federal law and User knowingly waives the right to make any claim against the City for relocation benefits in the event City elects to terminate this Agreement for any reason or at the expiration of the Lease term.

31. **BINDING ON SUCCESSORS.** The covenants and conditions herein contained shall, subject to the provisions as to assignment and subletting, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto.

32. **DEFINED TERMS.** The words "City" and "User" as used herein shall include the plural as well as the singular. Words used in masculine gender include the feminine and neuter. If there be more than one City or User the obligations hereunder imposed upon City or User shall be joint and several. The marginal heading or titles to the paragraphs of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

33. **COSTS OF SUIT.** In the event that it becomes necessary or advisable for either party hereto to file suit against the other party to enforce any rights hereunder, the successful party in such lawsuit shall be entitled to a reasonable attorney's fee, to be taxed as costs in such suit or to be fixed by the Court in any such suit.

34. **WAIVER OF SUBROGATION.** As long as their respective insurers so permit, City and User mutually waive for themselves and their respective insurers, their respective rights of recovery against each other for any loss insured by fire, extended coverage and other property insurance policies, existing for the benefit of the respective parties, but solely to the extent of the amount of insurance proceeds received by the insured party. Each party shall obtain any available endorsements to evidence compliance with the above waiver.

IN WITNESS WHEREOF, the parties hereunto set their hands in duplicate, the day and year first hereinabove written.

CITY

City of Oakley, a municipal corporation

USER

Terracare Associates

By: _____

Bryan H. Montgomery
City Manager

By: _____

Ty Wilson
Vice-President

ATTEST:

By: _____

Libby Vreonis
City Clerk

APPROVED AS TO FORM

By: _____

William R. Galstan
Special Counsel

EXHIBIT A

A portion of 5400 Neroly Rd. and 1033 Main St. — “the Premises”





STAFF REPORT


Date: Tuesday, June 28, 2016

To: Bryan Montgomery, City Manager

From: Kevin Rohani, P.E., Public Works Director/City Engineer

Subject: Parcel Map for Minor Subdivision MS 16-978 (Located at the Northwest corner of Daffodil Drive and Neroly Road)

Approved and Forwarded to City Council:


Bryan H. Montgomery, City Manager

Background and Analysis

On June 10th, 2014, the City Council of the City of Oakley adopted Resolution No. 52-14 which conditionally approved the tentative map for Minor Subdivision MS 16-978 at the northwest corner of Daffodil Drive and Neroly Road, which includes two proposed parcels.

CEMO Commercial, Inc. ("Applicant") has submitted the parcel map to the City Engineer for review. All of the public improvements associated with the original parcel were completed as part of the development of the Diamond Hills Sports Club. Consequently, no Deferred Improvement Agreement or Subdivision Improvement Agreement is included in this approval.

The City Engineer and City Surveyor have reviewed the tentative map approval documents and the parcel map, and have found the parcel map to be technically correct, in substantial compliance with the conditionally approved tentative map, and all parcel map conditions of approval have been met.

Fiscal Impact

There is no fiscal impact associated with this action.

Staff Recommendation

Staff recommends that the City Council:

- 1) Adopt the attached resolution approving the Parcel Map entitled: "PARCEL MAP MS 16-978"

Attachments

- 1) Resolution for Parcel Map
- 2) Reduction of MS 16-978 Parcel Map

RESOLUTION NO. __-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CALIFORNIA, APPROVING THE PARCEL MAP TITLED "PARCEL MAP MS 16-978" LOCATED AT THE NORTHWEST CORNER OF DAFFODIL DRIVE AND NEROLY ROAD

WHEREAS, on November 26, 2013, Craig Davidson with Seeker Development submitted an application requesting approval of a Tentative Parcel Map (TPM 03-13) to subdivide the 2.36 acre parcel located at the northwest corner of Daffodil Drive and Neroly Road, APN: 034-040-017 into two parcels; and

WHEREAS, on June 10th, 2014 the City of Oakley adopted Resolution 52-14 which conditionally approved the tentative map for Minor Subdivision MS 16-978; and

WHEREAS, CEMO Commercial, Inc. has requested that the City Council approve the parcel map; and

WHEREAS, the City Engineer has determined that the parcel map is in substantial compliance with the approved tentative parcel map and that the applicable conditions of approval have been satisfied; and

WHEREAS, the City Surveyor has determined that the map is technically correct.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the parcel map labeled "Parcel Map, MS 16-978", as prepared by Debolt Civil Engineering is hereby approved.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 28th of June, 2016 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

ATTEST:

Kevin Romick, Mayor

Libby Vreonis, City Clerk

Date

OWNER'S STATEMENT

THE UNDERSIGNED, BEING THE ONLY PARTY HAVING A RECORD TITLE INTEREST IN THE LANDS DELINEATED AND EMBRACED WITHIN THE HEAVY BLACK LINES UPON THIS MAP, DOES HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THE SAME.

THIS MAP SHOWS ALL THE EASEMENTS ON THE PREMISES, OR OF RECORD WITHIN THE BOUNDARY LINES OF THE HEREIN EMBODIED MAP AS SHOWN ON THE PRELIMINARY TITLE REPORT, ORDER NUMBER _____, PREPARED BY OLD REPUBLIC TITLE COMPANY, DATED _____.

AS OWNER:
CITY OF OAKLEY

NAME: _____ TITLE: _____
NAME: _____ TITLE: _____

OWNER'S ACKNOWLEDGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF _____) SS

ON _____ BEFORE ME, _____, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED

_____ WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) I HAVE SUBSCRIBED TO THE ABOVE STATEMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE ABOVE STATEMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE ABOVE STATEMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

SIGNATURE OF NOTARY: _____
PRINT NAME OF NOTARY: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____
COUNTY OF PRINCIPAL PLACE OF BUSINESS: _____

PARCEL MAP MS 16-978

BEING PARCEL 3, AS SHOWN ON THE PARCEL MAP OF SUBDIVISION MS 07-976 (201-PM-28) CONTRA COSTA COUNTY RECORDS

CITY OF OAKLEY
CONTRA COSTA COUNTY, CALIFORNIA

DeBolt Civil Engineering
Danville, California 94526

MAY 2016

CITY COUNCIL STATEMENT

I, JOSHUA MCMURRAY, PLANNING MANAGER OF THE CITY OF OAKLEY, HEREBY STATE THAT THE CITY COUNCIL OF THE CITY OF OAKLEY HAS APPROVED THE TENTATIVE MAP FOR PARCEL MAP MS 16-978 DATED _____ WHICH INCLUDES THIS SUBDIVISION, UPON WHICH THIS FINAL MAP IS BASED.

