

**Part 1 includes the following items**

## **1.0 OPENING MATTERS**

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

- 1.1 Call to Order and Roll Call of the Oakley City Council and Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency**
- 1.2 Pledge of Allegiance to the Flag**
- 1.3 Proclamation Recognizing the [2016 Freedom High School Track and Field Team](#)**
- 1.4 Proclamation Recognizing the [2016 Freedom High School Dance Line](#)**
- 1.5 Presentation by Patty Finrock of California Department of Water Resources Regarding Dutch Slough Tidal Marsh Wetland Restoration Project Update**
- 1.6 Update from Fire Chief Hugh Henderson, East Contra Costa Fire Protection District**

## **2.0 PUBLIC COMMENTS**

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

## **3.0 CONSENT CALENDAR**

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

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

- 3.1 **Approve the Minutes** of the Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Meeting held July 12, 2016 (Libby Vreonis, City Clerk)

***Oakley City Council***

- 3.2 **Waive the Second Reading and Adopt an Ordinance Adopting Text Amendments to Oakley Municipal Code Neighborhood Preservation Ordinance (Chapter 29 of Title 4) and the Zoning Ordinance (Chapter 1 of Title 9) Related to Residential Front Yards and Shipping Containers (RZ 01-16) (Ken Strelow, Senior Planner)**
- 3.3 **Ratify Election: Waive the Second Reading and Adopt Ordinance 11-16 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 159 Within the Oakley Special Police Tax Area for Police Protection Services for Minor Subdivision No. 14-978 (Bella Estates) (Kevin Rohani, Public Works Director / City Engineer)**
- 3.4 **Adopt a Resolution Approving an Agreement with Schaaf & Wheeler Consulting Civil Engineers for Engineering Design Services Associated with Capital Improvement Project No. 189- Piper Lane Drainage Channel Full Trash Capture Device and Authorizing the City Manager to Execute the Agreement (Kevin Rohani, Public Works Director / City Engineer)**
- 3.5 **Adopt a Resolution Approving the Agreement with Thomas Oakley, LLC for “Stormwater Management Facilities Operations and Maintenance Agreement and Right of Entry” for the Popeyes Louisiana Kitchen located at 101 Carol Lane (APNs 037-132-037 and 037-132-038) and Authorizing the City Manager to Execute the Agreement (Kevin Rohani, Public Works Director / City Engineer)**
- 3.6 **Adopt a Resolution Accepting the Subdivision Improvements for Catamaran Park Associated with Subdivision 8955 (Summer Lake-Phase 2, Parcel A and B) and Beginning the Landscape Maintenance by the City (Kevin Rohani, Public Works Director / City Engineer)**
- 3.7 **Resolution Accepting the Result of the Canvass of the June 7, 2016 Primary Election-Measure K (Oakley Downtown Library and Community Learning Center) (Libby Vreonis, City Clerk)**
- 3.8 **Approve Responses to Civil Grand Jury Reports No. 1605 “Caring for Victims” and No. 1607 “Delta Levees in Contra Costa County” (Bryan Montgomery, City Manager)**

- 3.9 Adopt a Resolution of Acceptance Relating to the [Donation to the City of Approximately 16.62 acres of Property](#) Located North of the BNSF Rail Line Right-of-Way and East of Rose Avenue (APNs 037-191-019 and 037-191-025)  
(Bryan Montgomery, City Manager)
- 3.10 Adopt a Resolution [Approving a Deferred Improvement Agreement](#) for New Life Ministries-4246 Empire Avenue (Southeast Corner of Empire Avenue and Meeks Lane) (Kevin Rohani, Public Works Director / City Engineer)
- 3.11 [Accept Quarterly Investment Report](#) (4<sup>th</sup> Quarter Fiscal Year 2015-2016)  
(Deborah Sultan, Finance Director)
- 3.12 Adopt a Resolution [Establishing Certain City Police Fees](#)  
(Deborah Sultan, Finance Director)
- 3.13 Adopt a Resolution Regarding [2016-17 Compensation and Benefits Program](#) and Employee Salary Ranges (Nancy Marquez-Suarez, Assistant to the City Manager/HR Manager)

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

- 3.14 [Accept Quarterly Investment Report](#) (4<sup>th</sup> Quarter Fiscal Year 2015-2016)  
(Deborah Sultan, Finance Director)



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

### ***Recognizing the 2016 Freedom High School Track and Field Team***

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

**WHEREAS**, *the 2016 Freedom High School Track and Field Team was recently honored for its success off the field; and*

**WHEREAS**, *this recognition relates to the team having won the NCS Scholastic Team for the Tri-Valley Area for the Spring of 2016 with a grade point average of 3.33; and*

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

**WHEREAS**, *the following are members of the 2016 Freedom High School Track and Field Team that are very much deserving of recognition for their on and off the field success:*

Adam, Alexander	Hamblin, Dallas	Nirankari, Puneet
Ahad, Rameen	Helton, Brenden	Parsons, Anthony
Arcilla, Gabriel	Heur, Hunter	Payerchin, Riley
Banuelos, Dereck	Highbrou, Napoleon	Perez, Lucas
Becerra, Edgar	Huey, Derrick	Pierce, Robert
Berschens, Kyle	Hunter, Colby	Ponce-Vargas, Vincente
Bravo, Obed	Jackson-Turner, Elijah	Rivers, Ronald
Brown, Javon	Jose, Dylan	Rodgers, Jared
Brown, Jeloni	Langendorff, Ethan	Roy, Zachary
Cooper, Tanner	Larrea, Giovanni	Rubio, Ruben
Davis, Jared	Leon, Alexis	Schubert, Arron
De Manuel, Arren Jake	Leohnig, Daniel	Tapia, Renato
Dunn, Aiden	Maldonado, Tomas	Thomas III, John
Elliott, Tajh	Mantill-Tenorio, Renato	Tilcock, Aiden
Esparza, Omar	Marquez, Cristian	Trevino, Konrad
Fender, Chris	Martin, Jared	Weisenberg, Michael
Fratius, Diego	Mason, DeAngelo	
Gutridge, Antonio	Merryman, Caelan	

**NOW, THEREFORE, BE IT RESOLVED** *that we, the Mayor and City Council of the City of Oakley, hereby congratulate the 2016 Freedom High School Track and Field Team for having the grade point average of 3.33 for the NCS Scholastic Team for the Tri-Valley Area.*

*August 9, 2016*

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**Kevin Romick, Mayor**



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

### ***Recognizing the 2016 Freedom High School Dance Line***

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

**WHEREAS**, *the 2016 Freedom High School Dance Line was recently honored for its academic success; and*

**WHEREAS**, *this recognition relates to the team winning the North Coast Section (NCS) Grade Point Average award in 2016 with a combined 3.52 GPA; and*

**WHEREAS**, *this is the second consecutive year the Dance Line has earned this honor; and*

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

**WHEREAS**, *the following are members of the 2016 Freedom High School dance line that are very much deserving of recognition for their on and off the field success:*

*Madison Bednar*

*Naleseah DiMercurio*

*Faith Moore*

*Ryann Brinkman*

*Bianca Garcia*

*Alyssa Nash*

*Jenna Chapman*

*Jayme Gragg*

*Erykah Pree*

*Chase Coleman-Storey*

*Isabela Lopez*

*Sierra Rodriguez*

*Madison DeRita*

*Hannah McCartney*

*Hailey Solares*

**NOW, THEREFORE, BE IT RESOLVED** *that we, the Mayor and City Council of the City of Oakley, hereby congratulate the 2016 Freedom High School Dance Line for having the highest grade point average in the North Coast Section (NCS) for the second consecutive year.*

*August 9, 2016*

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*Kevin Romick, Mayor*

**Minutes of the Regular Joint Meeting of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Tuesday, July 12, 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 Kevin Romick called the meeting to order at 6:32pm in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. In addition to Mayor Kevin Romick, Vice Mayor Sue Higgins and Councilmembers Randy Pope and Vanessa Perry were present. Councilmember Doug Hardcastle was absent.

**1.2 Pledge of Allegiance to the Flag**

Mayor Romick led the Pledge of Allegiance.

**1.3 Proclamation Honoring the Citizen Library Committee (Nancy Marquez-Suarez, Assistant to the City Manager)**

Assistant to the City Manager Nancy Marquez-Suarez, Deputy County Librarian Alison McKee and Chairperson of the Citizen Library Committee Craig Leighty thanked the Citizen Library Committee for their dedication and work on Measure K.

Mayor Romick presented a proclamation to the Citizen Library Committee.

Committee members present to accept the proclamation were Nancy Huffaker, Craig Leighty, Angela Lowery, Bill Abramson, Arnold Fitzpatrick, Karen Harrington, Dawn Morrow, Ron Perry, Dianna Petterle, Sacha Rossberg, Barbara Santos, Cindy Tumin, Sue Higgins, Vanessa Perry, Lucy Arai, Patti Thelen, John Wilmott, Margie Valdez, Maryann Pierce, Michael Dupray, Nancy Marquez-Suarez, Gabriela Banos-Galvan and Pamela Selzer.

**1.4 Introduction of Oakley Union Elementary School District Superintendent Greg Hetrick (Bryan Montgomery, City Manager)**

Mayor Romick introduced Oakley Union Elementary School District (OUESD) Superintendent Greg Hetrick.

Mr. Hetrick commented he looks forward to OUESD working collaboratively with the Oakley City Council.

## **1.5 Presentation Regarding Delta Protection Commission Issues by Pittsburg Mayor Ben Johnson**

Pittsburg Mayor Ben Johnson shared that the Delta Protection Commission (DPC) was established in 1993 to protect the health of the Delta. He mentioned the DPC meets bi-monthly and the next meeting will be held July 21 to discuss the tunnels project which he opposes. He added a recent State Leadership Accountability Act (SLAA) report was issued providing risks and controls in DPC operations, responsibilities and risk assessments.

Vice Mayor Higgins inquired if there is a plan for floating toilets in the Delta and if the Delta is dredged.

Mayor Johnson responded that he will inquire about floating toilets at DPC's next meeting and report his findings. He commented he does not believe the Delta is dredged near Oakley because of the higher speed of nautical flow (6 knots).

## **2.0 PUBLIC COMMENTS**

### **Public Comment Cards**

Kathleen Walters commented her backyard fence faces West Cypress Road and she has never been asked in the 29 years that she has lived in her home to maintain the area behind the backyard fence; she believes it has always been maintained by the County and City. She added she has concern for her safety to clean up an area where no parking is available.

## **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 Special Meeting of the Oakley City Council and Regular Joint Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency Meeting held June 28, 2016 (Libby Vreonis, City Clerk)**

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

- 3.2 Receive Report Out of Closed Session Memo (William Galstan, Special Counsel)**
- 3.3 Waive the Second Reading and Adopt an Ordinance Repealing and Re-Enacting Chapter 18 of Title 4 of the Oakley Municipal Code, Dealing with Shopping Carts (Troy Edgell, Code Enforcement Manager)**

- 3.4 Waive the Second Reading and Adopt an Ordinance Making Amendments to Chapter 12 of Title 6 of the Oakley Municipal Code, Dealing with the Floodplain Ordinance (Kevin Rohani, Public Works Director / City Engineer)**
- 3.5 Waive the Second Reading and Adopt an Ordinance Making Findings and Amending Section 9.1.410 of Article 4 of Chapter 1 of Title 9 of the Oakley Municipal Code Dealing with the Affordable Housing Overlay Zone (Joshua McMurray, Planning Manager)**
- 3.6 Waive the Second Reading and Adopt an Ordinance Approving the City Initiated Project to Apply the Affordable Housing Overlay Zone to Nine Specific Properties in Order to Comply with the Certified 2015-2023 Housing Element (Joshua McMurray, Planning Manager)**
- 3.7 Receive Report Regarding City Manager Salary/Benefit Adjustments (William Galstan, Special Counsel)**
- 3.8 Approval of Subdivision Improvement Agreement, Subdivision Annexation and Assessment Deferral Agreement, Phase 1 Final Map and Modification of Conditions of Approval for Subdivision 9033 Gilbert Property (Northeast Corner of East Cypress Road and Sellers Avenue) (Kevin Rohani, Public Works Director / City Engineer)**
- 3.9 Adopt a Resolution Confirming Costs for Abatements of Mandatory Subscriptions for Garbage Service and Directing Special Assessments and Liens upon Each Parcel (Troy Edgell, Code Enforcement Manager and Deborah Sultan, Finance Director)**
- 3.10 Adopt a Resolution Amending Portions of Resolutions 62-12, 38-13, 88-13, 61-14, 86-15 Pertaining to the Job Classification and Salary/Compensation Schedules to Consolidate Multiple Council Actions onto One Schedule per Fiscal Year (Nancy Marquez-Suarez, Assistant to the City Manager)**
- 3.11 Approve a Purchase Order with EKC Enterprises, dba Advanced Communication Technology, for Audiovisual System Services for the City Council Chambers (Lindsey Bruno, Recreation Manager)**
- 3.12 Adopt a Resolution Approving the City's Investment Policy for Fiscal Year 2016-2017 (Deborah Sultan, Finance Director)**
- 3.13 Resolution of Support for Excluding USS-POSCO from the Final Dumping Order for Imported Hot-Rolled Steel Flat Products from the Republic of Korea (Bryan Montgomery, City Manager)**

Items 3.8, 3.9, 3.11 and 3.13 were pulled from the Consent Calendar.



It was moved by Councilmember Pope and seconded by Councilmember Perry to approve the remainder of the Consent Calendar. Motion was unanimous and so ordered. (4-0)

### Item 3.8

Mayor Romick announced Item 3.8 will be brought back for consideration at the City Council meeting to be held August 9.

### Item 3.9

Vice Mayor Higgins pulled item 3.9 to inquire if the City can penalize for code violations in addition to home owner association (HOA) fines or if the City can collect fine amounts from the HOAs if the HOAs are collecting fines.

Code Enforcement Manager Troy Edgell commented he is unaware of any fines collected by HOAs for garbage service.

Special Counsel William Galstan explained that the City's garbage subscription ordinance provides that the property owner is responsible to maintain garbage service and the amounts being collected for the assessments are not fines, but rather reimbursements for the City subscribing the property owner to garbage service. He explained the assessments are placed on the tax roll to ensure the City is paid; therefore, there is no need to collect from HOAs.

It was moved by Councilmember Perry and seconded by Vice Mayor Higgins to adopt the resolution. Motion was unanimous and so ordered. (4-0)

### Item 3.11

Councilmember Pope pulled item 3.11 to inquire if it is possible to live stream meetings.

City Manager Bryan Montgomery responded that past research showed it was expensive to install and maintain, but perhaps technology has improved; therefore, if it is the desire of the City Council, the Council can increase the purchase order amount up to the desired spending limit for live streaming, and staff can move forward within that budget; if it costs more, staff will bring it back to the Council for approval on August 9.

It was moved by Councilmember Pope and seconded by Councilmember Perry to increase the purchase order with a 10% contingency and adopt the resolution. Motion was unanimous and so ordered. (4-0)

### Item 3.13

Mayor Romick recused himself from discussions and voting on item 3.13. He stated he is an employee of USS-POSCO. He left the room.

Councilmember Perry inquired if there are any other local companies that should be added to the resolution.

City Manager Bryan Montgomery explained that USS-POSCO employs over 100 Oakley residents, but there are some other companies that would be indirectly affected.

It was moved by Councilmember Pope and seconded by Councilmember Perry to adopt the resolution. Motion was unanimous and so ordered. (4-0)

Mayor Romick returned to his seat at the dais.

## 4.0 PUBLIC HEARINGS

### *Oakley City Council*

#### **4.1 Daub 4 Kidz Bingo Hall (CUP 01-16) – Recommend Denial on a Request for a Conditional Use Permit to Operate a Bingo Hall at 2107 Main Street (Ken Strelo, Senior Planner)**

*(Item 4.2 is continued from the Oakley City Council meeting held June 28, 2016)*

Senior Planner Ken Strelo presented the staff report.

Special Counsel William Galstan explained there are two permits the applicant must obtain to operate a bingo hall in Oakley: a conditional use permit (CUP) and a bingo operator permit (the latter is issued by the Police Department). He commented that the question before the City Council this evening is a land use matter related to the CUP, regardless of whom operates the bingo hall. He added that the bingo operator permit would require review of the applicant's background and any information relevant to the applicant operating a bingo hall would be reviewed during that process (including the letter the City received from the Hot Shots).

Councilmember Perry inquired if the CUP requires the operator to be a non-profit organization.

Mr. Galstan explained it is a State law requirement.

### Public Comment Cards

Bob Garrison thanked the City Council for working with them on the CUP and stated the conditions are fair, but requested the City Council consider extending the 2-year period for operation before further review to 3 years.

Applicant Francine McMahon requested the City Council consider approving flexibility to change Saturday and Sunday hours from an afternoon schedule to an evening schedule as needed.

Vice Mayor Higgins inquired if the CUP can be made non-transferable between operators.

Mr. Strelow responded the CUP applies to the property, not the operator.

Mr. Galstan added that the bingo operator permit may address any concerns of whom operates on the property under the CUP.

Vice Mayor Higgins inquired if bingo represents gambling.

Mr. Galstan mentioned bingo is addressed in the Oakley Municipal Code and in State law under the topic of gambling; however, bingo operators must be non-profit organizations with proceeds benefiting a tax-exempt charity.

Councilmember Pope requested clarification from the applicant regarding operating hours on Saturdays and Sundays.

Ms. McMahon explained that she would like the flexibility to change the hours of operation on Saturdays and Sundays should attendance not prove to be abundant in the afternoon. She indicated afternoon hours of operation on weekends would be from 11am-6pm and evening hours of operation on weekends would be 4pm-11:30pm.

Councilmember Pope inquired of staff if there are any concerns of having flexibility of hours on weekends.

Mr. Strelow responded that he does not believe there would be any issues with parking or conflicts with patrons visiting other establishments in the shopping center in the evening.

Councilmember Pope commented he is not willing to extend to 3 years as he believes the 2-year period is a trial period, but he would consider extending to 3 years after the initial 2-year period if the trial period is successful. He requested to add language that would make it clear that the applicant is responsible for the expense of police response related to any nuisance resulting from the bingo hall, excluding any medical response. He added he is okay with extending the operating hours on weekends.

With the changes proposed by Councilmember Pope (supra), it was moved by Councilmember Pope and seconded by Councilmember Perry to adopt the resolution approving the conditional use permit. AYES: Higgins, Perry, Pope. NOES: Romick. ABSENT: Hardcastle. (3-0)

**4.2 Waive the First Reading and Introduce an Ordinance Adopting Text Amendments to Oakley Municipal Code Neighborhood Preservation Ordinance (Chapter 29 of Title 4) and the Zoning Ordinance (Chapter 1 of Title 9) Related to Residential Front Yards and Shipping Containers (RZ 01-16) (Ken Strelo, Senior Planner)**

Senior Planner Ken Strelo presented the staff report.

Vice Mayor Higgins inquired if there is a grandfather clause to address shipping containers already situated on properties.

Mr. Strelo explained that while there is no grandfather clause, when the ordinance becomes effective, it will not be retroactively enforced.

Councilmember Pope inquired whether the additional driveway allowance in Section 9.1.1122(f)(1) only applies to 2-car driveways. He mentioned he doesn't prefer decomposed granite, but likes all other changes to the ordinance.

Mr. Strelo clarified any lot, regardless of number of garage spaces, may increase parking area, subject to a maximum 50% rule written within that section.

Mayor Romick inquired if language could be included in Section 4.29.402(e) to clearly prohibit parking on decorative hardscape areas.

Mr. Strelo responded that additional language can be inserted to clarify that intent.

It was moved by Councilmember Pope and seconded by Vice Mayor Higgins to waive the first reading and introduce the ordinance with Section 4.49.402(e) amended to clearly prohibit parking on decorative hardscape areas. Motion was unanimous and so ordered. (4-0)

## 5.0 REGULAR CALENDAR

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

**5.1 Adopt a Resolution Approving Modifications to Schedule for Police Services Tax, Previously Adopted on March 22, 2004 (Deborah Sultan, Finance Director)**

Finance Director Deborah Sultan presented the staff report.

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

## 6.0 REPORTS

### **6.1 CITY MANAGER**

#### **(a) City Manager**

City Manager Bryan Montgomery welcomed City Clerk Libby Vreonis back from maternity leave. He mentioned the City Council meetings of July 26 and August 23 are cancelled; the next meeting will be held August 9. He announced the Main Street Car Show at Civic Center Plaza to be held July 23 and Movie in the Plaza to be held July 30.

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

#### **(a) Discussion regarding possible ballot measure to support the Fire District**

City Manager Bryan Montgomery explained he participated in an ad-hoc task force to explore funding ideas for the East Contra Costa Fire Protection District which is currently operating in crisis mode due to lack of funding. He added that the task force successfully found a short-term funding solution to re-open one fire station and recommended that a Master Plan be commissioned to determine what is required to provide a basic adequate level of service.

He presented information regarding long-term funding mechanisms which were explored by the task force, including a possible parcel tax (would require 2/3 vote to pass), a benefit assessment (would likely face legal challenges), a property tax reallocation (not realistic or adequate) and a utility user tax (would require 50% + 1 to pass). He explained the utility user tax (UUT) would be the recommended option to pursue and would require an 8.5%-9% tax to provide funding for 2 new fire stations in Oakley; however, when some residents were surveyed, they were not receptive to it (less than 40% were in favor). He mentioned Brentwood was considering something similar, but the County is not prepared to act on any unincorporated area within the District. He suggested possible ballot language and an advisory question and mentioned the City Council would have to make a decision at its next meeting on August 9 to meet the August 12 deadline to notify the County of the measure for the November election.

It was the consensus of the City Council for staff to research and provide information regarding a UUT at 4-6% with no escalators and explore more utilities to include.

Mr. Montgomery indicated staff will research a lower UUT with no escalators and more utilities to include and bring the item back for City Council review on August 9.

**(b) 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 mentioned the Fire Board met yesterday and its next meeting is August 1. He welcomed all to attend. He commented the Cityhood Celebration was wonderful. He announced he attended the Habitat Conservancy meeting and its next meeting will be held August 20. He encouraged everyone to participate in National Night Out to be held August 2.

Vice Mayor Higgins announced the Water Board meeting is tomorrow, Steve Todd of Veterans of Foreign War Post 10789 was honored tonight, she met with Assembly member Jim Frazier to discuss suicide barriers along train tracks, and she attended the Station 94 grand opening. She requested an update from the Mayor regarding illegal fireworks.

Mayor Romick commented he is working on a plan with the Oakley Police Department for anonymous reporting of fireworks and monitoring of neighborhoods.

**(c) Requests for Future Agendas**

Councilmember Pope suggested the Council consider allowing smaller celebratory items such as sparklers for residents rather than a complete ban on fireworks.

**7.0 WORK SESSIONS-None**

***Oakley City Council***

**7.1 Oakley Recreation Center (Lindsey Bruno, Recreation Manager)**

Recreation Manager Lindsey Bruno presented the staff report.

Councilmember Perry inquired if grant funds can be applied to Phase 1.

City Manager Bryan Montgomery responded that \$4 million has been budgeted to fund Phase 1 and grant funds could be used for an all-abilities ball field (must be used by June 2017), but additional grant funds would be needed.

Vice Mayor Higgins commented she would like a pool instead of a playground at the center.

Mr. Montgomery explained the cost recovery on pools is often less than 50%.

Mayor Romick inquired if it is less expensive to locate an all-abilities field on Oakley Unified Elementary School District property.

Mr. Montgomery responded that it probably would be somewhat less expensive and would allow the space at the center to be used for additional recreation.

Councilmember Pope expressed concern regarding synthetic materials for the all-abilities ball field, lack of shade and grading issues toward the back of the lot.

Ms. Bruno confirmed only a portion of the entire recreation space would have synthetic material; the remainder would be grass area.

Mr. Montgomery commented dirt could be moved to address any grading concerns.

Mayor Romick inquired of the remaining life of the portables.

Mr. Montgomery responded the portables are probably good for another 5-7 years.

Mayor Romick suggested the center and parking be addressed in phase 1 to keep recreation classes running and the all-abilities ball field could be constructed thereafter.

Vice Mayor Higgins inquired if current grant funds can be used to construct the all-abilities ball field on OUESD property.

Councilmember Pope inquired if there are any constraints on the grant funds.

Mr. Montgomery explained that with approval, the grant funds could possibly be used to construct an all-abilities ball field on OUESD property or a playground at the rec center or possibly for turf, but must be used by June 2017. He commented he wasn't certain if the funds could be used for the recreation building.

Councilmember Perry requested staff research the possibility of moving forward with an all-abilities ball field on OUESD property and if that would work for the local baseball leagues with special needs programs.

Mr. Montgomery commented staff will research and report back to the City Council on August 9.

Special Counsel William Galstan commented that pools in other cities typically do not recover operational costs unless there is a water park feature included.

Councilmember Perry suggested a water feature playground could work instead of a pool.

Councilmember Pope commented he would feel better if the all-abilities ball field were on City property rather than OUESD property.

Mr. Montgomery responded that an area of the all-abilities ball field could be fenced off if placed on City property but it would not allow as much use for other recreation. He added the design of an all-abilities ball field can be costly; therefore, the plan would be to create a field that utilizes only the grant funds available.

Councilmember Perry commented she would like to see the all-abilities ball field constructed functionally to serve its purpose. She mentioned if the all-abilities ball field is on OUESD property constructed with grant funds of the City, OUESD should maintain it.

Vice Mayor Higgins inquired if the Citizen Planning Advisors were active and if this item could possibly be reviewed by them.

Mr. Montgomery responded that they are active and this item could be reviewed by them during design review.

Mr. Montgomery confirmed staff has enough direction to proceed and will bring the item back to the City Council August 9 for further review.

## 8.0 CLOSED SESSIONS-None

## 9.0 ADJOURN

There being no further business, the meeting was adjourned at 9:21 p.m.

Respectfully Submitted,

Libby Vreonis  
City Clerk



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADOPTING  
TEXT AMENDMENTS TO OAKLEY MUNICIPAL CODE NEIGHBORHOOD  
PRESERVATION ORDINANCE (CHAPTER 29 OF TITLE 4) AND THE ZONING  
ORDINANCE (CHAPTER 1 OF TITLE 9) RELATED TO RESIDENTIAL FRONT YARDS  
AND SHIPPING CONTAINERS (RZ 01-16)**

The City Council of the City of Oakley does ordain as follows:

**SECTION 1.** Subsection 4.29.302(I) of the Oakley Municipal Code Section 4.29.302, titled "Definitions," is hereby amended as follows:

- "i. "Improved Surface" shall mean any surface which has been improved with pavement, asphalt, cement, brick, interlocking pavers or other similar material and maintained in such a manner as to provide for a mud-free and dustless surface. Compacted decomposed granite or other similar compacted material may be considered an improved surface when it is kept in a mud-free and dustless state and used for the purposes of additional parking in a required front yard. Loose gravel, bark, rocks, and other similar materials may not be considered an improved surface for the purposes of additional parking."

**SECTION 2.** Section 4.29.402 of the Oakley Municipal Code, titled "Landscape Requirements," is hereby amended in its entirety as follows:

"It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any property to maintain such property in such a manner that any one or more of the following described conditions are found to exist:

- a. Overgrown, diseased, dead or decayed trees, shrubbery, weeds, lawns or other vegetation that:
- i. Constitutes a fire hazard or other condition that is dangerous to the public peace, health, safety, welfare; or
  - ii. Creates the potential for the harboring of rats, vermin, vector, or other similar nuisances; or
  - iii. Is overgrown onto a public right-of-way at least six (6) inches.
- b. Any trees, shrubbery, or other vegetation that overhang onto streets and sidewalks and are not trimmed or maintained in accordance with the following standards:
- i. At least twelve (12) feet above the street and gutter along streets which are not used for bus routes.
  - ii. At least eight (8) feet above the entire sidewalk.

- iii. At least sixteen (16) feet above the street and gutter along streets which are used for bus routes.
- c. Any trees, shrubbery or other vegetation that is completely dead, over eight (8) inches in height and covers more than fifty percent (50%) of the front or side yard visible from any public street.
- d. A violation of any landscaping requirement under an applicable development permit.
- e. The improved surface of the property exceeds 50% of the required front yard area setback (including the driveway), except when the property is developed in a manner consistent with Section 9.1.1122(f), or enhancements to required front yards include improved surfaces consisting of drought tolerant and decorative hardscape that is designed and located in a manner where it may not be accessed by vehicles, or used as parking for vehicles, subject to review and approval of the Code Enforcement Manager.
- f. A property on which the unimproved surfaces are not maintained in good condition or repair, including without limitation any property which contains excessive weeds, rubbish or debris. Landscaping shall be installed and maintained in any unimproved portion of the front and side yards that is visible from any public right of way. If only Decorative Landscaping is used to meet the requirements of this section, "Weed Block" shall also be used."

SECTION 3. Subsection 4.29.408(b) of the Oakley Municipal Code Section 4.29.408, titled "Prohibited Activities," is hereby amended, as follows:

- "b. The parking of any motor vehicle, trailer, camper or boats on any unimproved surface, unless it is located behind the front yard or side yard setback and screened by a minimum six foot tall solid fence."

SECTION 4. Subsection 9.1.1122(f) of the Oakley Municipal Section 9.1.1122, titled "Yards," is hereby amended, as follows:

- f. Front Yards – Driveway Width and Coverage.
  - 1) Driveway width, regardless of the number of driveways, shall not exceed 20 feet in front of the garage, except for 3-car garages where the width shall not exceed 30 feet. If a lot only has a two car driveway, an additional 10-foot-wide driveway may be located in the front yard to allow access to a side or rear yard or for additional front yard parking area. Any lot may increase the driveway width and parking area of the required front yard above the allowances within this subsection, so long as the total driveway and parking area does not exceed 50% coverage of the required

front yard. Additional driveways and parking shall not result in a second curb cut or widened curb cut beyond that allowed by this code.

- 2) For single-family homes, a second curb cut is permitted on lots that are zoned R-15 or larger, and where paragraph (1) of this section is met.

**SECTION 5.** Article 18 of the Oakley Municipal Code Chapter 9.1, titled "Accessory Structures," is hereby amended in its entirety, as follows:

**"9.1.1802 Accessory Structures Development Regulations**

**a. Definitions.**

- 1) "Accessory structure" is a detached building, carport, gazebo, shed, playhouse, or other similar above-ground structure, the use and size of which is subordinate and incidental to that of a main building on the same lot.
- 2) "Shipping Container" (also referred to as intermodal freight transport, sea container, or cargo container) is typically a 20-40 foot long durable closed steel containers capable of handling large capacity and weight loads over land and sea.