DATE: _____

JOSHUA MCMURRAY
PLANNING MANAGER
CITY OF OAKLEY, CONTRA COSTA COUNTY,
STATE OF CALIFORNIA

CITY CLERK'S STATEMENT

I, LIBBY VREONIS, CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF OAKLEY, DO HEREBY CERTIFY THAT THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP MS 16-978", CONSISTING OF TWO (2) SHEETS, THIS STATEMENT BEING ON SHEET ONE (1) THEREOF, WAS PRESENTED TO THE CITY COUNCIL, AS PROVIDED BY LAW, AT A REGULAR MEETING THEREOF HELD ON THE _____ DAY OF _____, 20____, AND THAT SAID CITY COUNCIL DID THEREUPON, BY RESOLUTION NUMBER _____ PASSED AND ADOPTED AT SAID MEETING, APPROVED SAID MAP.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY OF _____, 20____.

LIBBY VREONIS
CITY CLERK AND CLERK OF THE CITY COUNCIL OF
THE CITY OF OAKLEY, CONTRA COSTA COUNTY,
STATE OF CALIFORNIA

ENGINEER'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF GENO COMMERCIAL, INC. IN MAY 2016. ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITION INDICATED, AND SAID MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. THE AREA OF THIS PARCEL MAP CONTAINS 2.366 ACRES, MORE OR LESS.

I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

DATE: _____

JAMES E. DIGGINS
R.C.E. 27816
REGISTRATION EXPIRES: MARCH 31, 2018

CLERK OF THE BOARD OF SUPERVISORS STATEMENT

I HEREBY STATE, AS CHECKED BELOW, THAT:

- () A TAX BOND ASSURING PAYMENT OF ALL TAXES WHICH ARE NOW A LIEN, BUT NOT YET PAYABLE, HAS BEEN RECEIVED AND FILED WITH THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA.
- () ALL TAXES DUE HAVE BEEN PAID, AS CERTIFIED BY THE COUNTY REDEMPTION OFFICER.

DATED: _____

DAVE TWA
CLERK OF THE BOARD OF SUPERVISORS
AND COUNTY ADMINISTRATOR OF CONTRA
COSTA COUNTY, STATE OF CALIFORNIA

BY: _____
DEPUTY CLERK

CITY SURVEYOR'S STATEMENT

I, FRANCIS JOSEPH KENNEDY, CITY SURVEYOR OF THE CITY OF OAKLEY, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP ENTITLED "PARCEL MAP MS 16-978" AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

DATE: _____

FRANCIS JOSEPH KENNEDY
CITY SURVEYOR, CITY OF OAKLEY,
CONTRA COSTA COUNTY, STATE OF CALIFORNIA
R.C.E. 21771 EXPIRATION DATE: SEPTEMBER 30, 2017

CITY ENGINEER'S STATEMENT

I, KOUROSH ROHANI, CITY ENGINEER OF THE CITY OF OAKLEY, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP ENTITLED "PARCEL MAP MS 16-978"; THAT SAID PARCEL MAP AS SHOWN IS IN SUBSTANTIAL CONFORMANCE WITH THE TENTATIVE PARCEL MAP APPROVED BY THE CITY OF OAKLEY CITY COUNCIL ON _____ AND ANY APPROVED ALTERATION THEREOF; AND THAT ALL PROVISIONS OF STATE LAW AND LOCAL ORDINANCES WHICH GOVERNED THE FILING OF SUBDIVISION MAPS AT THE TIME SAID TENTATIVE PARCEL MAP WAS APPROVED HAVE BEEN COMPLIED WITH.

DATE: _____

KOUROSH ROHANI
CITY ENGINEER, CITY OF OAKLEY,
CONTRA COSTA COUNTY, STATE OF CALIFORNIA
R.C.E. 51138 EXPIRATION DATE: SEPTEMBER 30, 2017

COUNTY RECORDER'S STATEMENT

THIS MAP, ENTITLED "PARCEL MAP MS 16-978" IS HEREBY ACCEPTED FOR RECORDATION, SHOWING A CLEAR TITLE AS PER LETTER OF TITLE WRITTEN BY OLD REPUBLIC TITLE COMPANY, DATED THE _____ DAY OF _____, 20____, AND AFTER EXAMINING THE SAME, I DEEM THAT SAID MAP COMPLIES IN ALL RESPECTS WITH THE PROVISIONS OF STATE LAWS AND LOCAL ORDINANCES GOVERNING THE FILING OF SUBDIVISION MAPS.

RECORDED AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY AT _____ M. ON THE _____ DAY OF _____, 20____, IN BOOK _____ OF PARCEL MAPS, AT PAGE _____ IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA.

JOSEPH E. CANCIAMILLA
COUNTY RECORDER
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

BY: _____
DEPUTY COUNTY RECORDER

BASIS OF BEARINGS

THE CENTERLINE OF NEROLY ROAD, TAKEN AS NORTH 34°45'33" WEST,
AS SHOWN ON THE PARCEL MAP OF SUBDIVISION MS 07-976 (201-PM-28).

NOTE

THE LOCATION OF EXISTING RECIPROCAL EASEMENTS FOR INGRESS, EGRESS &
PARKING, LANDSCAPING, UTILITIES, TRASH ENCLOSURES, SIGNS, BUILDING
ENCROACHMENTS, MAINTENANCE & REPAIR AND STORM DRAINAGE (2007-314770)
ARE NOT SPECIFICALLY DEFINED OF RECORD AND ARE NOT SHOWN HEREON.

LEGEND

- ⊙ FOUND STANDARD STREET MONUMENT PER (488-M-17)
- ////// NO ACCESS RIGHTS PER (201-PM-28)

COURSE DATA

- ① R=20.00' D=90°00'00" L=31.42'
- ② R=250.00' D=5°44'21" L=25.04'
- ③ R=250.00' D=5°25'31" L=23.67'