**b. Maximum Size and Height.**

- 1) **Maximum Size.** The maximum size of an accessory structure or combination of accessory structures on any single lot shall be whichever results in a greater allowance of accessory structure square footage between the following two options: 1) as measured in conjunction with all structures on the lot so that the total lot coverage shall not exceed forty percent (40%); or 2) five hundred (500) square feet. Square footage of structures shall be measured as follows:
  - i. For enclosed structures, such as the main house, detached garages, detached guest rooms/pool houses, enclosed patios, etc., floor area (interior walls to interior walls) shall be used to measure square footage;
  - ii. For unenclosed structures, such as gazebos, attached and detached carports, patio covers, trellises, etc., roof area coverage (as measured perpendicular to ground) shall be used to measure square footage.
- 2) **Maximum Height.** The maximum height for any single accessory structure as measured to the peak of the roof or highest portion of structure, whichever is higher, shall be as follows:

- i. Fifteen (15) feet in height when the accessory structure or portion thereof is located within any of the required yards for the applicable zoning district.
    - ii. Accessory structures completely located outside of all required yards, subject to the applicable zoning regulations, may match the height of the existing main structure. All accessory structures exceeding fifteen (15) feet in height shall use materials, design, and colors that match the main structure, subject to the review and approval of the Community Development Department.
  - c. Minimum Setbacks.
    - 1) All Residential Lots.
      - i. Accessory structures shall be located outside of the required front yard and shall not have any portion closer than the main structure to the front property line;
      - ii. Accessory structures that are exempt from a building permit and are no higher than the height of the adjacent fence to which they are to be placed may be located within the required side or rear yard of any lot, up to the property line, only if the accessory structure maintains a minimum clearance of five feet to any other structure, excluding the fence. No accessory structure may be attached to a shared fence;
      - iii. Single structures that are one thousand five hundred (1,500) square feet or less shall maintain a minimum setback of three feet to the side and rear property lines. No portion of an accessory structure, its roof, or any other material that is a part of the accessory structure (i.e., overhang, gutter, support beam, etc.) shall project into the minimum setback; and
      - iv. Single structures that are greater than one thousand five hundred (1,500) square feet shall maintain the generally applicable setback standards for the relative zoning district.
    - 2) Nonresidential Districts. The minimum setbacks for accessory structures in nonresidential districts shall be the generally applicable setback standards for each district.
  - d. Maximum Coverage in Required Rear and Side Yards.
    - 1) Consistent with Section 9.1.404(f)(5), accessory structures shall occupy no more than thirty percent (30%) of a required rear yard. This shall also apply to the maximum coverage of a required side yard as measured from the front setback line to the rear property line. For structures located within both

a required rear yard and required side yard, the area of coverage shall apply to the maximum allowable coverage for each required yard separately.

e. Design Standards.

- 1) Accessory structures shall be consistent with the City of Oakley Residential Design Guidelines, which include having matching materials and architectural style to that of the primary unit.
- 2) Accessory structures may consist of pre-built or pre-fabricated sheds, carports, gazebos, etc. that do not match the material of the primary unit so long as the accessory structure's original design, intent, and purpose is as a residential backyard structure.
- 3) Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:
  - i. The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the additional of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.
  - ii. The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.
  - iii. Subject to review and approval of the Community Development Director, exceptions may be made for the standard (i) of this subsection if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

f. Variance Requests.

- 1) Any request for an exception to this article shall be subject to Section 9.1.1602, Variance and Conditional Use Permits.

SECTION 6. California Environmental Quality Act (CEQA).

This project is exempt from environmental analysis under the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that the proposed amendments will not have a significant effect on the environment.

SECTION 7. Effective Date and Posting.

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

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

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

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

\_\_\_\_\_  
Date

ATTEST:

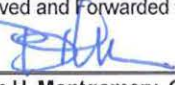
\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date



### STAFF REPORT

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

**Date:** Tuesday, August 9, 2016  
**To:** Bryan H. Montgomery, City Manager  
**From:** Kevin Rohani, Public Works Director/City Engineer  
**SUBJECT:** Ratify Election: Adopt Ordinance No. 11-16 Authorizing the Levy of a Special Tax on Parcels of Land within Tax Area Zone 159 within the Oakley Special Police Tax Area for Police Protection Services for Minor Subdivision 14-978 (Bella Estates)

#### Background and Analysis

On February 10, 2015 the City Council adopted Resolution 25-15 approving Tentative Parcel Map 03-14 (Bella Estates), which consists of 4 single-family lots (Parcels A, B, C, D) plus a Remainder Parcel located at 1289 Laurel Road (APN 034-080-034).

The Conditions of Approval for Minor Subdivision No. 14-978 require the property owner(s) to augment the financial impact that their development project has on the City's police services budget. The City of Oakley previously formed the Oakley Special Police Tax Area District that authorizes the levy of an annual special tax on parcels to augment their financial impact to the City's police services budget. The property owner(s) for Minor Subdivision No. 14-978 has requested that the City assist with annexing Minor Subdivision No. 14-978 into the Oakley Special Police Tax Area.

On June 14, 2016, the City Council introduced Ordinance No. 11-16 which would authorize a special tax for police services within Zone 159 subject to property owner voter approval. On July 14, 2016 the City Clerk conducted the property owner election. There was one (1) ballot issued to the property owner representing Minor Subdivision 14-978 (Bella Estates). The City Clerk tabulated the property owner ballot and 100% of the property owners were in favor of annexing Minor Subdivision 14-978 into the Oakley Special Police Tax Area as Zone 159.

#### Fiscal Impact

There will be no financial impact to the City's General Fund. The applicants have funded all costs associated with the annexation of Zone 159 to the Oakley Special Police Tax Area. The FY 2015-16 special tax rate per single family parcel is \$975.84 and \$487.92 per undeveloped parcel. Therefore, successful creation of the zone could provide up to \$3,903.36 (in FY 2015-16 dollars) in revenue annually from

Parcels A, B, C, and D when all of the units are occupied. The taxes will be collected on the property tax rolls commencing in FY 2016-17.

**Recommended Action**

Staff recommends that the City Council ratify the election and adopt Ordinance No. 11-16 authorizing the levy of a special tax on parcels of land within Tax Area Zone 159 within the Oakley Special Police Tax Area for Police Protection Services for Minor Subdivision 14-978 (Bella Estates)

**Attachments**

- 1) Boundary Map for Tax Area Zone 159
- 2) One (1) Ballot
- 3) Ordinance No. 11-16



# EXHIBIT A - BOUNDARY MAP

## CITY OF OAKLEY SPECIAL POLICE TAX AREA ZONE 159

CITY OF OAKLEY  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

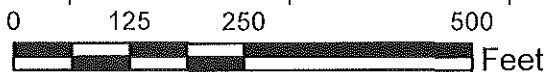
Laurel Road

**Assessor  
Parcel  
Number  
034-080-034**



Nutmeg Drive

Thyme Court

Daniel Drive



### Legend

-  Zone 159 Boundary
-  Parcel Lines



A Financial Services Group

June 24, 2016

James and Tatiana Arellano  
3035 Torre Ramel Lane  
Oakley, CA 94561-3878

**Subject:** Special Police Tax Area Ballot for Authorizing an Annual Special Tax Levy on  
Parcels within Zone 159 (Minor Subdivision 14-978) of the Oakley Special Police  
Tax Area District:

Dear James and Tatiana;

Conditions of approval for Minor Subdivision 14-978 require the property owner to augment the financial impact that their development project has on the City's police services budget. One option to satisfy this condition is to annex your Minor Subdivision 14-978 into the existing Oakley Special Police Tax Area District ("District") and authorize the levy of an annual special tax on those parcels for police services.

On June 14, 2016, the Oakley City Council created Zone 159 within the District which consists of parcels located within Minor Subdivision 14-978. In addition, on June 14, 2016, the Oakley City Council introduced Ordinance No. 11-16 which called for an election to authorize the levy of an annual special tax on the parcels within Zone 159. The election will be held on July 14, 2016 at the City Clerk's Office. Please find enclosed your ballot to authorize a special tax to be levied on the parcels located in Zone 159 of the Oakley Special Police Tax Area. Please complete and return the ballot to: Kevin Rohani, Public Works Director/City Engineer, City of Oakley, 3231 Main Street, Oakley, CA 94561 before the election deadline of 5:00 p.m. on July 14, 2016. We have enclosed a return envelope for your convenience. Please provide ample time for the Post Office to deliver the ballot by the 5:00 pm deadline on July 14, 2016.

Please contact me at the number below if you have any questions.

Sincerely,  
FRANCISCO & ASSOCIATES, INC.

Joseph A. Francisco, P.E.  
Principal

Enclosures

130 Market Place, Suite 160 ~ San Ramon, CA 94583  
(925) 867-3400 ~ fax (925) 867-3415

**SPECIAL POLICE TAX AREA BALLOT**  
**CREATING ZONE 159 FOR MINOR SUBDIVISION MAP 14-978 (BELLA ESTATES)**

Assessor's Parcel Number: 034-080-034  
Record Owner: James and Tatiana Arellano  
Address: 1289 Laurel Rd  
Oakley, CA 94561-3878

**Shall Ordinance No. 11-16 of the City Council of the City of Oakley be approved so as to authorize a special tax on property located in Zone 159 of the Oakley Special Police Tax Area to maintain the present level of police protection service and provide additional funding for increased police protection service? The initial annual tax is to be \$975.84 per single family parcel and \$487.92 per vacant parcel (all FY 2015-16 rates) per the current rate schedule. I also acknowledge that the tax rate can be adjusted annually as described in Ordinance No. 11-16.**

Yes, Ordinance No. 11-16 shall be approved.  
 No, Ordinance No. 11-16 shall not be approved.

James W. Arellano  
Signature of Authorized Representative for  
James and Tatiana Arellano

JAMES W. ARELLANO  
Printed Name

OWNER  
Title

CITY OF OAKLEY

ORDINANCE NO. 11-16

AN ORDINANCE OF THE CITY OF OAKLEY ESTABLISHING  
OAKLEY SPECIAL POLICE TAX AREA ZONE 159 WITHIN  
THE OAKLEY SPECIAL POLICE TAX AREA FOR A SPECIAL  
TAX FOR POLICE PROTECTION SERVICES FOR MINOR  
SUBDIVISION NO. 14-978

The Voters of the City of Oakley do ordain as follows:

Section 1. Purpose, Intent and Authority.

It is the purpose and intent of this Ordinance to authorize the levy of a special tax on parcels A, B, C, and D of real property on the secured property tax roll of Contra Costa County that are within Oakley Special Police Tax Area Zone 159 (Minor Subdivision No. 14-978) of the Oakley Special Police Tax Area in order to provide funding for police protection to serve the property and persons within said Zone.

This Tax is a special tax within the meaning of Section 4 of the Article XIII A of the California Constitution. Because the burden of this tax falls upon property, this tax also is a property tax, but this tax is not determined according to nor in any manner based upon the value of property; this tax is levied on a parcel and use of property basis. Insofar as not inconsistent with this Ordinance or with legislation authorizing special taxes and insofar as applicable to a property tax that is not based on value, such provisions of the California Revenue and Taxation Code and of Article XIII of the California Constitution as relate to ad valorem property taxes are intended to apply to the collection and administration of this tax (Section 4 of this Ordinance), as authorized by law.

The revenues raised by this tax are to be used solely for the purposes of obtaining, furnishing, operating, and maintaining police protection equipment or apparatus, for paying the salaries and benefits of police protection personnel, and for such other police protection service expenses as are deemed necessary for the benefit of the residents of Zone 159.

This Ordinance is enacted pursuant to the authority of Government Code Section 53978.

Section 2. Definitions.

The following definitions shall apply throughout this Ordinance.

A. "Constant first year dollars" shall mean an actual dollar amount which, in years subsequent to the first fiscal year the tax is levied, shall have the same purchasing price as the base amount in first fiscal year dollars as measured by the actual cost of services

for the City of Oakley's cost of obtaining police services, measured currently using its contract with the Contra Costa County Sheriff's Department. The base amount shall be the amount of tax per parcel as specified in Section 3.A herein. The adjustments from actual to constant dollars shall be made by use of the actual cost of services, as specified in Section 3.B herein.

B. "Actual Cost of Services" means the estimated fully-loaded average cost for the positions of police officer, Sergeant and Lieutenant [or comparable positions while the City contracts for police services with Contra Costa County] as provided to the City by the Contra Costa County Sheriff's Department during or about March of each calendar year.

C. "Fiscal year" means the period of July 1 through the following June 30.

D. "Oakley Special Police Tax Area" includes all properties within the jurisdictional limits of the City of Oakley.

E. Oakley Special Police Tax Area Zone 159 (hereinafter called "Zone") means that portion of the incorporated area of the City of Oakley located within the boundaries as shown on the map Exhibit A hereto.

F. "Parcel" means the land and any improvements thereon, designated by an assessor's parcel map and parcel number and carried on the secured property tax roll of Contra Costa County. For the purposes of this Ordinance, parcel does not include any land or improvements outside and boundaries of Zone 159 nor any land or improvements owned by any governmental entity.

G. Pursuant to Government Code §53978, "voter" means a person owning real property within the Zone at the time this Ordinance was adopted, as shown on the last equalized assessment role prepared by the Contra Costa County Assessor's Office.

### Section 3. Amount and Level of Taxes.

The tax per year on each parcel in the Zone shall not exceed the amount applicable to the parcel, as specified below.

#### A. For First Fiscal Year:

The tax per year for the first fiscal year (July 1, 2015 through June 30, 2016) shall be the amount of Tax Per Parcel for a Property Use Code Category as set forth on Exhibit B hereto. If any new development, including new residential units, is completed prior to the tax being effective for the first fiscal year, the owner of the Parcel, as shown on the latest assessment roll, shall pay the tax for the remainder of such fiscal year on a pro-rated basis to the City, no later than receipt of Certificate of Occupancy or final building permit inspection.

B. For Subsequent Fiscal Year:

In order to keep the tax on each parcel in constant first year dollars for each fiscal year subsequent to the first fiscal year, the tax per year shall be adjusted as set forth below to reflect any increase in the Actual Cost of Services beyond the first fiscal year the tax is levied.

In June or July of each year, City Council shall determine the amount of taxes to be levied upon the parcels in the Zone for the then current fiscal year as set forth below.

For each Property Use Category on Exhibit B, the tax per year on each parcel for each fiscal year subsequent to the first fiscal year shall be an amount determined as follows:

$$\begin{array}{l} \text{Tax Per Parcel} \\ \text{For then Current} \\ \text{Fiscal Year} \end{array} = \begin{array}{l} \text{Tax Per Parcel} \\ \text{For First} \\ \text{Fiscal Year} \end{array} \times \begin{array}{l} \text{(Actual Cost of Services} \\ \text{for immediately} \\ \text{Preceding Fiscal Year)} \\ \text{(Actual Cost of Services} \\ \text{for First Fiscal Year} \\ \text{of Levy)} \end{array}$$

Provided, however, that in no event shall the tax per parcel for any fiscal year be less than the amount established for the first fiscal year.

C. The taxes levied on each parcel pursuant to this Article shall be a charge upon the parcel and shall be due and collectible as set forth in Section 4, below.

Section 4. Collection and Administration.

A. Taxes as Liens Against the Property.

The amount of taxes for each parcel each year shall constitute a lien on such property, in accordance with Revenue and Taxation Code Section 2187, and shall have the same effect as an ad valorem real property tax lien until fully paid.

B. Collection.

The taxes on each parcel shall be billed on the secured roll tax bills for ad valorem property taxes and are to be collected in the same manner in which the County of Contra Costa collects secured roll ad valorem property taxes. Insofar as feasible and insofar as not inconsistent with this Ordinance, the times and procedure regarding exceptions, due dates, installment payments, corrections, cancellations, refunds, late payments, penalties, liens, and collections for secured roll ad valorem property taxes shall be applicable to the collection of this tax. Notwithstanding anything to the contrary in the foregoing, as to this tax:

- i) The secured roll tax bills shall be the only notices required for this tax, and
- ii) The homeowners and veterans exemptions shall not be applicable because such exemptions are determined by dollar amount of value.

C. Costs of Administration by County.

The reasonable costs incurred by the County officers collecting and administering this tax shall be deducted from the collected taxes.

Section 5. Severability Clause.

If any article, section, subsection, sentence, phrase of clause of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The voters of the Zone hereby declare that they would have adopted the remainder of this Ordinance, including each article, section, subsection, sentenced phrase or clause, irrespective of the invalidity of any other article, section, subsection, sentence, phrase or clause.

Section 6. Effective Date and Posting.

This Ordinance shall take effect immediately upon its confirmation by two-thirds of the voters voting within the Zone in an election to be held on July 14, 2016 so that taxes shall first be collected hereunder for the tax year beginning July 1, 2016. If not confirmed by two-thirds of the voters participating in the election, this Ordinance and the tax approved herein shall not become effective.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on August 9, 2016 by the following vote:

AYES:  
NOES:  
ABSENTIONS:  
ABSENT:

APPROVED:

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

ATTEST:

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

\_\_\_\_\_  
Date



## STAFF REPORT

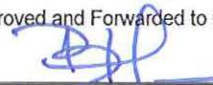
**Date:** Tuesday, August 9, 2016

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

**From:** Kevin Rohani, Public Works Director/City Engineer

**Subject:** Agreement with Schaaf & Wheeler Consulting Civil Engineers for Engineering Design Services associated with CIP Project Number 189 – Piper Lane Drainage Channel Trash Capture Device Project

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

### Background and Analysis

The City's Capital Improvement Program for Fiscal Year 2016/17 includes a project to design and construct the Piper Lane Drainage Channel Trash Capture Device. Two large storm drain pipes flow into the south end of the channel where storm water from approximately 1000 acres of the City drain into. The attached map shows the affected area. When fully constructed, this trash capture device will prevent all trash transported through the pipes from entering the channel and from flowing downstream into the Delta.