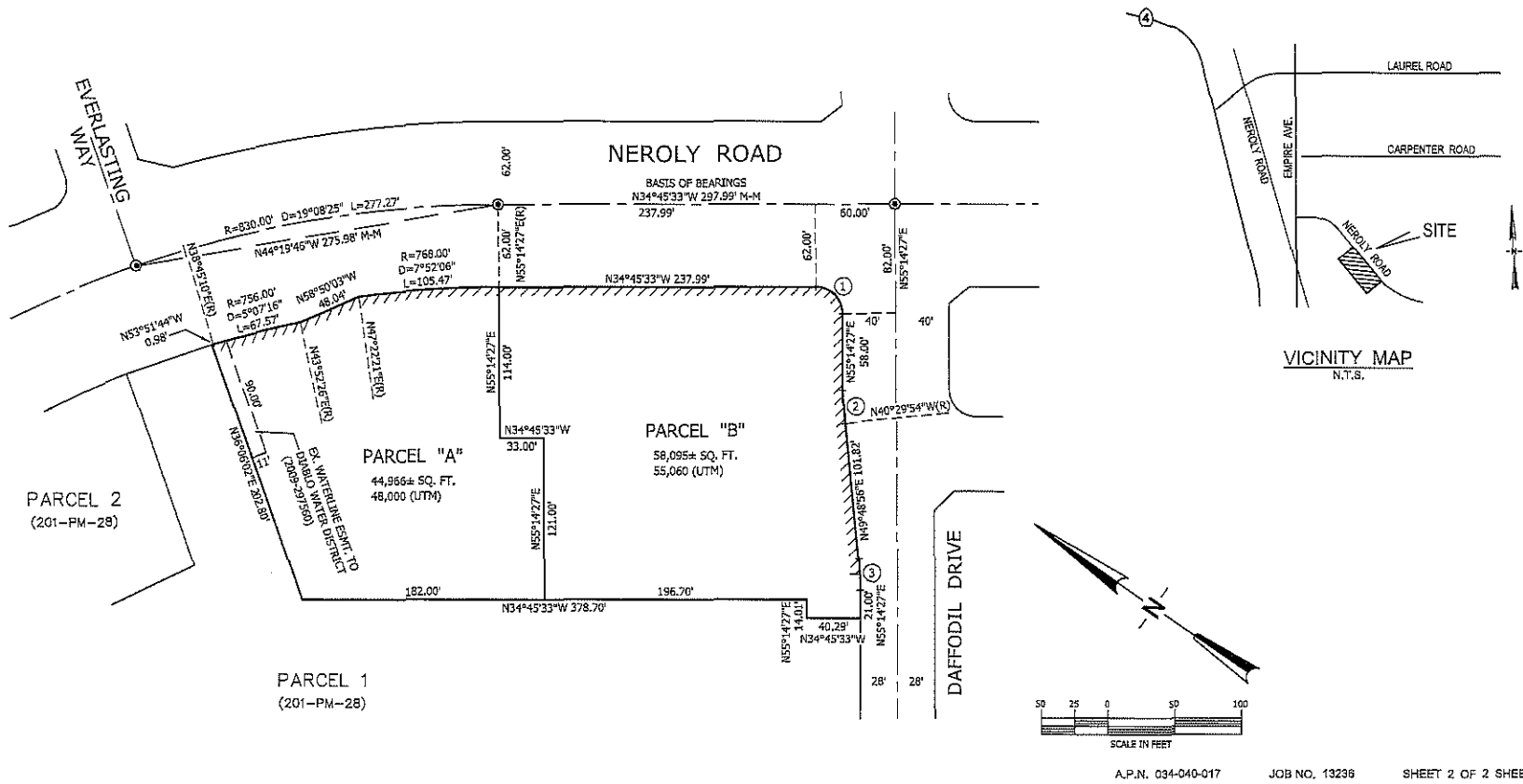
PARCEL MAP MS 16-978

BEING PARCEL 3, AS SHOWN ON THE PARCEL MAP
OF SUBDIVISION MS 07-976 (201-PM-28)
CONTRA COSTA COUNTY RECORDS

CITY OF OAKLEY
CONTRA COSTA COUNTY, CALIFORNIA

DeBolt Civil Engineering
Danville, California 94526

MAY 2016 SCALE: 1 in. = 50 ft.



OAKLEY



CALIFORNIA

Agenda Date: 06/28/2016

Agenda Item: 3.10

STAFF REPORT

Date: June 28, 2016
To: Bryan Montgomery, City Manager
From: Joshua McMurray, Planning Manager

Approved and Forwarded to City Council:

Bryan Montgomery, City Manager

SUBJECT: Authorize the City Manager to sign the Memorandum of Understanding with Contra Costa County and participating and non-participating cities regarding a technical study to evaluate alternatives for potentially implementing Community Choice Energy within the jurisdictions included in the study

Background and Summary

The City Council has been discussing the topic of Community Choice Energy since late 2015 and decided at the February 23, 2016 City Council Meeting to not move forward with joining Marin Clean Energy and instead track the topic as it progresses through the County and bring back more information in early 2017. On March 15, 2016, the Contra Costa County Board of Supervisors (Board) directed County staff to work with interested cities within Contra Costa County to conduct a technical study of Community Choice Energy. The Board directed County staff to request that each participating city contribute financially towards the cost of the technical study in an amount proportional to the size of that city's population. Because of the City Council action back in February, the City of Oakley has not committed any funds to the County for the technical Study.

The technical study will analyze electrical load data that the County has requested from PG&E for the unincorporated area and the 14 cities in Contra Costa County that are not currently participating in a CCE program. Currently there are 5 cities in Contra Costa County that are members of MCE Clean Energy. In February 2016 there were only 3 cities, with Lafayette and Walnut Creek joining MCE shortly thereafter.

The study will provide participating jurisdictions information concerning the projected electricity rates that might be charged by a CCE program and the revenues that such a program might generate, the ability of a CCE program to lower greenhouse gas emissions generated from energy use within the County, and the extent to which a CCE program could stimulate economic activity in the County through implementation of local renewable energy generation projects. Similar technical studies have been performed recently in other Bay Area counties that are in the process of implementing Community Choice Energy programs, such as Alameda County, San Mateo County and Santa Clara County.

The technical study will compare 3 different CCE program models that could be implemented by participating jurisdictions in Contra Costa County. These are: forming a new joint powers authority (JPA) of interested jurisdictions within Contra Costa County, forming a similar JPA in partnership with jurisdictions in Alameda County, and joining the CCE program initiated in Marin County known as MCE Clean Energy.

The attached Memorandum of Understanding (MOU) describes the roles and responsibilities of the County and cities regarding the technical study. Presently, 8 of the 14 cities within Contra Costa County that are not already members of a CCE program have decided to contribute financially towards the technical study, and 6 cities have not decided to contribute financially (Oakley being one of those). Cities that have decided to contribute financially towards the cost of the study are designated in the MOU as "Funding Cities," and cities that are not contributing financially are designated and "Non-Funding Cities." The MOU provides Non-Funding cities an opportunity to become Funding Cities by providing a notice to that effect to the other parties by September 1, 2016.

The County has recently issued a Request for Proposals (RFP) to select a consultant to perform the technical study. The County and several of the Funding Cities will screen the proposals submitted in response to the RFP, and the County will enter into a contract with the selected consultant. Upon completion of the technical study, the Funding Cities will each reimburse the County for their proportionate share of cost based on their population size, up to a maximum amount established in the MOU.

The County will provide the Funding Cities with a draft of the technical study report once it is prepared by the selected consultant. The Funding Cities will have an opportunity to comment on the draft study. The Final Report will be provided to the Funding Cities, and the County and its consultants will assist in presenting the Final Report to City Councils. The Final Report will assist all of the jurisdictions covered in the study to decide whether to participate in the implementation of a CCE program.

Fiscal Impact

There is no Fiscal Impact to signing the Memorandum of Understanding.

Recommendation

Staff recommends the City Council authorize the City Manager to sign the Memorandum of Understanding with Contra Costa County and participating and non-participating cities regarding a technical study to evaluate alternatives for potentially implementing Community Choice Energy within the jurisdictions included in the study.

Attachments

1. Draft Memorandum of Understanding
2. Contra Costa County Board Order

**MEMORANDUM OF UNDERSTANDING REGARDING
TECHNICAL STUDY OF ELECTRICAL LOAD DATA FOR
COMMUNITY CHOICE ENERGY**

This "Memorandum of Understanding Regarding Technical Study of Electrical Load Data for Community Choice Energy" ("MOU") is entered as of _____, 2016 ("Effective Date"), by and among Contra Costa County, a political subdivision of the State of California ("County"), the Cities of Brentwood, Clayton, Concord, Martinez, Pittsburg, and Pleasant Hill, and the Towns of Danville and Moraga (collectively the "Funding Cities" and each a "Funding City"), and the Cities of Antioch, Hercules, Oakley, Orinda, Pinole, and San Ramon (collectively the "Non-Funding Cities" and each a "Non-Funding City"). The County, the Funding Cities, and the Non-Funding Cities are referred to herein together as the "Parties," and each is sometimes referred to herein as a "Party."

Recitals

- A. The Parties desire to cooperate to study options for participating in Community Choice Energy ("CCE"), pursuant California Public Utilities Code sections 331, 366, and 366.2, and other applicable laws and regulations.
- B. To study options for participating in CCE, the Parties will need to obtain, from Pacific Gas and Electric Company ("PG&E"), electrical load data for all of the Parties' jurisdictions. The electrical load data for the Parties' jurisdictions is collectively referred to herein as the "Load Data." The Load Data is confidential and not subject to public disclosure pursuant to Public Utilities Code section 8380. Each Funding City and each Non-Funding City has authorized PG&E to release to the County the Load Data for electricity use within that city's jurisdiction. PG&E will require the County to enter into a non-disclosure agreement ("NDA") before PG&E will release the Load Data to the County.
- C. The Load Data must be analyzed to determine the electricity needs within the Parties' jurisdictions, and to evaluate options for participating in CCE. The analysis of the Load Data will require the services of a technical consultant.
- D. The Parties enter into this MOU to identify their roles and responsibilities with respect to studying options for participating in CCE, and to establish a procedure for a Non-Funding City to become a Funding City under this MOU.

Agreement

NOW, THEREFORE, the Parties agree as follows:

1. **County's Responsibilities.**
 - A. Load Data. The County will enter into a NDA with PG&E and will obtain the Load Data from PG&E. The County will maintain and dispose of the Load Data

in accordance with the provisions of the NDA and all applicable laws and regulations.

B. Selection of a Technical Consultant.

1. After the County requests the Load Data from PG&E, the County will prepare and publish a request for proposals (“RFP”) to solicit proposals from qualified technical consultants for the analysis of the Load Data and for the preparation of a technical report. The County will solicit comments on the RFP from the Funding Cities before the County publishes the RFP.
2. An evaluation committee will evaluate responses to the RFP, and will be responsible for either (i) recommending a technical consultant that, in the committee’s opinion, is most qualified to analyze the Load Data, or (ii) recommending that no technical consultant be retained from among the technical consultants that respond to the RFP. The evaluation committee will be comprised of five representatives of the Parties – two representatives from the County, and one representative from each of the Cities of Brentwood and Pittsburg, and the Town of Danville. The County, as the Party responsible for retaining a technical consultant, shall have sole discretion to determine whether to follow the evaluation committee’s recommendation, and to determine whether to enter into a contract with a technical consultant.
3. If the County selects a technical consultant (the “Consultant”) to analyze the Load Data, the County will negotiate and, if negotiations are successful and any required Board of Supervisors approval is obtained, enter into a contract with the Consultant, to require the Consultant to do all of the following: (a) analyze the Load Data to determine the electricity needs within the Parties’ jurisdictions, (b) evaluate the Parties’ options for participating in CCE, (c) prepare a draft technical report documenting the Consultant’s analysis and findings (“Draft Report”), and (d) prepare a final technical report documenting the Consultant’s analysis and findings (“Final Report”), all of which are collectively referred to herein as the “Consultant Services.”

C. Technical Report.

1. After the Consultant prepares the Draft Report, the County will provide each Funding City a copy of that report. The County will provide each Funding City 30 days to comment on the Draft Report, as described in Section 2.A., below, before the County directs the Consultant to prepare the Final Report. The County will review and discuss with the Consultant all comments the County receives from the Funding Cities within that 30-

day period. The County will cooperate with the Funding Cities to resolve any conflicting or inconsistent comments.

2. Within 10 days after the Consultant provides the County the Final Report, the County will provide each Funding City a copy of the Final Report so that the Parties may present the Final Report to their governing bodies in a timely manner. Within 60 days after the Consultant provides the County the Final Report, the County will provide each Funding City: (a) documentation showing the Consultant's total charges to the County for the performance of all Consultant Services, including any reimbursable expenses (the "Total Consultant Charges"), and (b) a request for reimbursement of the Funding City's share of Total Consultant Charges, calculated in accordance with Section 2.C., below.

2. Funding Cities' Responsibilities.

A. Comments on the RFP and Draft Report. Within 30 days after the County provides a Funding City a copy of the Draft Report, the Funding City will provide the County with that city's written comments related to the Draft Report, if any. The Funding Cities will cooperate with the County to resolve any conflicting or inconsistent comments.

B. Presentations. The Funding Cities will coordinate with the County to schedule any presentations concerning the Final Report before the cities' governing and advisory bodies.

C. Reimbursement of County.

1. Calculation of Reimbursement. Except as otherwise specified in Section 2.C.2., below, within 30 days after receipt of a request for reimbursement from the County pursuant to Section 1.C.2., above, each Funding City shall pay the County that city's proportional share of the Total Consultant Charges, calculated as follows:

$$[(\text{Total Consultant Charges}) \times [(\text{Funding City's Population}) \div (\text{Population of unincorporated Contra Costa County} + \text{population of all Funding Cities})]] = \text{Amount of Funding City's Reimbursement to County}$$

The request for reimbursement will calculate the amount due from each Funding City based on the total number of Funding Cities, including any city that becomes a Funding City under Section 3.F.