With the implementation of the new National Pollutant Discharge Elimination System permit (NPDES permit) by the State Water Boards last year, trash and the prevention of it entering the waterways of the State have become some of the most important problems for Cities and other agencies to deal with. In 2012, the City had a total of 28 individual inlet trash capture devices installed into four areas as part of complying with the NPDES permit in place at that time, and with plans to install additional devices in other areas. Constructing large scale devices such as the ones proposed, is a substitute for approximately 1,000 of the individual devices.

In April 2016, the City released a request for proposals (RFP) for design services for the proposed trash capture device. In May 2016, proposals for designing the proposed trash capture device were received by the City from three engineering design firms. Since the RFP was for the purpose of contracting for professional services, each firm was required to submit their proposal and a separate cost proposal in a separate sealed envelope. After a careful review and ranking of the three proposals, the proposal submitted by Schaaf & Wheeler Consulting Civil Engineers was selected as the best for this project. The second envelope was then opened and their cost proposal was reviewed by Staff. The total not-to-exceed cost is \$69,998 for the design work and preparation of construction documents.



CIP 189 currently has a total of \$200,000 budgeted with \$30,000 allocated to design and \$170,000 for construction.

**Fiscal Impact**

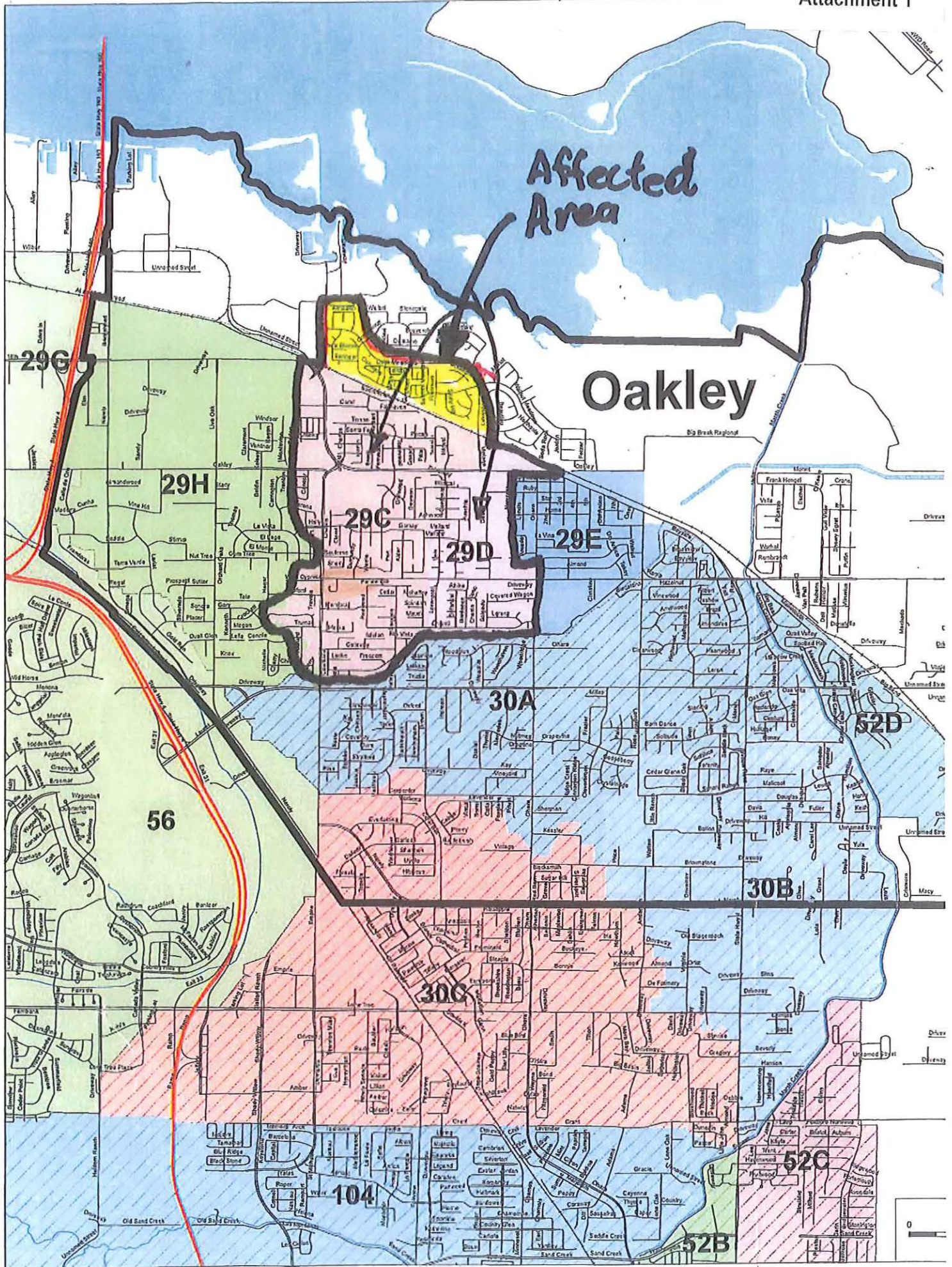
The proposed work will be paid for from the Stormwater maintenance funds.

**Staff Recommendation**

Staff recommends that the City Council adopt the Resolution approving the agreement with Schaaf & Wheeler Consulting Civil Engineers and authorizing the City Manager to execute the agreement.

**Attachments**

- 1) Map of affected area
- 2) Resolution approving the agreement
- 3) Scope of Work & Cost proposal



RESOLUTION NO. \_\_\_-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING AN AGREEMENT WITH SCHAAF & WHEELER CONSULTING CIVIL ENGINEERS FOR ENGINEERING DESIGN SERVICES ASSOCIATED WITH CIP 189 – PIPER LANE DRAINAGE CHANNEL FULL TRASH CAPTURE DEVICE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

**WHEREAS**, as part of the Fiscal Year 2016/17 Budget, the City of Oakley approved a 5-Year Capital improvement Program (CIP); and

**WHEREAS**, Project Number 189 is to design and construct the Piper Lane Drainage Channel Trash Capture Device Project; and

**WHEREAS**, Schaaf & Wheeler Consulting Civil Engineers was selected as the most qualified firm after Staff reviewed proposals from three design firms; and

**WHEREAS**, Schaaf & Wheeler Consulting Civil Engineers has submitted a cost proposal for design services for CIP Project Number 189 for an amount not to exceed \$69,998; and

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, that the City Council of the City of Oakley hereby approves the agreement for Schaaf & Wheeler Consulting Civil Engineers for design services for CIP 189 and authorizes the City Manager to execute the agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9<sup>th</sup> of August, 2016 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTENTIONS:

APPROVED:

ATTEST:

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

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

\_\_\_\_\_  
Date

## Scope of Services

### Phase I – Preliminary Investigation & Project Feasibility

Schaaf & Wheeler will:

#### 1. Coordination and Project Management

- 1.1. Attend one (1) meeting with City staff to review project requirements and existing information, including known site constraints and planned future improvements in the area. Requirements for maintenance and access are also anticipated to be discussed. Meeting agenda shall be prepared and meeting minutes will be distributed to the attendees within one week of the meeting.
- 1.2. Prepare a project schedule. Schedule shall be submitted within five (5) days of award of contract. The schedule shall be updated and provided to the City periodically upon request.

#### 2. Site Investigation

- 2.1. Visit the project site and investigate existing site conditions to identify opportunities, constraints and to verify the presence of existing utilities and other conditions.
- 2.2. Review project site conditions for ease of maintenance access (truck access, proximity to manholes, system depths, etc.).
- 2.3. Review project site for environmental factors which may impact CEQA or environmental permitting.
- 2.4. Review data pertinent to the project, include available right-of-way documents and improvement plans; historical geotechnical investigation reports and publicly available geologic and/or soil maps and studies; the hydrologic and hydraulic analyses of the existing drainage facility and proposed improvements; impacts of trash capture units to existing storm water system hydraulics; the City's Standard Provisions and Details; and codes, ordinances and policies pertaining to the proposed project designs.

#### 3. Hydrology and Trash Capture Rates

- 3.1. Determine the drainage area to the device based on existing City system maps (provided by City) paired with USGS LiDAR survey of topographic contours.
- 3.2. Determine the 1-year, 1-hour design storm flow rate based on the rational method and NOAA precipitation frequency data.
- 3.3. Determine the bypass (10-year or 100-year based on City input) flow rate for the system based on the rational method.
- 3.4. EOA, Inc. will determine the anticipated trash capture percentage reduced based on the generation maps (created by EOA under the Contra Costa Clean Water Program).

#### 4. Conceptual Plans

- 4.1. Coordinate with device manufacturers for sizing and device selection.
- 4.2. Prepare and submit schematic plans with layouts, cross-sections and right-of-way requirements. Maintenance infrastructure will be included; this may include access pad, hydrant, sewer or storm manhole, etc. Scope includes one meeting with the City to discuss schematic layout.
- 4.3. An analysis of the permitting and CEQA requirements will be included.
- 4.4. Provide engineers cost estimate.

*Assumption: The City will provide Assessor Parcel Number (APN), Parcel, Record of Survey, and tract Maps upon request. The City will provide any historical surveys or geotechnical investigations in the Site's vicinity.*

*Note: Feasibility Study does not include detail surveying, right-of-way determination or geotechnical investigation. These tasks are included in Phase II: Design.*

**Phase II – Design**

Schaaf & Wheeler will prepare:

**1. 65% Design Documents**

- 1.1. Prepare a topographic survey of the work area sufficient to design the project. The survey shall locate existing features, including, but not limited to curbs and gutters, trees, utilities, fences, pavement, drainage structures and other features required to design the project. The survey shall be tied to a known benchmark on State Plan coordinates and NAVD88. The City shall provide an electronic copy of existing City topographic base maps as available. The consultant shall submit to the City their final plans of existing topography in PDF and CAD.
- 1.2. Prepare a boundary survey of the City's right-of-way and existing easements at the trash capture device location.
- 1.3. A geotechnical investigation and report will be prepared to characterize the soil and groundwater conditions at the location of the preferred alternative. Work will include subsurface exploration using track-or truck-mounted drilling equipment at the location of the identified preferred alternative and laboratory soils testing. It is assumed that subsurface exploration will not take place within the active channel and that therefore no environmental permitting will be required to complete the subsurface exploration work. A geotechnical design report will be prepared. The report will present the findings of the subsurface exploration and laboratory testing and provide design and construction recommendations including shoring requirements and structure foundation recommendations and technical specifications for grading and foundations.
- 1.4. Prepare and submit schematic 65% plans with layouts, profile, cross-sections and right-of-way requirements. Prepare preliminary construction cost estimate. Submit electronic copies of the 65% plans and cost estimate.
- 1.5. Depending on the location of the device, environmental permitting permits from the applicable federal and state agencies (i.e. USACOE, RWQCB, USFWS, etc.) and CEQA compliance may vary greatly. This scope assumes that the devices are located upstream of the actual outfall location in an area that is not within the channel and devoid of riparian vegetation and potential habitat. This scope includes preparation of a Categorical Exemption following established CEQA procedures for the purpose of achieving environmental clearance for the project. The installation of the two trash capture devices as described upstream of the outfalls would qualify for one of two CEQA exemptions. A Class 1 exemption (CEQA Guidelines Section 15301) would be for projects that consist of minor alterations of existing public structures, facilities, or mechanical equipment involving negligible or no expansion of use. A Class 3 exemption would be for new construction or conversion of small structures under Section 15303 of the CEQA Guidelines.
- 1.6. Meet with City staff to review comments on the 65% submittal. A minimum of 2 weeks review time for City shall be provided. Revise plans as necessary to reflect City comments and directions.

**2. 100% Design Documents**

- 2.1. Prepare and submit "Draft" 100 % plans, technical specifications, engineer's estimate based on the City's 95% submittal review comments. A minimum of 2 weeks review time for City shall be provided. Revise plans and specifications if necessary to reflect the City comments and directions.
- 2.2. The "Final" 100 percent set shall include one (1) wet-signed copy and one (1) digital file of each of the construction plans, specifications and construction cost estimate. The digital files for the "Final" 100 percent construction plans, technical specifications and construction cost estimate shall be in AutoCAD 2000, Microsoft Word and Microsoft Excel, respectively.

**City of Oakley  
Trash Capture Feasibility & Design  
Schaaf & Wheeler  
Fee Proposal, July 15, 2016**

Task		Schedule of Hours and Rates by Task					O'Dell Engineering (Surveyors)	Cal Engineering (Geotechnical Engineers)	David J Powers (Environmental)	EOA, Inc. (C.10 Compliance)	Total
		Schaaf & Wheeler				Schaaf & Wheeler Subtotal					
		Ben Shick, PE	Caitlin Gilmore, PE	Assistant Engineer	CAD Technician						
	Hourly Rate	\$225	\$200	\$155	\$135						
<b>Phase I</b>	<b>Feasibility Study</b>	<b>6</b>	<b>32</b>	<b>36</b>	<b>16</b>	<b>\$ 15,490</b>	<b>\$ -</b>	<b>\$ 2,803</b>	<b>\$ 620</b>	<b>\$ 4,800</b>	<b>\$ 23,713</b>
1	Coordination & Project Management	4	6			\$ 2,100				\$ 350	\$ 2,450
2	Site Investigation		4	4		\$ 1,420		\$ 2,803	\$ 620		\$ 4,843
3	Hydrology & Trash Capture Rates		8	16		\$ 4,080				\$ 3,250	\$ 7,330
4	Conceptual Plans	2	14	16	16	\$ 7,890				\$ 1,200	\$ 9,090
<b>Phase II</b>	<b>Design</b>	<b>4</b>	<b>34</b>	<b>48</b>	<b>36</b>	<b>\$ 20,000</b>	<b>\$ 4,500</b>	<b>\$ 15,655</b>	<b>\$ 4,880</b>	<b>\$ 1,250</b>	<b>\$ 46,285</b>
1	65% Design Documents	2	18	24	22	\$ 10,740	\$ 4,500	\$ 15,655	\$ 4,880		\$ 35,775
2	100% Design Documents	2	16	24	14	\$ 9,260				\$ 1,250	\$ 10,510
	<b>TOTAL</b>	<b>10</b>	<b>66</b>	<b>84</b>	<b>52</b>	<b>\$35,490</b>	<b>\$4,500</b>	<b>\$18,458</b>	<b>\$5,500</b>	<b>\$6,050</b>	<b>\$ 69,998</b>


**STAFF REPORT**

**Date:** Tuesday, August 9, 2016

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

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

**Subject:** Approving the Agreement with Thomas Oakley, LLC, for "Stormwater Management Facilities Operations and Maintenance Agreement and Right of Entry" for Popeyes Louisiana Kitchen located at 101 Carol Lane and authorizing the City Manager to execute the agreement

Approved and Forwarded to City Council:  
  
Bryan H. Montgomery, City Manager

**Background and Analysis**

The installation of the Permanent Stormwater Pollution Prevention Measures (BMP's) for the Popeyes Louisiana Kitchen is being constructed with the improvements associated with the project. The City's Stormwater Management and Discharge Control Ordinance require proper operation and maintenance of the Permanent BMP's by the respective property owners. The "Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry" memorializes the owner's maintenance, operations and inspection obligation under the City's Ordinance and the approved plans.

Under the Contra Costa Countywide National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit, projects "deemed complete" after February 15, 2005 are to comply with the provisions of the Permit. The City adopted an Ordinance, as required by the Permit, to enable this activity within the City of Oakley. A requirement of the permit is that each property implement stormwater treatment devices, fund the perpetual maintenance of those devices, and enter into an agreement with the City stating that the property owner will maintain the devices, grant a right of entry to City staff for inspections, and agree to pay the cost of City inspections.

**Fiscal Impact**

There is no fiscal impact associated with the agreement since all inspection, operations, and maintenance costs are the responsibility of the property owners.

**Staff Recommendation**

Staff recommends that the City Council adopt the resolution approving the "Stormwater Management Facilities Operations and Maintenance Agreement and

Right of Entry" for the Popeyes Louisiana Kitchen and authorize the City Manager to sign the agreements on behalf of the City.

**Attachments**

- 1) Resolution
- 2) "Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry" for the Popeyes Louisiana Kitchen



RESOLUTION NO. \_\_\_\_ - 16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, APPROVING THE AGREEMENT WITH THOMAS OAKLEY, LLC (APN 037-132-037 & 037-132-038) FOR "STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AGREEMENT AND RIGHT OF ENTRY" FOR THE POPEYES LOUISIANA KITCHEN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

**WHEREAS**, the City of Oakley's Stormwater Management and Discharge Control Ordinance requires proper operation and maintenance of the Permanent Stormwater Pollution Prevention Measures installed for the Popeyes Louisiana Kitchen; and

**WHEREAS**, the "Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry" memorializes the owner's maintenance, operations, and inspection obligations under the City's Ordinance and the approved plans; and

**WHEREAS**, the installation of the Permanent Stormwater Pollution Prevention Measures for the Popeyes Louisiana Kitchen is consistent with the approved improvements plans; and,

**WHEREAS**, Thomas Oakley, LLC, the current owner of the lot described in Exhibit A, desires to execute the "STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AND RIGHT OF ENTRY"; and

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, that the City Council of the City of Oakley does hereby approve the "STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AND RIGHT OF ENTRY" for the Popeyes Louisiana Kitchen in the form attached hereto and authorizes the City Manager to execute the agreement.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on this 9<sup>th</sup> day of August, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

ATTEST:

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

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

\_\_\_\_\_  
Date

11/7/2007

**Recording Requested By:  
CITY OF OAKLEY**

**Return to: CITY OF OAKLEY  
City Clerk  
3231 Main Street  
Oakley, CA 94561**

---

**Document Title**

**CITY OF OAKLEY**

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

**PROJECT: POPEYES LOUISIANA KITCHEN**

**OWNERS NAMES: THOMAS OAKLEY, LLC**

**ASSESSOR'S PARCEL NUMBER: 037-132-037 & 037-132-038**

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

This Covenant Running with the Land, Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry ("Agreement") is made and entered into this 9<sup>th</sup> day of August, 2016, by and between THOMAS OAKLEY, LLC, (hereinafter referred to as "Property Owner") and The City of Oakley, a municipal corporation ("City").

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

**DEFINITIONS**

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

**NPDES Permit:** The term "**NPDES Permit**" shall mean the San Francisco Bay Regional Water Quality Control Board's National Pollutant Discharge Elimination System (NPDES) Permit No. CA0083313 (issued to the City of Oakley) as amended, and as may be superseded by subsequent NPDES permits that are reissued from time to time.

**Ordinance:** The term "**Ordinance**" shall mean Chapter 11 of Title 6 of the City of Oakley Municipal Code (Stormwater Management and Discharge Control), as may be amended from time to time.

**Property Owner:** The term "**Property Owner**" and "**Property Owners**" shall mean THOMAS OAKLEY, LLC and all heirs, successors, executors, administrators and assigns of the POPEYES LOUISIANA KITCHEN in the Property, it being the intent of the parties hereto that the obligations undertaken in this Agreement, as provided in Civil Code section 1468, run with the Property described in Exhibit A and constitute a lien against the Property.

**Property:** The term "**Property**" shall mean that certain real property located at 101 Carol Lane, and more particularly described in Exhibit A which is attached hereto and hereby incorporated herein by reference.

**Plan:** The term "**Plan**" or "**Operation and Maintenance Plan**" means the City-approved Stormwater Control Operation and Maintenance Plan prepared by California Engineering Company, Inc. and approved by the City Engineer in writing, which may be subsequently modified from time to time with City Engineer's written approval.

**Stormwater Facility:** The term "**Stormwater Facility**" means the permanent stormwater management facilities located and constructed on the Property.

## **RECITALS**

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

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

## **AGREEMENT**

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

### **SECTION 1**

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

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

## **SECTION 2**

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

## **SECTION 3**

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

## **SECTION 4**

**Failure to Perform Required Stormwater Facility Repairs or Maintenance by the Property Owner:** If the Property Owner or its successors fails to Maintain the Stormwater Facility in good working order and in accordance with the approved Plan and the City's Ordinance, the City, with prior notice, may enter the Property to return the Stormwater Facility to good working order. The City is under no obligation to Maintain or repair the Stormwater Facility, and this Agreement may not be construed to impose any such obligation on the City. If the City, under this section takes any action to return the Stormwater Facility to good working order, the Property Owner shall reimburse the City for all the costs incurred by the City, including administrative costs. The City will provide the Property Owner with an itemized invoice of the City's costs and the Property Owner will have 30 days to pay the invoice. If the Property Owner fails to pay the invoice within 30 days, the City may secure a lien against the real property of the Property Owner in the amount of such costs. In addition the City may make the cost of abatement of the nuisance caused by the failure to maintain the Stormwater Facility a special assessment against the Property that may be collected at the same time and in the same manner as ordinary municipal taxes are collected as provided in Government Code section 38773.5. This Section 4 does not prohibit the City from pursuing other legal recourse against the Property Owner.

## **SECTION 5**

**Indemnity:** The Property Owner agrees to defend, indemnify and holds harmless the City, its officials, employees and its authorized agents from any and all damages, accidents, casualties, occurrences, claims, penalties or fines which might arise or be asserted against the City and which are in any way connected with the construction, operation, presence, existence or maintenance of the Stormwater Facility by the Property

Owner, or from any personal injury or property damage that may result from the City or other public entities entering the Property under Section 3 or 4.

**SECTION 6**

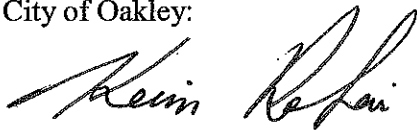
**Successors and Assigns:** The covenants of the Property Owner set forth in numbered Sections 1 through 5 above shall run with the land, and the burdens thereof shall be binding upon each and every part of the Property and upon the Property Owner, its successors and assigns in ownership (or any interest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

**SECTION 7**

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

Recommended for approval:

City of Oakley:



\_\_\_\_\_  
City Engineer  
Kevin Rohani

\_\_\_\_\_  
City Manager  
Bryan H. Montgomery

Reviewed by:

Attest:

\_\_\_\_\_  
City Attorney  
Derek P. Cole

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

Property Owners:



\_\_\_\_\_  
THOMAS OAKLEY, LLC

Attachments: Acknowledgements  
Exhibit A

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

State of CALIFORNIA

County of Contra Costa

On July 13, 2014 before me, Sherrie Blum a Notary Public, personally appeared Steven P. Thomas

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

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

WITNESS my hand and official seal.  
Signature: [Handwritten Signature]  
Name: Sherrie Blum  
(typed or printed)



(Seal)

**EXHIBIT A**  
**Legal description**



EXHIBIT 'A'

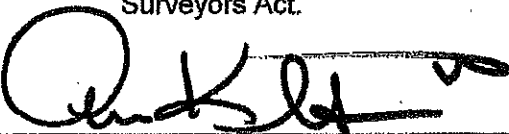
LEGAL DESCRIPTION  
PARCEL 1  
LLA 16-01  
RESULTANT PARCEL

All that real property situated in the City of Oakley, County of Contra Costa, State of California, described as:

Being Lot 1 and Lot 2 as shown on that certain map entitled Map of Diane Park, filed May 26, 1949, Map Book 37, Page 36, Contra Costa County Records:

EXCEPTING THEREFROM all that portion of that certain Grant Deed to Contra Costa County recorded December 26, 1990 as Document Number 90-262656 Contra Costa Records.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

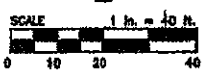
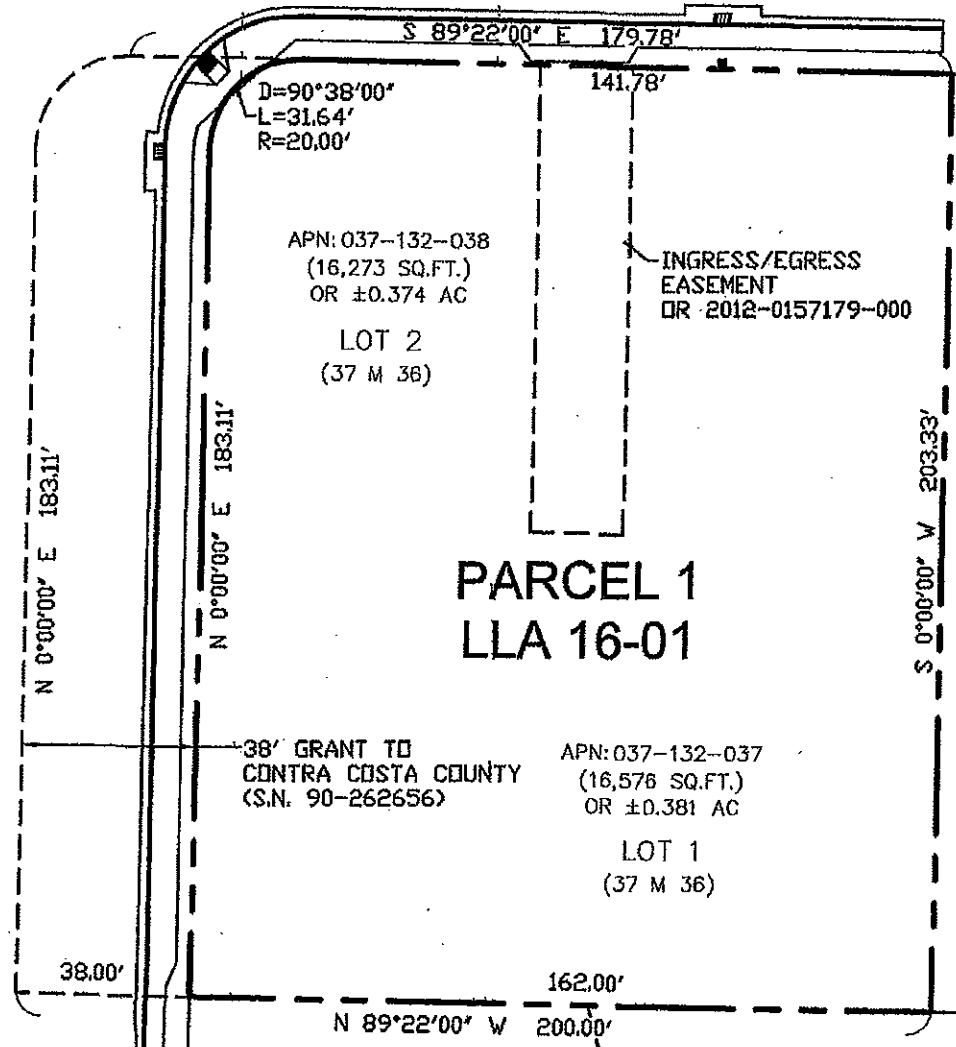
Signature   
Professional Land Surveyor

Date 4/13/2016



MAIN ST. (FORMERLY STATE HIGHWAY 4)

CAROL LANE



03-08-16

LLA 16-01 EXHIBIT "B"

POPEYES  
 THOMAS PROPERTIES, INC.  
 101 CAROL LANE  
 OAKLEY, CA



**Milestone Associates**  
*Imagining*

1000 LINCOLN ROAD, STE. H202, YUBA CITY, CA 95991  
 TEL (530) 755-4700 FAX (530) 755-4567



## STAFF REPORT

**Date:** Tuesday, August 9, 2016

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

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

**Subject:** Acceptance of Park Improvements associated with Subdivision 8955, Summer Lake - Phase 2, Parcel A and B for Catamaran Park

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

### Background and Analysis

Shea Homes is required to develop a public park within Subdivision 8955, Summer Lake - Phase 2 to meet the development's conditions of approval. Shea Homes entered into a Subdivision Improvement Agreement for the development and construction of Catamaran Park, which outlined the conditions and responsibilities of the developer.

Catamaran Park is comprised of Parcels A and B as dedicated for public use in Subdivision 8955, Summer Lake – Phase 2 located at Manresa Shore Lane and Talaria Drive.

### Fiscal Impact

Upon acceptance of the parks, the City will incur annual costs associated with the on-going maintenance of the parks. LLD Zone 3-26 was formed for the subdivision in order to pay for these maintenance costs, and the necessary funds are available.

### Staff Recommendation

The landscape and park improvements to Catamaran Park are determined to be complete. They were inspected by staff and were determined to substantially conform to the approved plans and specifications. With these park improvements now complete, staff recommends that the park be formally accepted, and the City to begin maintenance on September 1, 2016. Shea Homes will be responsible for a one year warranty period for all equipment, furnishings, trees, and hardscape at this park.

### Attachments

- 1) Resolution
- 2) Park Map

RESOLUTION NO. \_\_ - 16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, ACCEPTING THE SUBDIVISION IMPROVEMENTS FOR CATAMARAN PARK, ASSOCIATED WITH SUBDIVISION 8955 AND BEGINING THE LANDSCAPE MAINTENANCE BY THE CITY**

**WHEREAS**, on May 23, 2006 the Contra Costa County Board of Supervisors adopted Resolution 2006/323 approving the final map for Subdivision 8955 Summer Lake Phase 2 which dedicated Parcel A & B to Contra Costa County for Park Purposes.

**WHEREAS**, in 2006 the City of Oakley formally annexed the area comprising Subdivision 8955; and

**WHEREAS**, on January 27, 2015, by Resolution No. 12-15, City Council approved the Subdivision Improvement Agreement with Shea Homes for the development of Catamaran Park within Subdivision 8955, Summer Lake – Phase 2; and

**WHEREAS**, the required public park landscape improvements have been completed and constructed in substantial conformance with the approved Catamaran Park improvement plans; and

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

- a) Parcel A & B as dedicated in the final map for Subdivision 8955 Summer Lake – Phase 2 for Catamaran Park are hereby accepted; and
- b) The public park landscape improvements for Catamaran Park are accepted and begin the landscape maintenance by the City; and
- c) The one-year warranty period required by the Subdivision Improvement Agreement has begun as of the date of adoption of this resolution and that Shea Homes shall repair any defective improvements such as: equipment, furnishings, trees, irrigation, and hardscape, as identified by City personnel.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on this 9<sup>th</sup> day of August, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