2. Maximum Reimbursement for Specified Funding Cities. Notwithstanding the resultant of the calculation in Section 2.C.1., above, no Funding City shall be required to reimburse the County in excess of the Funding City's approved maximum reimbursement limit, as follows:

<u>Funding City</u>	<u>Maximum Reimbursement</u>
Brentwood	\$30,000
Clayton	\$5,000
Concord	\$25,000
Danville	\$18,000
Martinez	\$15,000
Moraga	\$10,000
Pittsburg	\$15,000
Pleasant Hill	\$15,000

3. Miscellaneous Provisions.

- A. Confidentiality of Data. The Parties agree that, notwithstanding anything to the contrary contained herein, nothing in this MOU shall require the County to disclose, disseminate, or dispose of Load Data in any manner that would violate the terms of the NDA, or any state or federal laws or regulations.
- B. No Obligations to Pursue CCE. The purpose of this MOU is to provide for the Parties' roles and responsibilities related to undertaking a technical study to analyze options for the Parties' potential future participation in CCE. Nothing in this MOU obligates any Party to become a community choice aggregator, or to participate with other Parties to establish a community choice aggregator, or to participate in CCE, or to take any other future discretionary actions.
- C. No Joint Powers Agency. Nothing in this MOU creates, nor shall it be construed as creating, a partnership, joint venture, or a joint exercise of powers agency separate and apart from the Parties hereto.
- D. Assignment; No Third-Party Beneficiaries. This MOU may not be assigned unless the assignment is approved in writing by all Parties. Nothing in this MOU, express or implied, is intended to confer on any person, other than the Parties and their successors and assigns, any rights or remedies by reason of this MOU.
- E. Notices. All notices and other correspondence required to be given under this MOU shall be in writing, and shall be delivered in person, by overnight carrier, or by U.S. Mail, to the following person and address designated for each Party. A notice shall be deemed given on the same day if it is personally delivered, on the next day if it is delivered by overnight carrier, or on the fifth (5th) day after the postmark date if it is given by U.S. Mail.

Contra Costa County:
Jason Crapo
Dept. of Conservation and
Development
30 Muir Road
Martinez CA 94553

Antioch:
Julie Haas-Wajdowicz
200 H Street
Antioch CA 94531

Brentwood:
Casey McCann
150 Park Way
Brentwood CA 94513

Concord:
Laura Simpson
1950 Parkside Drive
Concord CA

Clayton:
Gary Napper
6000 Heritage Trail
Clayton CA 94517

Danville:
Nat Rojanasathira
510 La Gonda Way
Danville CA 94526

Hercules:
David Biggs
111 Civic Drive
Hercules CA 94547

Martinez:
Michael Chandler
525 Henrietta Street
Martinez CA 94553

Moraga:
Ellen Clark
329 Rheem Boulevard
Moraga CA 94556

Oakley:
Joshua Mc Murray
3231 Main Street
Oakley CA 94561

Orinda:
Daisy Allen
22 Orinda Way
Orinda CA 94563

Pinole:
Michelle Fitzer
2131 Pear Street
Pinole CA 94564

Pittsburg:
Peter Guadagni
440 Walnut Avenue
Vallejo CA 94592

Pleasant Hill:
Andrew Murray
100 Gregory Lane
Pleasant Hill CA 94523

San Ramon:
Lauren Barr
2401 Crow Canyon Road
San Ramon CA 94583

A Party may change its contact person and address listed above by giving written notice to all other Parties.

- F. Amendment. At any time before September 1, 2016, a Non-Funding City may become a Funding City by providing all Parties written notice that the city will be a Funding City under this MOU. The notice shall specify the city's maximum reimbursement limit under Section 2.C.2., if any. A city giving notice shall have all the rights and obligations of a Funding City under this MOU, effective on the date notice is given. At any time during the term of this MOU, a Funding City may increase, but not decrease, its Maximum Reimbursement limit under Section 2.C.2. by providing all Parties written notice specifying the increased limit. Except as otherwise provided in this Section 3.F., this MOU may be modified only by a written amendment signed by all Parties.

- G. Effective. This MOU shall be effective as to a Party upon the execution of the MOU by that Party.
- H. Construction. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force.
- I. Governing Law. This MOU shall be governed and construed in accordance with California law.
- J. Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original.

[Remainder of Page Intentionally Left Blank.]

CONTRA COSTA COUNTY

By: _____
Jason Crapo
Deputy Director

Approved as to form:
Sharon L. Anderson, County Counsel

By: _____
Deputy County Counsel

SMS
H:\Client Matters\Building Inspection\CCA\CCA MOU Re Tech Study - FINAL 060216.docx

CITY OF ANTIOCH

By: _____
Forrest Ebbs
Community Development Director

Approved as to form:

By: _____
City Attorney

CITY OF BRENTWOOD

By: _____
Gustavo Vina
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF CONCORD

By: _____
Valerie Barone
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF CLAYTON

By: _____
Gary Napper
City Manager

Approved as to form:

By: _____
City Attorney

TOWN OF DANVILLE

By: _____
Joseph A. Calabrigo
Town Manager

Approved as to form:

By: _____
Town Attorney

CITY OF HERCULES

By: _____
David Biggs
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF MARTINEZ

By: _____
Jim Jakel
Interim City Manager

Approved as to form:

By: _____
City Attorney

TOWN OF MORAGA

By: _____
Bob Priebe
Interim Town Manager

Approved as to form:

By: _____
Town Attorney

CITY OF OAKLEY

By: _____
Bryan H. Montgomery
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF ORINDA

By: _____
Janet Keeter
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF PINOLE

By: _____
Michelle Fitzer
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF PITTSBURG

By: _____
Joseph Sbranti
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF PLEASANT HILL

By: _____
June W. Catalano
City Manager

Approved as to form:

By: _____
City Attorney

CITY OF SAN RAMON

By: _____
Greg Rogers
City Manager

Approved as to form:

By: _____
City Attorney



Contra
Costa
County

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: March 15, 2016

Subject: Consider options for potential implementation of Community Choice Energy within the unincorporated area of the County.

RECOMMENDATION(S):

Consider the following options regarding potential implementation of Community Choice Energy (CCE) within the unincorporated area of the County:

Option 1: Work with interested cities in Contra Costa County to obtain electrical load data from PG&E and conduct a technical study of the following three CCE alternatives:

- Form a new joint powers authority of the County and interested cities within Contra Costa County for the purpose of implementing Community Choice Energy
- Join Marin Clean Energy (MCE)
- Form a new joint powers authority with Alameda County and the interested group of cities in the two-county region

Option 2: Proceed with the steps necessary to join Marin Clean Energy (MCE).

Option 3: Undertake an abbreviated technical study summarizing technical studies recently completed by other Bay Area cities and counties and including a comparison of tradeoffs between CCE alternatives available to the County.

APPROVE

OTHER

RECOMMENDATION OF CNTY
ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: 03/15/2016 APPROVED AS RECOMMENDED OTHER

Clerks Notes: SELECTED OPTION 1

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 15, 2016

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: 925-674-7722

cc:

FISCAL IMPACT:

Option 1: Technical Study

The estimated cost of the activities associated with partnering with cities within the County to conduct a technical study of Community Choice Energy is \$400,000. This includes an estimated \$225,000 in consulting services and \$175,000 in County staff costs to manage the project. Staff recommends that the cities be proposed to share in the cost of the technical study consultant, which would reduce the County's overall cost to \$300,000.