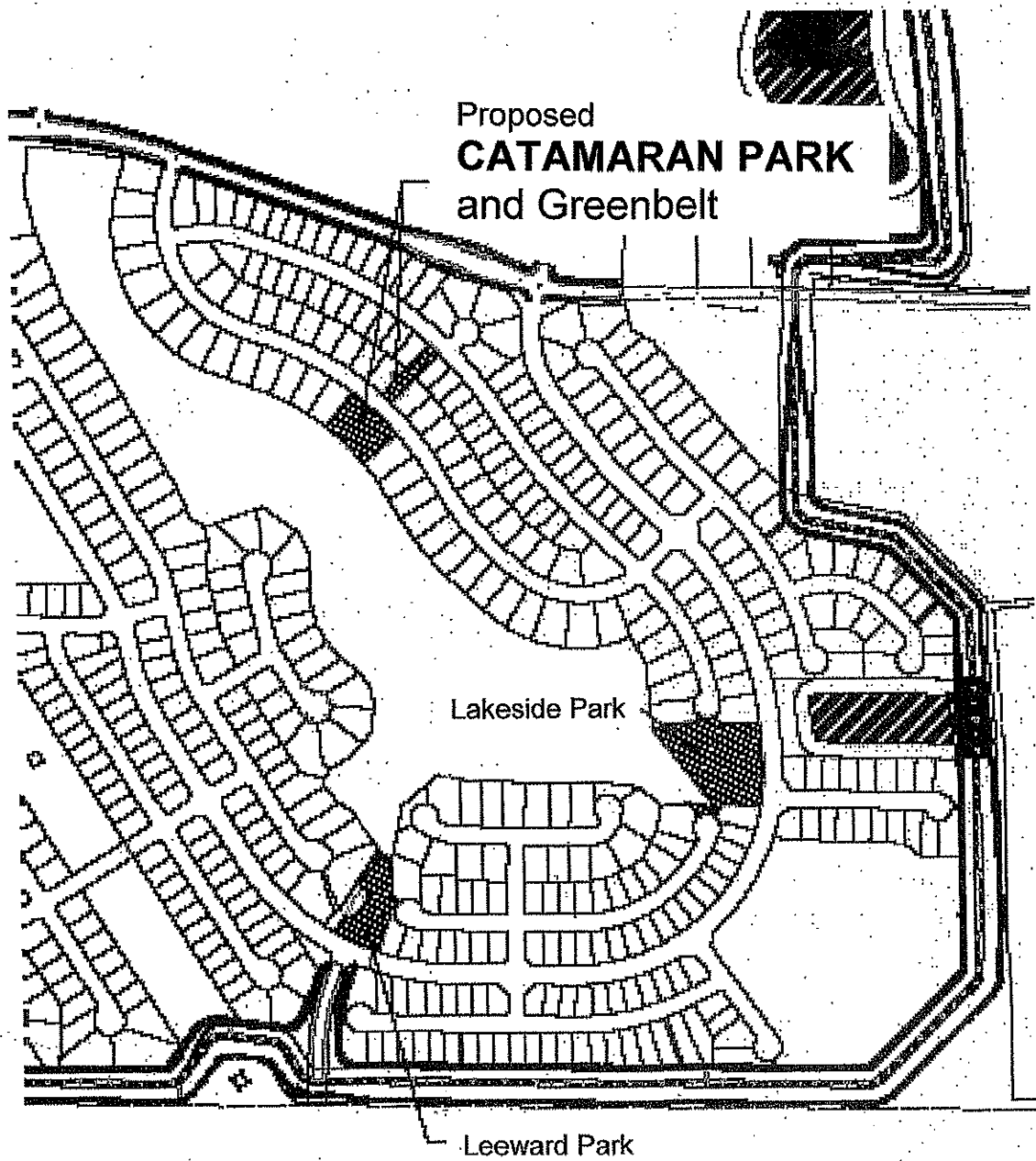
ATTEST:

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

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

\_\_\_\_\_  
Date

# SUMMER LAKE SUBDIVISION, Phase II





## STAFF REPORT

**Date:** August 9, 2016

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

**From:** Libby Vreonis, City Clerk

**SUBJECT:** Resolution Accepting the Result of the Canvass of the June 7, 2016 Primary Election-Measure K (Oakley Downtown Library and Community Learning Center)

---

### **Background and Analysis**

On Tuesday, June 7, 2016, a Primary Election was conducted by the Contra Costa County Registrar of Voters. Measure K was on the ballot to address a special tax on parcels of property to finance the construction and furnishing of an Oakley downtown library and community learning center. The County Clerk's official canvass of the election has been completed. Measure K did not pass. Attached is a resolution accepting the Certificate of the County Clerk as to the Result of the Canvass of the City of Oakley Measure K June 7, 2016 Primary Election.

### **Fiscal Impact**

The Contra Costa County Election Department estimated the total cost of the 2016 Primary Election would be approximately \$2.00-\$2.50 per registered voter (approximately \$33,308-\$41,635). The estimated expense for the election was included in the Operating Budget. The exact cost of the election was not available from the County at the time this staff report was written.

### **Recommendation**

Staff recommends that the City Council adopt the attached resolution.

### **Attachments**

1. Resolution Accepting the Certificate of the County Clerk as to the Result of the Canvass of the City of Oakley Measure K June 7, 2016 Primary Election
2. Exhibit A-Certificate of the County Clerk as to the Result of the Canvass of the City of Oakley Measure K June 7, 2016 Primary Election

**RESOLUTION NO. \_\_\_\_-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
ACCEPTING THE COUNTY CLERK'S CERTIFICATE OF THE RESULT  
OF THE CANVASS OF THE CITY OF OAKLEY MEASURE K  
ELECTION HELD WITH THE PRESIDENTIAL PRIMARY ELECTION ON  
JUNE 7, 2016**

**WHEREAS**, on June 7, 2016, a Primary Election was conducted by the Contra Costa County Registrar of Voters; and

**WHEREAS**, included on said ballot for the Primary Election was Measure K; and

**WHEREAS**, notice of the election was given in the time, form and manner as provided by law; voting precincts were properly established; election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in the time, form and manner as required by the provisions of the Elections Code of the State of California; and

**WHEREAS**, the County Elections Department canvassed the returns of the election and has certified the results attached as "Exhibit A" and made a part hereof.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OAKLEY:**

**SECTION 1.** That the whole number of ballots cast in the precincts was 2,802, the whole number of absentee voter ballots cast in the City was 4,589, making a total of 7,391 ballots cast in the City. Oakley had 17,784 registered voters as of the June 7, 2016 Primary Election. Oakley voter turnout was 41.56%.

**SECTION 2.** That the measure voted upon at the election is as follows:

**Measure K-City of Oakley**

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

Yes votes: 3,902 (54.71%)

No votes: 3,230 (45.29%)

**SECTION 3.** That as a result of the election, approval by two-thirds of the voters required to approve Measure K was not obtained; therefore, Measure K does not carry and is not adopted.

**SECTION 4.** That the number of votes given at each precinct for and against Measure K, are listed in Exhibit A, attached and made a part hereof.

**PASSED, APPROVED AND ADOPTED** by the Oakley City Council on August 9, 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

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

ATTEST:

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

\_\_\_\_\_  
Date



Exhibit A

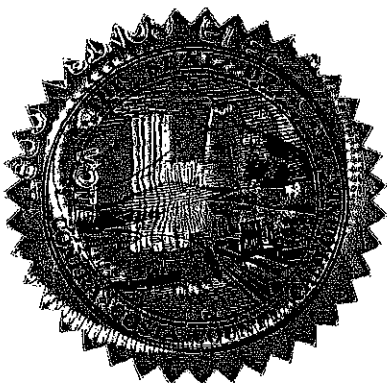
CERTIFICATE OF COUNTY CLERK  
AS TO THE RESULT OF THE CANVASS OF THE  
CITY OF OAKLEY  
MEASURE K  
JUNE 7, 2016 PRIMARY ELECTION

State of California            )  
  )  
County of Contra Costa    )        ss.

I, JOSEPH E. CANCIAMILLA, County Clerk of Contra Costa County, State of California, do hereby certify that I did canvass the returns of the votes cast at the June 7, 2016, CITY OF OAKLEY, MEASURE K ELECTION. I further certify that the statement of the votes cast, to which this certificate is attached, shows the whole number of votes cast in said County, and the whole number of votes cast for and against the measure in said County and in each respective precinct therein, and that the totals of the respective columns and the totals as shown for and against the measure are full, true and correct.

WITNESS my hand and Official Seal this 5th day of July, 2016.

JOSEPH E. CANCIAMILLA, County Clerk



By Rosa Mena  
Rosa Mena, Deputy Clerk

18 PRECINCTS		R E G I S T E R E D	V O T E R S	T P U E R R A N C E U N I T A G E	Measure K - City of Oakley Special Tax - 2/3	
					Y e s	N o
Oakley101	A	1537	438	28.50	260	163
Oakley101	V	1537	294	19.13	176	103
Oakley102	A	988	255	25.81	146	105
Oakley102	V	988	111	11.23	63	46
Oakley103	A	1048	288	27.48	152	130
Oakley103	V	1048	196	18.70	119	64
Oakley104	A	966	229	23.71	124	95
Oakley104	V	966	112	11.59	61	39
Oakley105	A	894	274	30.65	132	138
Oakley105	V	894	143	16.00	83	49
Oakley106	A	1113	315	28.30	113	195
Oakley106	V	1113	244	21.92	117	110
Oakley107	A	1474	379	25.71	222	149
Oakley107	V	1474	182	12.35	95	73
Oakley108	A	793	197	24.84	111	75
Oakley108	V	793	173	21.82	107	60
Oakley109	A	912	203	22.26	114	81
Oakley109	V	912	125	13.71	74	46
Oakley110	A	916	233	25.44	120	110
Oakley110	V	916	168	18.34	100	57
Oakley111	A	822	193	23.48	80	112
Oakley111	V	822	147	17.88	78	65
Oakley112	A	755	187	24.77	97	86
Oakley112	V	755	130	17.22	78	47
Oakley113	A	1336	324	24.25	160	153
Oakley113	V	1336	231	17.29	142	79
Oakley114	A	1122	317	28.25	136	178
Oakley114	V	1122	236	21.03	121	104
Oakley115	A	974	227	23.31	128	98
Oakley115	V	974	102	10.47	51	46
Oakley116	A	1259	331	26.29	153	170
Oakley116	V	1259	149	11.83	71	73
Oakley117	A	871	197	22.62	86	108
Oakley117	V	871	59	6.77	30	23
Oakley801	A	4	2	50.00	2	0
Oakley801	V	4	0		0	0
COUNTY TOTAL		17784	7391	41.56	3902	3230
ABSENTEES		17784	4589	25.80	2336	2146
VOTING PRECINCTS		17784	2802	15.76	1566	1084
9TH CONGRESSIONAL DST		17784	7391	41.56	3902	3230
CONGRESSIONAL TOTAL		17784	7391	41.56	3902	3230
7TH SENATORIAL		17784	7391	41.56	3902	3230
STATE SENATE TOTAL		17784	7391	41.56	3902	3230
11TH ASSEMBLY DST		17784	7391	41.56	3902	3230
STATE ASSEMBLY TOTAL		17784	7391	41.56	3902	3230

18 PRECINCTS	RV	BC	TP	Measure K - City of Oakley Special Tax - 2/3	
	EQ	AA	UE	Y	N
	GT	LS	RR	e	o
	IE	LT	NC	s	
	SR	TS	OE		
	TS	LT	UN		
	E	OT	TT		
	R	S	A		
	E		G		
	D		E		
Bd Of Equalization	17784	7391	41.56	3902	3230
BD OF EQUALIZATION TOT	17784	7391	41.56	3902	3230
3RD SUPERVISORIAL	17784	7391	41.56	3902	3230
SUPERVISORIAL TOTAL	17784	7391	41.56	3902	3230
CITY OF OAKLEY	17784	7391	41.56	3902	3230
CITY TOTAL	17784	7391	41.56	3902	3230
MAIL BALLOT PRECINCT	4	2	50.00	2	0

# OAKLEY



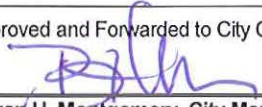
CALIFORNIA

Agenda Date: 08/09/2016  
Agenda Item: 3.8

## STAFF REPORT

**Date:** August 9, 2015  
**To:** City Council  
**From:** Bryan Montgomery, City Manager

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

**SUBJECT:** Approval of responses to Civil Grand Jury Reports No. 1605 "Caring for the Victims" and No. 1607 "Delta Levees in Contra Costa County."

### Summary

The California Constitution established civil grand juries in each county. The California Code includes provisions on the formation of civil grand juries and their powers and duties. With respect to public agencies, civil grand juries are authorized to "investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit" (California Penal Code section 925a). The Code also stipulates that a written response will be provided by the city or joint powers agency within 90 days after the civil grand jury submits a report.

The Contra Costa Grand Jury has recently issued three reports that require a response from the City of Oakley: No. 1605 "Caring for the Victims" and No. 1607 "Delta Levees in Contra Costa County."

Staff has prepared the attached responses.

### Fiscal Impact

Staff time to prepare the responses to these Reports is estimated to have cost approximately \$500.

### Recommendation

Approve the draft responses and authorize the City Manager to forward them to the Civil Grand Jury.

### Attachments

1. Contra Costa Civil Grand Jury Reports Nos. 1605 and 1607, and corresponding draft response letters from the City.

August 9, 2016

~ DRAFT ~

Honorable John T. Laettner  
Contra Costa County Civil Grand Jury  
725 Court Street  
P.O. Box 431  
Martinez, CA 94553-0091

**Re: Responses to Contra Costa County Grand Jury Report No. 1607,  
"Delta Levees in Contra Costa County"**

Judge Laettner:

Pursuant to California Penal Code Section 933.05, this letter responds to Contra Costa County Grand Jury Report No. 1607, "Delta Levees in Contra Costa County – How Well do We Protect this Vital Safety System?" This response was reviewed and authorized by the City Council at the August 9, 2016 City Council Meeting.

### **GRAND JURY FINDINGS**

**Finding #1:** The portion of the Delta that lies within Contra Costa County includes six of the eight western islands, deemed by the State to be of particular importance to preventing seawater intrusion that would impair the quality of water for nearly two-thirds of the State, including much of the East Bay area.

**Response:** Oakley agrees with Finding #1.

**Finding #2:** Loss (i.e. submersion) of any of the six islands in the Delta within Contra Costa County has potential to affect adversely much more than just Contra Costa County.

**Response:** Oakley partially agrees with Finding #2.

**Finding #3:** Key infrastructure located within Contra Costa County reclamation districts benefits the entire County, including major County roads and highways, rail-line, PG&E power transmission lines, natural gas

wells, petroleum pipelines, Contra Costa Water District intakes, pumping stations, and portions of both the Contra Costa Canal and EBMUD's Mokelumne aqueduct.

*Response:* Oakley agrees with Finding #3.

**Finding #19:** It takes nearly 2 years from the application date for reclamation districts to receive reimbursement for levee maintenance work approved by DWR under the Subventions Program.

*Response:* Oakley is not privy to the evidence leading to this finding and can neither agree nor disagree with Finding #19.

**Finding #20:** The cost of the initial funding required of reclamation districts under DWR's Subventions Program can be prohibitive for some reclamation districts, resulting in under-utilization of this highly beneficial program.

*Response:* Oakley is not privy to the evidence leading to this finding and can neither agree nor disagree.

**Finding #22:** Planning agencies can require developers who seek to develop areas within reclamation districts to financially contribute to exiting levees as a condition of approval of their proposed developments, as was done with the East Cypress Corridor Plan for residential development in the interior of Hotchkiss Tract, Reclamation District 799.

*Response:* Oakley agrees with Finding #22, and the Oakley City Council required this financial participation of developers through its approval of the East Cypress Corridor Specific Plan.

## **CIVIL GRAND JURY RECOMMENDATIONS**

**Recommendation #9:** The Oakley City Council should direct the Oakley Planning Commission to provide each applicant for new construction or major remodeling with a reclamation district in the City of Oakley with a brochure or direction to an online website explaining levee safety rules and regulations, along with reasons for same, applicable to their particular reclamation district and to require that each applicant confirm receipt of the brochure or link to website by initialing.

*Response:* This recommendation will be implemented in a modified manner. It would actually be the City's Building Division that would interface with each applicant as described in the Recommendation, and the Building Division could certainly direct those applicants to a website or other information regarding levee safety. We do believe the reclamation districts are best positioned to prepare this information and to host it on the districts' websites. This recommendation will be implemented when the City is advised that such information has been prepared.

**Recommendation #11:** The City of Oakley should consider following the precedent established by the East Cypress Corridor Project and conditioning approval of proposals for new residential or commercial development, where proposed on Oakley's annexed land in a reclamation district, on financial support of the existing levees.

*Response:* This recommendation will be implemented.

Again, we thank you for the opportunity to respond to the Grand Jury's recent Report No. 1607. If you have any questions or need any assistance, please contact me directly at (925) 625-7025 or at [montgomery@ci.oakley.ca.us](mailto:montgomery@ci.oakley.ca.us).

Respectfully submitted,

Bryan H. Montgomery  
City Manager

cc: City Council

**A REPORT BY  
THE 2015-2016 CONTRA COSTA COUNTY GRAND JURY  
725 Court Street  
Martinez, California 94553**

**Report 1607**

**DELTA LEVEES IN CONTRA COSTA  
COUNTY**

**How Well Do We Protect This Vital Safety System?**

APPROVED BY THE GRAND JURY:

Date: 5/31/16

  
\_\_\_\_\_  
MICHAEL SIMMONS  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/31/16

  
\_\_\_\_\_  
JOHN T. LAETTNER  
JUDGE OF THE SUPERIOR COURT



Contact: Michael Simmons  
Foreperson  
925-957-5638

Contra Costa County Grand Jury Report 1607

## **DELTA LEVEES IN CONTRA COSTA COUNTY**

**How Well Do We Protect This Vital Safety System?**

**TO: The Boards of Trustees of All Contra Costa Reclamation Districts; the Contra Costa Board of Supervisors; the Contra Costa Tax Collector; the Contra Costa County Clerk Recorder Elections Division; Contra Costa County LAFCO; and the City Council of Oakley**

### **SUMMARY**

Some say about Contra Costa County's Delta levees, "It's not a question of *if* but *when* they will fail." Others disagree. They say that these levees can continue indefinitely to perform successfully *if* they are constantly and proactively monitored and maintained, and receive appropriate improvements as conditions evolve. The answer to this "if or when" debate is of vital interest to the County.

The Delta levees form a critical bulwark against flooding that could have disastrous consequences for the County and even the State. The levees, most of which were built more than a century ago, originally protected privately owned land. This land was reclaimed from marshland for agricultural use, and was sparsely populated by the landowners and possibly a few farmworkers. Today, these levees protect much more:

- the lives and property of 28% of Contra Costa County's population (based on the 2010 census, although the number continues to grow),
- infrastructure that is critical to the County and region (including major roads and highways, a railroad line, oil and gas wells and pipelines, power transmission lines, and aqueducts and canals that supply water to nearly 2/3 of the State), and
- the quality of Delta water that could be exposed to excessive saline levels due to the incursion of seawater.

Many of these levees are fragile, subject to degradation from natural forces and from the effects of human activities. While the Reclamation Districts (Districts) that own and/or manage the levees have done much to protect and maintain them, often aided by State financial support, more can be done, even within the limits of the Districts' financial resources.

This report recommends focusing on three major areas: sharing of resources and knowledge among Reclamation Districts, education of residents of the Districts as to the reasons behind levee rules and regulations, and increased involvement and participation by the various entities that benefit from the protection afforded by the levee system.

## **METHODOLOGY**

In conducting its investigation and preparing this report, the Contra Costa County Grand Jury performed the following:

**Interviewed and/or obtained information from representatives of the following public agencies and Reclamation Districts, including professional engineering firms that provide engineering support to the Reclamation Districts:**

California Department of Water Resources; Contra Costa County Flood Control; Contra Costa County Department of Public Works/Engineering Services; Contra Costa County Department of Conservation and Development; Contra Costa County Local Agency Formation Commission; Contra Costa Water Department; Contra Costa County Flood Control; Contra Costa County Tax Collector; Contra Costa County Clerk Recorder Elections Division; Ironhouse Sanitary District; Bethel Island Municipal Improvement District, Reclamation Districts 799 (Hotchkiss), 800 (Byron-Discovery Bay), 830 (Jersey Island), 2025 (Holland), 2026 (Webb), 2059 (Bradford), 2065 (Veale), 2122 (Winter), and 2137 (Dutch Slough).

**Conducted site visits to the following Reclamation Districts:**

Bethel Island Municipal Improvement District; 799 (Hotchkiss); 800 (Byron-Discovery Bay); 2024 (Orwood and Palm); 2025 (Holland); and 2065 (Veale).

**Attended Board Meetings and/or reviewed agendas and minutes from the following public agencies and Reclamation Districts:**

Contra Costa LAFCO; Contra Costa Board of Supervisors; Contra Costa Water Agency; Reclamation Districts 799, 800, and 2059.

**Reviewed numerous publications of various public agencies, including but not limited to the following:**

Department of Water Resources reports and bulletins; Delta Stewardship Council email notices and interim Delta Levee Investment Strategy reports and studies; Delta Risk Management Strategy (DRMS); Delta Overview; United States Geological Survey

reports; Contra Costa County Local Agency Formation Commission (LAFCO) 2015 Municipal Service Review (MSR); Reclamation District 799's 5 year plan; CalFed Bay-Delta Program documentation; Contra Costa County 2014 Delta Water Platform; Bulletin 192-82; U.S. Army Corps of Engineers bulletins; California Water Fix bulletins; Contra Costa Water District newsletter and reports; State Investments in the Delta report; Contra Costa Board of Supervisors 2016 State Legislative Platform/Guiding Policies; Delta Protection Commission 2015 Annual Report; Delta Risk Management 2016 Assessment District Feasibility Study.

## **CONFLICT OF INTEREST DISCLAIMER**

One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the investigation, preparation or approval of this report.

## **BACKGROUND**

The first levees in the County, which are in the western portion of the Delta, were built on reclaimed marshlands from 1868 through the 1870s using manual labor. Those early builders thought --- incorrectly, as it turned out ---- that levees of 3 to 5 feet in height and 12 feet wide at the base would suffice to protect the newly reclaimed lands. Private landowners using manual labor and horse-drawn wagons built these levees out of the surrounding peat soils. Although excellent soil for agricultural purposes, peat proved not the best material for levee construction as it compacts, subsides, and erodes readily. Those levees failed frequently, and the enclosed lands were flooded almost annually.

The advent of the steam-powered clamshell or "grabber" dredges in the late 1800s allowed levees to become higher and broader. Additionally, the use of river-bottom soils with higher clay and mineral content resulted in stronger levees. But even though stronger than the smaller peat levees, the bottom-soil levees were still subject to frequent breaks or "breaches" and/or high water levels washing over the top of the levee ("overtopping"). Those failures resulted in flooding and destruction of the privately owned farms and ranches occupying the land behind the levees. These old agricultural levees still form the base, or footprint, of the majority of levees in Contra Costa County today, raised and/or otherwise strengthened on a piecemeal basis over the past century.

Like the vast majority (over 730 of the approximately 1,115 miles) of Delta levees, all of the levees in the County's portion of the Delta are "non-project" or "local" levees. Other levees known as "project" levees (comprising 385 miles of the Delta levees) form part of an authorized federal flood control project on the Sacramento and San Joaquin River systems. Project levees conform to the highest level of flood protection standards (See

Appendix 1 for a diagram of the various levels of flood protection construction standards), and are inspected by and eligible for rehabilitation by the Army Corps of Engineers. Unlike project levees, our non-project levees were constructed, enlarged, and maintained over the last 130 years by local reclamation districts. These districts are locally funded by parcel tax assessments and governed by locally-elected boards. They have jurisdiction over and responsibility for the levees that protect their District's enclosed lands.

Built at significant expense with modern equipment, materials and engineering techniques, project levees meet the highest standards in flood protection. The improvements necessary to bring the older non-project levees up to these standards are largely beyond the available financial resources of local reclamation districts. Aside from the financial challenges, reclamation districts face a moving target in planning major capital improvements to their levees because levee-construction standards continue to evolve as conditions in the Delta change over time.

Today even the non-project levees are commonly 15 to 20 feet high, 16 feet wide at the top or "crown" and wider at the base, with typically a 2 to 1 slope ratio from crown to base. The levees incorporate modern techniques and materials, as the reclamation districts work to bring the old agricultural levees up to current standards. Nonetheless, many still do not meet the current standards for urban or even non-urban levees. (See Appendix 1.) As land has subsided and sea levels have risen, much of the land protected by these levees is now 10 to 15 feet below sea level, making continual improvement essential to avoid overtopping and consequent flooding.

In addition to overtopping, levees may fail due to breaches. Breaches can occur suddenly or gradually, usually due to physical hazards, which we discuss later in this report. Management of these hazards requires what levee superintendents and consulting engineers have described as "constant vigilance": regular and frequent physical inspections of the levees and immediate attention to trouble spots. Failure to prevent, or at least promptly curtail, breaches could lead to major flooding resulting in loss of lives, property, and infrastructure, and possible impairment of the quality of water drawn from the Delta sources.

As with many other improvement projects, limited financial resources constrain the maintenance efforts of most reclamation districts. In general, the maintenance and improvement work to the levees are financed by assessments levied by reclamation districts. Additionally, the California Department of Water Resources (DWR), recognizing the importance of infrastructure within the Reclamation Districts, provides some supplemental financial support for qualified levee maintenance work through its Subventions Program, grants for qualified improvements through the Special Projects Program, and in situations of pending or potential emergency, Directed Action Grants. These funding mechanisms, and their limitations, are discussed later in this report.

In addition to the districts' financial constraints, old homes, fishing shacks, and other structures have been built on or within the levees' structural framework or sphere in

some of the populated zones. These structures may stand in the way of desired improvements, and even complicate the visual inspections of the levees, thus inhibiting early detection of seepage and/or other early warning signs of the need for preventative work.

The future of the Delta has long been the subject of ongoing discussion and debate, with various state and regional agencies as well as private advocacy groups proposing plans with differing, sometimes conflicting, objectives. Not only do their priorities differ, but also their proposed strategies for achieving their desired objectives. The one certainty is that none of these plans will soon be ready for full implementation. For the immediate future, we must rely on the integrity of the existing levees. Two events of the past decade illustrate quite dramatically the vital importance of these levees, which serve the purpose of protecting property well beyond the land actually enclosed within them:

The August 2009 collision of a bulk carrier ship with Bradford Island. On a calm, clear evening, August 27, 2009, a 570-foot bulk carrier vessel was outbound from the Port of Stockton when it grounded, lost steering, and hit the levee at Bradford Island. The collision damaged approximately 150 feet of levee, causing a serious breach. The journal, the *Professional Mariner* reported as follows:

“The breach jeopardized drinking water quality for 23 million people,” said David Mraz, chief engineer with the Delta-Suisun Marsh Office of the state Department of Water Resources. “Had the levee broken, salt water would have been drawn into the Delta (from San Francisco Bay) and contaminated the region’s fresh water supply with salt.”<sup>1</sup>

Contractors worked around the clock over a three-day period with dozens of trucks and bulldozers to make repairs using sand, silt, and clay—all from the island—to buttress and stabilize the levee. That initial repair work cost nearly \$800,000, and then, because these materials compressed and settled over time, required several additional months of close monitoring.

The District’s Project Manager, John Cunningham, said, “DWR advised him that it would have cost the State closer to \$50 million had they not succeeded in closing the breach and preventing a full flood with that quick action.”<sup>2</sup> The State paid the District’s costs under the Directed Action Program.

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<sup>1</sup> The complete news-article can be found at: <http://www.professionalmariner.com/December-Jauary-2009/Bulk-carrier-seriously-damages-levee-in-Sacramento-San-Joaquin-River-Delta/> .

<sup>2</sup> A fuller description of the incident from the perspective of island residents can be found at: [http://californiaspigot.blogspot.com/2010\\_10\\_01\\_archive.html](http://californiaspigot.blogspot.com/2010_10_01_archive.html)

The June 3, 2004 levee breach on Jones Tract. The Jones Tract is located in the San Joaquin County portion of the Delta, which is adjacent to Contra Costa County. Its 2004 levee breach and subsequent flood demonstrated the far-reaching impact, and importance of the Delta levees to the County and to the entire state. Governor Schwarzenegger declared a State of Emergency on June 4. By June 30, the severity of this flood's effect on key infrastructure and the State's water supply led to a Presidential Declaration of Emergency. This declaration authorized FEMA reimbursement of certain costs of responding to this major disaster.

This "sunny-day breach" of the Upper Jones Tract levee led to what was initially estimated to be approximately 150,000 acre-feet of water flooding the Jones Tract at a time when Contra Costa Water District (CCWD) was pumping from both of their easternmost intake stations in the Delta. According to CCWD's Fall 2004 newsletter, about half that intake was then flowing to Los Vaqueros Reservoir and the rest was going directly to their treatment plants for transmission to customers.

Risks to the water supply were twofold: more salinity due to increased amounts of seawater flowing into the Delta from San Francisco Bay and/or leached from the inundated soil reaching the CCWD intake conduits, and floodwaters contaminated with chemicals and fuel used in the Jones Tract for agricultural purposes. CCWD stopped pumping from their Old River Intake Station and began rapid-response testing and monitoring of water quality. Ultimately the saline content reached levels that necessitated halting flows to the Los Vaqueros Reservoir. As a result, the reservoir entered peak demand summer operations well below the maximum capacity that had been projected. CCWD had to pump water from Los Vaqueros Reservoir, with its lower-than-anticipated volume to fill demand; at the same time, work to pump the floodwaters off the island continued.

Gaining control of the flood was challenging, and repairs were difficult, complicated by key infrastructure within the flood zone. Of particular concern were the Burlington Northern-Santa Fe rail-line and EBMUD's Mokelumne Aqueduct, both of which also run through Contra Costa County. It took four weeks to plug the levee breach, and the full recovery required federal as well as state resources. After removing more than 160,000-acre feet of water, the involved agencies finally succeeded in de-watering the island in December 2004.

DWR estimated the direct cost of containing the flood, levee repair, and island pump-out to be \$30 million. This does not include the cost of lawsuits filed against a number of defendants, including the Reclamation District, DWR and other state agencies, and even the company that provided rodent control services on the island. (The flood washed away all forensic evidence, making it impossible to establish the cause of the flood with certainty. However, most sources consider burrowing rodent activity --- i.e. one of the physical hazards we discuss later in this report --- the most probable cause of the breach and subsequent flood.)

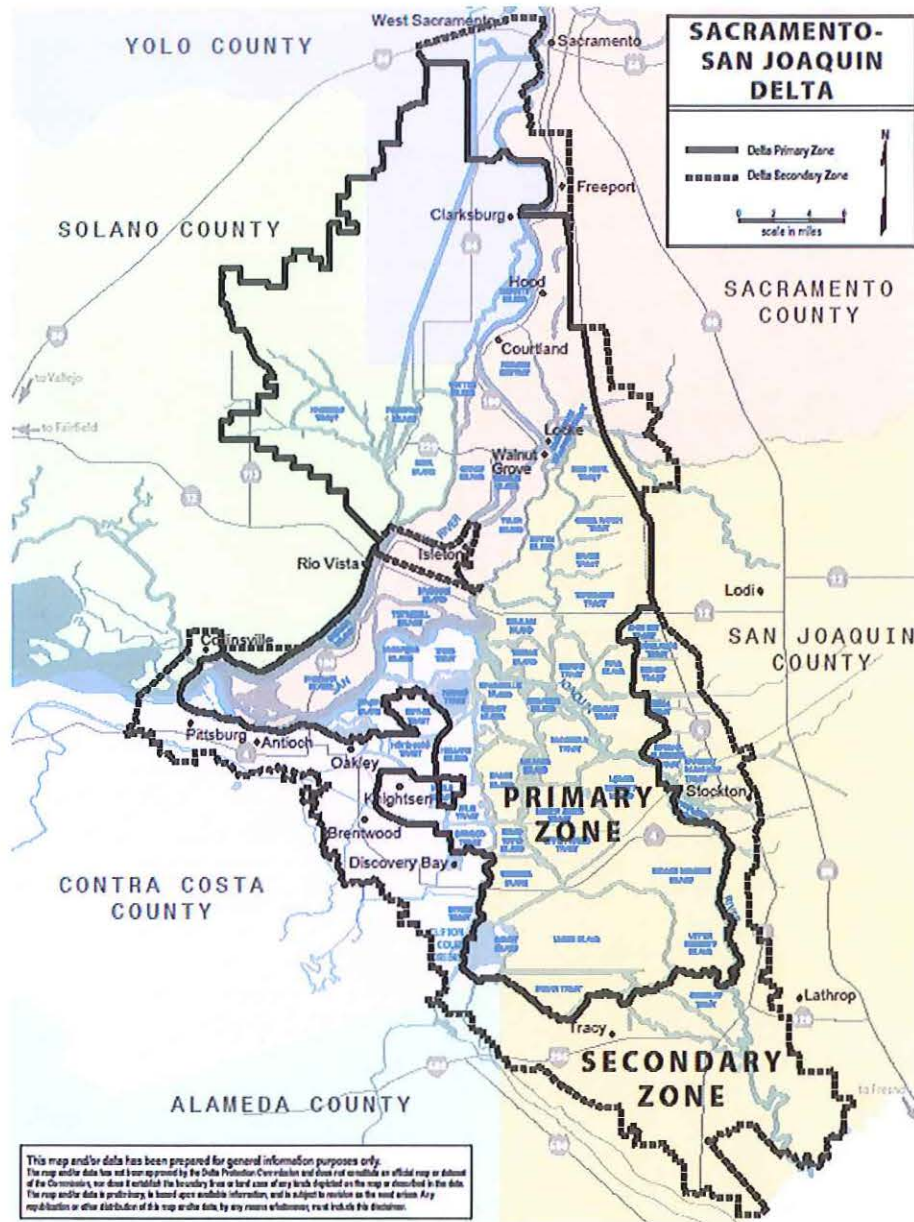


*DWR Photos: June 2004 Jones Tract Breach and Flood*

In view of all these immediate risks with far-reaching impact, steps should be taken to ensure that our County's Delta levees continue to perform their function successfully.