These costs would include an amendment to the County's current consulting services contact with LEAN Energy to increase the contract limit by \$75,000 to assist DCD with obtaining electrical load data from PG&E, refining the scope of the technical study and developing the RFP, evaluating proposals from consultants for conducting the technical study, interpreting the results of the technical study and reporting the findings of the technical study to cities, the IOC and the Board of Supervisors. LEAN Energy would also assist County staff in conducting community outreach activities to provide information and education to the public and to gather public input to assist decision-makers in evaluating the results of the technical study.

The cost of the actions associated with Option 1 also includes an estimated \$50,000 for the County's share of cost for conducting a technical study. The total cost of the technical study is estimated to be up to \$150,000. The balance of the cost not paid by the County is proposed to be paid by participating cities proportionate to their share of the total population of the jurisdictions covered by the study.

The estimated \$175,000 cost of County staff time for management of the activities associated with Option 1 includes DCD staff time until the end of 2016 at a cost of approximately \$150,000 plus the cost of County Counsel staff time, estimated to be \$25,000 during 2016.

If a technical study resulted in the County taking additional steps to implement a CCE program, such steps would involve additional time and expense. The cost of these additional steps would depend on the outcome of the study. The estimated schedule and budget following completion of a technical study is described in more detail in Attachment E to this report. The greatest expense would be associated with a scenario involving the formation of a new joint powers authority of the County and cities within Contra Costa County. The cost of forming such a JPA and launching a program is estimated to be approximately \$2 million. These costs would likely be reimbursed by the JPA to the County from CCE program revenues.

Option 2: Take Steps to Join MCE

The estimated cost of activities associated with studying membership in MCE that would be comparable to a full technical study is minimal. There may be some research required of County staff and consultants to answer questions the Board may have regarding MCE, but the estimated cost of addressing these issues would be no more than \$10,000.

If the Board reaches a decision to join MCE and directs staff to take the actions necessary to do so, there would be additional costs of approximately \$50,000 associated with County staff time in DCD and County Counsel related to preparing an ordinance and resolution for adoption by the Board, assisting MCE with program launch activities, and coordinating with Contra Costa cities regarding MCE membership. These costs could be described as "back-end" costs and are not comparable to the "front-end" costs associated with the costs of a technical study as described in Option 1 above. The back-end costs of \$50,000 are more comparable to the back-end costs associated with JPA formation and program launch activities that might follow a technical study, as described more fully in Attachment E.

Option 3: Abbreviated Technical Study

The cost of this option is estimated to be approximately \$65,000. This would include \$50,000 in consulting services to perform the study and \$15,000 in County staff time for project management. The cost of next steps would depend on the approach selected, similar to Option 1, however a portion of a full technical study could be necessary if the abbreviated technical study prompted selection of the option to form a new JPA.

Summary

Overall, the cost of Option 1 (Technical Study) is by far the greatest, and the cost of Option 2 (Join MCE) is the least. Option 3 (Abbreviated Technical Study) represents a middle ground that would provide some of the benefits of a full technical study at a reduced cost and in a shorter time period.

Reimbursement and Potential Source of County Funds

The County would seek to have its costs associated with this project reimbursed in the future from the revenues of a new CCE program should a new JPA be created for this purpose. If a new JPA is not established, the County's costs are unlikely to be reimbursed.

DCD's costs related to this project in the current fiscal year, including the cost of consulting services, can be offset by the unspent portion of the \$200,000 in General Fund revenues budgeted in DCD for FY 2015-2016 for the newly created position of County Sustainability Coordinator, which has not yet been filled. Depending on the direction chosen by the Board, it is anticipated that most, if not all, costs associated with this project in FY 2015-2016 can be paid for from this funding source.

BACKGROUND:

Community Choice Energy (CCE) is described in State law as Community Choice Aggregation. CCE involves cities and counties, or a joint powers authority (JPA) composed of cities and/or counties, pooling ("aggregating") retail electricity customers for the purpose of procuring and selling electricity. Under a CCE program, the CCE entity would become the default electricity provider to all electricity customers within the

service area. Customers would have the ability to opt out of service from the CCE and return to service from the incumbent electrical utility. In Contra Costa County, the incumbent electrical utility is Pacific Gas and Electric (PG&E).

Following the successful launch of CCE programs in Marin County in 2010 and Sonoma County in 2014, most other counties in the Bay Area and many counties throughout California are now in the process of implementing or studying the creation of CCE programs. The City and County of San Francisco and San Mateo County are planning to launch CCE programs in 2016. Alameda County and Santa Clara County are both in the process of establishing JPAs for this purpose and plan to launch programs in 2017.

On October 13, 2015, the Board of Supervisors (Board) accepted the recommendations of the Internal Operations Committee (IOC) and directed County staff to initiate outreach to cities within Contra Costa County to determine the level of interest cities have in joining with the County to investigate three alternatives for potentially implementing CCE in Contra Costa County. These three alternatives are:

1. Form a new Joint Powers Authority (JPA) of the County and interested cities within Contra Costa County for the purpose of CCE;
2. Form a new JPA in partnership with Alameda County, and interested cities in both counties; and
3. Join the existing CCE program initiated in Marin County known as Marin Clean Energy, or MCE

At its meeting on February 29, 2016, the IOC considered a status report from the Department of Conservation and Development (DCD) concerning CCE and heard from numerous members of the public. The IOC directed DCD to prepare a report to the Board of Supervisors (Board) presenting options for proceeding with potential implementation of CCE in the County's jurisdiction, including continuing work with cities to complete a technical study of the three CCE alternatives mentioned above, or proceeding with steps to join the CCE program known as Marin Clean Energy (MCE). Subsequent to the IOC meeting, staff identified an additional option not discussed at the IOC meeting, which is for the County to conduct an abbreviated technical study summarizing other technical studies that have been recently released by Bay Area cities and counties, and including a comparison of tradeoffs between CCE alternatives.

Results of Outreach to Contra Costa Cities

Between November 2015 and January 2016, County staff conducted a variety of outreach activities to engage cities on the topic of CCE. These activities included meetings with City Managers and other city staff, attendance at the December 3, 2015 Mayors Conference, three public workshops in mid-December held in different regions of the County, and presentations provided by County staff and consultants at five City Council meetings during the month of January.

On November 13, 2015, the County Administrator sent a letter (Attachment A) to all City

Managers in Contra Costa County asking for responses back from cities by January 31, 2016 indicating the level of interest cities have in partnering with the County to study CCE. This letter specifically asked if cities would authorize the County to obtain electrical load data from PG&E for the purpose of potentially conducting a technical study of CCE in Contra Costa County, and if the cities would be willing to contribute financially towards the cost of such a study if one were conducted.

To facilitate greater public understanding of CCE and assist cities in their deliberations on the subject, DCD staff and consultants hosted three public workshops in December 2015: the first on December 10 at Walnut Creek City Hall, the second on December 14 at the Hercules Public Library and the third on December 16 at the Brentwood Community Center. Average attendance at these workshops was approximately 20 people, and several cities sent representatives to attend the workshops.

During the month of January 2016, many City Councils throughout the County placed items on their agendas to discuss their interest in partnering with the County to further study implementation of CCE. County staff and consultants were invited to attend and make presentations at the Concord, Clayton, Pinole, Lafayette and Brentwood City Council meetings.

The workshops and city council meetings held in December and January generated several press articles, which can be viewed at the following links:

- [East Bay Express: \(10/12/15\)](#)
- [Contra Costa Times: \(1/8/16\)](#)
- [The Press: \(10/29/15\)](#)
- [Yodeler \(Sierra Club\): \(1/28/16\)](#)
- [East Bay Express: \(1/29/16\)](#)
- [MarinI: \(2/16/16\)](#)
- [The Press: \(2/18/16\)](#)

Responses from Cities

By the end of January, all 16 cities in Contra Costa County not currently enrolled in a CCE program (Richmond, El Cerrito and San Pablo are currently enrolled in Marin Clean Energy) provided written responses to the County (Attachment B) authorizing the County to request electrical load data from PG&E necessary for a technical study of CCE in Contra Costa County. Approximately half of these cities indicated varying degrees of willingness to participate in the cost of a technical study of this data, should such a study proceed. These responses are summarized in Table 1 below.

Table 1. City Responses to County

City	Load Data Authorization	Cost Sharing for Tech Study
Antioch	Yes	No indication

Brentwood	Yes	Yes, not to exceed \$30,000
Clayton	Yes	Yes, pending more details
Concord	Yes	Yes, not to exceed \$25,000
Danville	Yes	Yes, not to exceed \$18,000
Hercules	Yes	No indication
Lafayette	Yes	No indication
Martinez	Yes	No indication
Moraga	Yes	No indication
Oakley	Yes	No indication
Orinda	Yes	Need more information
Pinole	Yes	Need more information
Pittsburg	Yes	Yes, pending more details
Pleasant Hill	Yes	Yes, not to exceed \$15,000
San Ramon	Yes	Maybe, pending more details
Walnut Creek	Yes	Yes, not to exceed \$20,000

Internal Operations Committee Discussion and Direction

At its meeting on February 29, 2016, the Internal Operations Committee directed staff to present the Board with information concerning two options for consideration. One option is to proceed to work with cities in Contra Costa County to conduct a technical study of alternatives for implementing CCE. The other option is to forego such a technical study and proceed immediately to apply for membership in the CCE program called Marin Clean Energy, or MCE. MCE was created in Marin County, and has now expanded to serve jurisdictions in the Counties of Marin, Napa, Solano and Contra Costa, including the cities of Richmond, El Cerrito and San Pablo. Subsequent to the IOC meeting, staff conceived an alternative not discussed at the IOC meeting, which is for the County to conduct an abbreviated technical study summarizing other technical studies that have been recently released by Bay Area cities and counties, and including a comparison of tradeoffs between CCE alternatives.

Each of these three options has advantages and disadvantages, summarized as follows:

Option 1 – Proceed with Technical Study: If the County proceeds to conduct a technical study of CCE with a group of interested Contra Costa cities, the advantages are that County and the cities will receive additional information regarding projected CCE revenues and electricity rates under various renewable energy portfolio scenarios and a comparative analysis of the three CCE alternatives under consideration. The technical study would provide information about revenues that could be generated for new local programs and initiatives to promote energy efficiency and economic development through renewable energy generation projects. The technical study would inform decisions by the Board and city councils to either implement one of the three options studied, or to take no additional action. The disadvantages of conducting a technical study

are the time and expense associated with conducting the study.

The immediate next step in performing a technical study would be for the County to obtain electrical load data from PG&E on behalf of the County and the 16 cities that have authorized the County to do so. This would provide the County with detailed information regarding electrical usage within the covered jurisdictions, and would constitute the raw data necessary to conduct a technical study of potential CCE implementation within the County.

Based on prior Board direction, a technical study of CCE in Contra Costa County would evaluate three options: a program including only interested jurisdictions within Contra Costa County; a program that is a partnership with Alameda County and interested cities in the two-county region; and joining the existing CCE program originated in Marin County known as Marin Clean Energy, or MCE.

Such a technical study would be conducted by a qualified consultant selected through a competitive process. The technical study would evaluate electrical load data to determine the amount of electricity a CCE program would need to procure in order to serve electricity consumers in the participating communities, and would estimate the billing rates that a CCE program would need to charge electricity customers in order to pay for program operations.

The study would analyze how rates might vary under scenarios in which the CCE program offered customers different levels of electricity originating from renewable sources (for example, rates associated with 50% renewable or 100% renewable options). Electricity rates for these scenarios would be compared to products offered by the incumbent utility, PG&E (Attachment C). The technical study would also include a risk analysis of factors that could potentially interfere with successful operation of a CCE program within the County, such as risks associated with price volatility in energy markets and risks stemming from legal or regulatory changes. CCE technical studies performed in other Bay Area counties have included additional components, including analysis of the impact a CCE program might have on local renewable power generation and local job creation.

As stated in Table 1 above, roughly half of the cities in Contra Costa County have indicated some degree of willingness to contribute financially towards the cost of a technical study. Staff recommends that if the Board directs DCD to work with cities to finalize payment arrangement and initiate the technical study, the County and each participating city pay for a portion of the cost of the technical study similar to its proportion of the total population covered under the study.

If the Board directs staff to proceed with a technical study, staff would work with the cities to finalize the scope of the technical study, develop and issue a Request for Proposals (RFP), and select a consultant to perform the technical study. The County would then enter into a contract with the selected consultant. The results of the technical

study would be reported to the cities and the Board of Supervisors, and staff would seek further direction.

Option 2 – Join MCE: The advantages of the County proceeding to take steps now to join MCE are substantially lower start-up costs and a faster time to CCE program launch within the area served. The County would be able to leverage the considerable success MCE has achieved in creating a high-quality CCE program and would not need to go through the time and expense of recreating a similar program. A disadvantage of the County proceeding to join MCE without performing a technical study is that the County will not have access to information about the revenues projected to be generated from CCE electricity sales within the County and the potential to use such revenues to reduce consumer electricity rates, procure greater amounts of renewable energy, incentivize increased local renewable energy generation, or other purposes. If the County joins MCE, the revenues generated from electricity sales in Contra Costa County will be controlled by MCE's Board of Directors, who would represent jurisdictions covering portions or all of four counties, meaning that investments in initiatives such as additional renewable energy production would be spread over a larger area and controlled by a broader group of board members than a Contra Costa JPA . The County would also forego an opportunity to more thoroughly consider the tradeoffs between the three CCE alternatives the Board has previously expressed interest in evaluating through a technical study.

MCE is now comprised of 17 member jurisdictions. These include Marin County, all 11 cities in Marin County, the County of Napa, the City of Benecia, and the cities of Richmond, El Cerrito and San Pablo. MCE is presently accepting applications for new membership from jurisdiction within the four counties currently being served. MCE staff has indicated that all of the cities in Napa County are seeking membership during MCE's current inclusion period, which closes on March 31, 2016. Several additional cities in Contra Costa County are giving consideration to joining MCE as well, including Lafayette, Moraga, Oakley and Walnut Creek. If additional jurisdictions within the Counties of Contra Costa and Solano join MCE, the number of MCE's member jurisdictions could grow to 40 or more. MCE has weighted vote system that is 50% dependent on proportion of electrical load. Were Contra Costa County to join, it would likely have the largest vote of any single member.

If the County directs staff to take steps necessary to join MCE, the technical steps involved would include the County sending a letter of interest to MCE and subsequently adopting an ordinance and entering into a joint powers agreement to join MCE. MCE staff has indicated that the County could submit a letter of interest to MCE after the current MCE inclusion period closes on March 31, 2016, and that cities could join the County in its request for membership. Opening a new inclusion period for the County and Contra Costa cities, and approval of the County's membership in MCE, would be subject to approval by MCE's Board of Directors.

County staff would work with MCE staff to complete other necessary technical and operational steps, and to conduct marketing activities within the unincorporated area as

part of MCE's program launch in the new service area. The Board of Supervisors would need to designate one of its members as the County's representative on the MCE Board of Directors.

Should the Board wish to further contemplate joining MCE in the near term, staff recommends the County consider several uncertainties, the outcome of which will likely have an impact on the County. These include:

- Policy and organizational changes MCE may make as it continues to evolve into a regional agency rather than one originally formed solely to serve Marin County, such as
 - Change of name from MCE to a new name reflecting regional identity
 - Rotate the location of MCE Board meetings and add an office in Contra Costa County
 - Change Board membership and voting structure as MCE membership grows
 - Limits on geography area served and related limits on membership
- Comparison between MCE and PG&E billing rates for Contra Costa customers
- Policies to promote economic development and renewable energy generation in Contra Costa County

MCE is aware that such issues may be of concern to the County and other jurisdictions considering membership in MCE. MCE is evaluating these issues, but decisions have not yet been made (see Attachment D for information from MCE concerning these and other issues).

Option 3: Abbreviated Technical Study: Instead of conducting a full technical study, an alternative the Board may wish to consider is to conduct an abbreviated technical study that would summarize recently released technical studies conducted by other Bay Area cities and counties and would analyze tradeoffs between CCE options; for example, forming a new JPA versus joining an existing CCE program, such as MCE. The advantages of this alternative are that the Board would receive additional information regarding projected electricity rates under varying renewable energy scenarios, risk analysis, and economic development and renewable generation opportunities for jurisdictions that are similar to the County. Another advantage of this alternative is that it could be done at a lower cost and in a shorter amount of time than a full technical study, which would involve obtaining load data from PG&E and performing a detailed analysis of that data. A disadvantage of this alternative is that the analysis would not be specific to the County electricity load data and therefore some of the findings may not be as precise or reliable as a full technical study. Also, if the eventual outcome is to form a new JPA, portions of a full technical study, including analysis of electrical load data specific to Contra Costa County, would need to be subsequently completed. This alternative has been identified by staff following the February 29, 2016 IOC meeting, and was not discussed at the IOC meeting.

Public Involvement

If the Board directs staff to proceed with one of the three CCE options described in this report, staff recommends that the County's activities include a public involvement component. The recommended public involvement activities for each of the three options are as follows:

Option 1: Full Technical Study

- Public workshops to obtain public input
- Focused outreach to key stakeholder groups
- Web-based educational materials
- Presentations at Mayors Conference, city councils and other venues

Option 2: Join MCE

- Coordinate with cities in Contra Costa County to provide information concerning MCE

Option 3: Abbreviated Technical Study

- Public workshop prior to consultant preparing study, and a second public workshop to review a draft of the study
- Additional public involvement actions could be considered upon completion of the abbreviated study

Staff is aware that some members of the public have expressed an interest in creating an Advisory Committee to advise the Board and city councils on this topic. Staff is not recommending the creation of an Advisory Committee due to the added cost and time this would involve, and because staff believes the steps described above will allow for effective public input concerning the development of a CCE program without the significant effort involved in recruiting for and selecting members. However, if a more structured involvement program is desired, staff could suggest approaches for forming and structuring such a committee process.

Project Schedule and Budget

If the Board directs staff to proceed with a technical study of CCE (either a full study or an abbreviated one), this would represent the first phase of activity related to potential implementation of CCE within Contra Costa County. Following a technical study, additional steps would be required to launch a CCE program, should the Board decide to proceed with implementation.

An estimated schedule and budget for fully implementing CCE within the County is attached to this report (Attachment E). The time and expense associated with implementing CCE within the County would depend heavily on the outcome of the technical study and the resulting direction selected by the Board and participating cities.

The CCE option likely to require the greatest commitment of time and resources would be the option to form a new JPA comprised of the County and cities within Contra Costa County. Following the technical study, such an option would involve two additional phases of activity: JPA Formation and Program Launch. The activities associated with these additional project phases and the estimated time and expense to complete these activities are described in greater detail in Attachment D. Staff estimates the total time needed to implement the Contra Costa JPA option and begin providing electricity to customers would be in the range of two to three years and would cost approximately \$2 million. These costs would likely be recovered if a new JPA becomes operational.

If the Board directs staff to proceed with steps necessary to join MCE, either immediately or following a technical study, the cost and time associated with joining MCE are expected to be substantially less than creating a new JPA. The organizational start-up activities and costs associated with creating a new public agency would not be required.

However, a financial tradeoff associated with joining MCE is that jurisdictions in Contra Costa County would not have exclusive control over the revenues generated from a CCE program. If the County and several more cities in Contra Costa County decide to join MCE, Contra Costa jurisdictions would represent the majority of the population served by MCE. Therefore, Contra Costa jurisdictions would have a strong collective voice within MCE. Nevertheless, the majority of seats on the MCE Board of Directors would continue to be held by jurisdictions in Marin, Napa and Solano Counties.

Extrapolating from the experience of the existing CCE programs, CCE revenues generated from the sale of electricity within jurisdictions in Contra Costa County not currently in MCE would likely be in the hundreds of millions of dollars annually. Most of these revenues would be used to pay for energy procurement, with smaller portions used to pay for administrative costs, reserves, and local economic development and energy efficiency programs

CONSEQUENCE OF NEGATIVE ACTION:

If no action is taken, the County will not proceed with implementation of a Community Choice Energy program.

ATTACHMENTS

- Attachment A: CAO Letter to Cities re CCE
- Attachment B: City Responses to CAO Letter re CCE
- Attachment C: PG&E's New Solar Choice Offering
- Attachment D: Marin Clean Energy Documents
- Attachment E: Option I Technical Study Schedule and Budget PowerPoint Presentation