## **DISCUSSION**

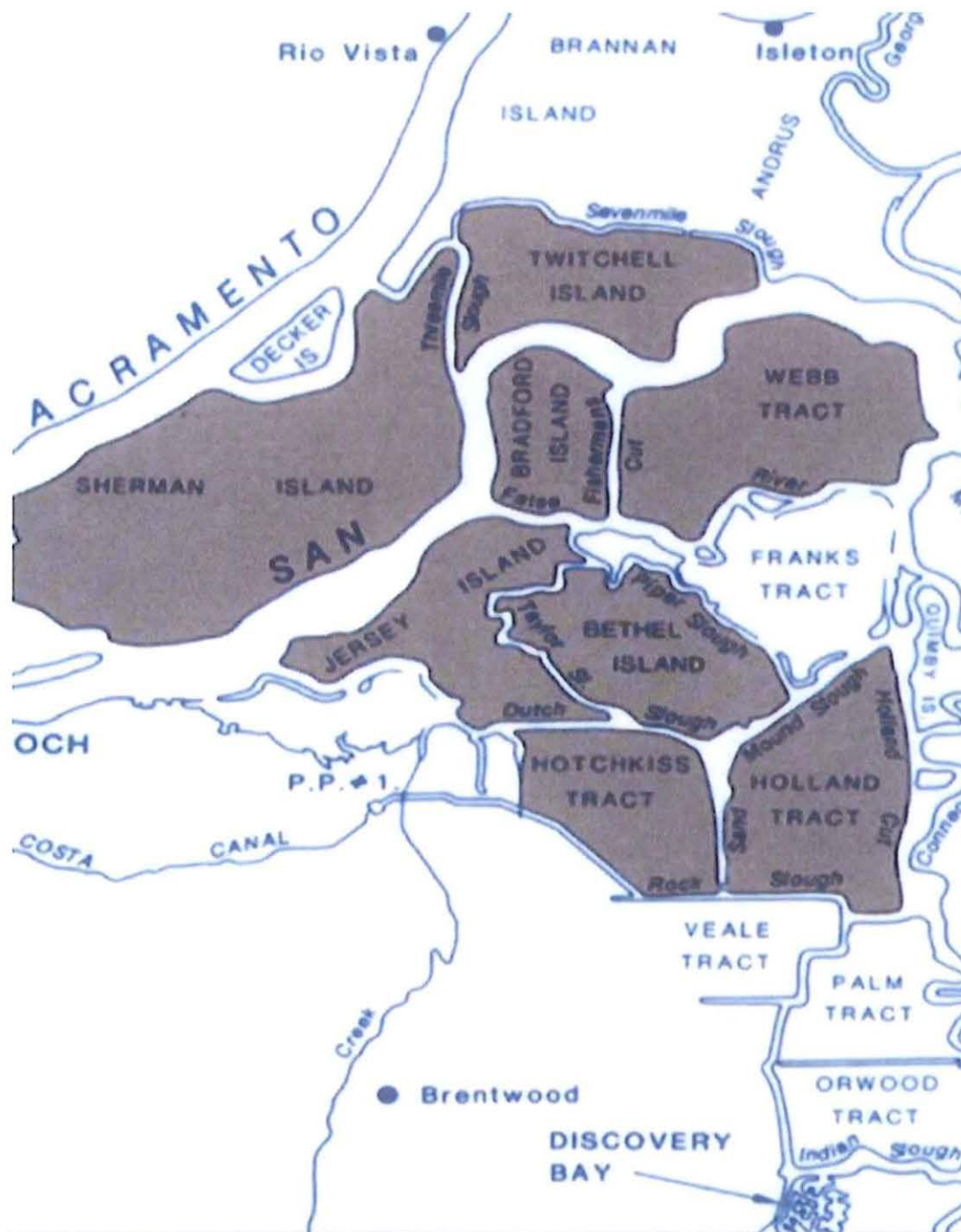
There are 14 special districts (13 reclamation districts and 1 municipal improvement district) in Contra Costa County that have responsibility for levee services within the Delta. They are shown in the following map, along with the Primary and Secondary Zones of the Delta as defined in the California Water Code, Section 12220. Many of the districts are islands; others have responsibility for levees that protect lands only partially surrounded by water.



*Contra Costa County Reclamation Districts  
(Map Courtesy of Delta Protection Commission)*

The western portion of the Delta includes eight islands that the State's Department of Water Resources (DWR) deems critical to preventing saline (i.e. seawater) intrusion. Six of these eight islands are located in the County. These islands become particularly important during multi-year droughts such as that of the last four years. To prevent saltwater intrusion arising from less fresh (river) water flowing into the Delta, DWR had to install temporary rock barriers, one on False River between Jersey and Bradford Islands, to protect the state's water quality. The following map shows these islands:





According to the November 15, 2015 Municipal Service Review (MSR) of Reclamation Districts by the County's Local Agency Formation Commission (LAFCO), the 14 Districts are responsible for levees and population as shown in the table on the following page.

Reclamation District Name and Number	Population		Total Miles of Levees	Miles at HMP Standard	Miles at PL84-99 Standard	Miles at FEMA Standard
Bethel Island Municipal Improvement (BIMID)	2,137*		14.5 (11.5 Agriculture 3 Urban)	11.5	8**	
Hotchkiss (799)	969		11.7 (8.5 Agriculture 3.2 Urban)	5.2		
Byron (800)	13,352***		18.9 (12.4 Agriculture 6.5 Urban)		9.7****	18.9
Jersey Island (830)	3		15.5	14.8		
Orwood/Palm (2024)	8		14.6		14.6	
Holland (2025)	27		11		11****	
Webb (2026)	0		12.9	12.9	6.25**	
Bradford (2059)	63		7.5	7		
Veale (2065)	14		5.1	4.2		
Quimby Island (2090)	1		7	7		
Coney Island (2117)	4		5.48	5.4	4.12**	
Bixler (2121)	5		2			
Winter Island (2122)	0		5	1.5		
Dutch Slough (2137)	2		3.8	3		
Contra Costa County Delta Total	10,889		139.48 (126.78 Agriculture 12.7 Urban)	79.2	43.97	18.9

\*Population doubles during the summer.

\*\* Levees that meet the higher PL84-99 standard also meet, by default, the HMP standard. Some of the agricultural miles meeting the HMP standard have been improved to meet the higher PL84-99 standard.

\*\*\* includes residents inside the old RD boundary, but on elevated peninsulas outside the newer urban levees.

\*\*\*\*Levees that meet the PL84-99 Standard may apply for the Army Corp of Engineers Rehabilitation and Inspection Program (RIP). Once accepted, they must pass biannual eligibility ACE inspections to continue to participate.

LAFCO's MSR relies on self-reporting from these districts to evaluate their financial and administrative ability to maintain the integrity of the levees. In assuring that their levees perform adequately, all of these districts face similar challenges, financial and otherwise, in dealing with the risks. As levee conditions are extremely dynamic, conditions reported at one time will not necessarily be accurate a relatively short time later. While the County's levees are performing adequately now, constant and proper management of hazards is essential to maintain that performance.

Physical hazards. Levee breaches typically result from impairment of the levee by any one or a combination of the following:

- uneven settling or subsidence,
- wind and/or wave action on the water side of the levee, with the added risk that unrepaired flooding of one island can increase the intensity of wind and/or wave action on surrounding islands due to the wider expanse of open water,
- erosion of the "crown" (i.e., the top) or dry side of the levee,
- trees that may pull out significant soil from the levee if toppled by storm activity,
- vegetation that may die and leave a conduit for water into or through the levee,
- activities of burrowing rodents, and/or
- human activities, including construction on or through the levee itself or damage to ancillary equipment, such as pumps.

These hazards, other than human activities, can be successfully managed by regular and frequent monitoring and prompt repair when discovered. To accomplish this, those districts that have levee superintendents or district managers who perform the functions of levee superintendent, typically conduct regular, frequent levee patrols. These patrols look for signs of physical hazard, and watch for any unexpected seepage. A certain amount of seepage is normal, and it takes a combination of experience, familiarity with levees, and knowledge of past problem areas to recognize abnormal seepage, and to recognize the early signs of the above hazards.

Challenging as this is, there is no "school for levee maintenance" or any other authoritative training program or textbook to guide levee superintendents. The job of levee superintendent can only be learned by doing, preferably under the initial supervision of or at least consultation with an experienced incumbent. The only other reference source for levee superintendents is the districts' consulting engineer, who is a valuable, but costly, resource. The levees in districts that have little or no population and/or only minimal financial resources are at a greater risk since these districts seldom have the staff to do regular levee patrols. They typically rely on the property owners, who have a stake in the integrity of the levees to protect their property interests, and a consulting engineer, who may serve several reclamation districts. In these instances, the consulting engineer becomes even more important.

Even with the availability of a consulting engineer, levee inspection and maintenance is not easy. In addition to distinguishing normal seepage from problematic seepage, and noting early indications of the latter, the levee superintendent must balance levee

inspection and maintenance with environmental concerns. For example, the tall grass that grows on most levees helps to prevent erosion, but requires mowing to prevent overgrowth obscuring the levee surface and hampering visual inspection of the levee. However, wildlife regulations may prohibit mowing during the spring nesting season for certain birds. The levee maintenance program must address this seasonal prohibition and schedule mowing accordingly.

Further, other wildlife regulations provide that levee maintenance may not cause any "net loss of habitat". Whenever maintenance requires removal of habitat to facilitate inspection, do preventative work, or make minor repairs, regulations require "mitigation," i.e., implanting or expanding similar habitat. Some districts, such as Bethel Island, have their own mitigation site, where they plant replacement vegetation. Other districts make use of "mitigation banks" which are independent sites located elsewhere from the district where the district can pay for planting and maintenance of habitat equivalent to that which they cannot directly replace.

In addition to the long learning curve for new levee superintendents, lack of equipment or supplies can hamper timely performance of repair work. Most districts maintain stockpiles of basic supplies such as sand for sandbags, shovels, gravel, and plastic sheeting. Districts place these supplies at strategic locations near particularly vulnerable portions of the levee and at the district equipment yard. Some districts are unable to afford to maintain a full complement of supplies, such as adequate quantities of rock for "riprap" (the rocks that line and buffer the wet side of the levee from wave action) and heavy equipment, such as earthmoving equipment. Where necessary, districts rely on informal mutual-aid agreements.

Human activities that can endanger a levee's integrity pose special challenges. These activities include construction work on the levee, driving or parking heavy vehicles in inappropriate places on the crown of the levee, and vandalism and theft of copper wiring and other materials from pump stations. Such damage occurs primarily in those districts that have a significant number of full-time residents. As those districts have become aware of the potential risk, they have tried to take appropriate precautions, such as burglary preventions at the pump-houses, and the use of inspections and permitting procedures to control construction activities.

Districts such as Bradford Island, which is only accessible by ferry, or Jersey Island, where the population of three is supplemented only by day-visitors who come to the Island to fish, hike, or bird-watch, are able to adeptly control human hazards to the levees. Other districts, such as Bethel Island or Hotchkiss Tract, have a significant number of permanent, fulltime residents, many of whom have homes built in close proximity to the levees. For most of these homes, the levee is essentially part of their "yard". Nearly all of them have boat docks on the water side of the levee, accessed by crossing the crown of the levee. In the more populated districts, the usual control on human activities that affect the levee is through an "encroachment" permitting process. The permitting process involves the district's board, in consultation with the levee

superintendent, district manager, and/or consulting engineer, verifying that permitted construction does not potentially impair the structural integrity of the levee.



*GJ photos: Pictures of levee crowns*

However, many district homeowners are not fully aware of, have forgotten, or may have chosen to disregard the district's permitting procedures. Older structures may pre-date current standards and protocols. The levee superintendent or district manager must watch for violations as part of the regular levee patrol, and explain to violators why the activity in question endangers the integrity of the levee, and therefore the safety of all residents. (See Appendix 2 for a typical permit application with instructions for application and approval.) Websites can offer a means of easy access for residents seeking information and an application form. However, only five Districts have a website. In the others, residents or prospective residents must go to the District office – not always located in the District itself – for forms, instructions, and answers to questions related to construction permit requirements.

Attempting to stop individual violations of permit procedures on a case-by-case basis is something of a "Band-Aid" approach to levee safety. A better approach to encourage compliance with current levee standards and protocols, as well as to encourage homeowners about to undertake major remodeling that they should upgrade to current standards, is to educate the population about the reason for the levee standards and protocols in the first place, the dangers of a flood. In addition to levee protocols and regulations prepared and enforced by each reclamation district, there are numerous resources available that describe the hazards facing all levees and the potential dangers to all residents if these hazards are not properly managed. Greater understanding of the reasons for the rules should bring more willing adherence to levee protocols and construction standards.

One particularly good resource, not specific to the County but providing a good basic explanation of facts about levees and necessary precautions that should be taken to maintain them, is a 2010 brochure prepared by the American Society of Civil Engineers,

“So, You Live Behind a Levee”. It can be found and downloaded from their library at [www.ASCE.org](http://www.ASCE.org). Other brochures are available online or in hard copy from DWR, county and/or city flood control divisions, and at many district offices. One more excellent although generic (i.e. lacking consideration of California’s unique environmental requirements) resource, geared as much to levee owners and/or operators as to residents, is USACE’s “Levee Owner’s Manual for Non-Federal Flood Control Works, available at [www.nfrmp.us/docs/USACE](http://www.nfrmp.us/docs/USACE).

Additionally, there are a number of levee safety videos produced by DWR, and some by the Army Corp of Engineers that address basic concerns that apply to both project and non-project levees. One such video is “How Levees Fail, How We Fix Them”, available on YouTube or at [www.floodassociation.net/resources](http://www.floodassociation.net/resources).

County flood control divisions and planning departments also have available a number of brochures about the National Flood Insurance Program. This program emphasizes the precautions necessary when living in a flood plain. Federal mortgage lenders require that borrowers living near levees that are not FEMA certified and accredited levees (those that meet the highest construction standard for urban levees) obtain flood insurance coverage.

Likewise, educational sessions about emergency flood response programs can serve a dual purpose. Residents who participate in these sessions will have heightened awareness of the potential dangers posed by floods. They are better prepared to react appropriately in such an event. The residents also gain a better understanding of the reasons for levee regulations and protocols, and so are less likely to circumvent the district permitting process.

Lack of staff impedes aggressive outreach such as that done in neighboring Sacramento County, which holds a “Flood Fair” each October, in recognition of “Flood Preparedness Month”. There are also other, less resource-intensive forms of educational outreach such as seasonal mailers or online bulletins. A problem with mailers though, is that without already high public awareness, recipients often discard them unopened. Including them with other timely (pre-storm season) “high-interest” or mandatory mailings from other County departments or agencies, such as property tax bills or voter information, could increase their effectiveness in raising public awareness.

Those districts that publish newsletters or have websites often include flood-safety and emergency response bulletins just ahead of storm season. Their newsletters can also include explanations of the specific need for and intended uses of the benefit assessments that appear in residents’ property tax bills. (See Appendix 3 for just such a sample newsletter.) All these educational or informative efforts have the potential to heighten awareness of the potential flood danger and increase residents’ understanding that the actions of one affect the safety of all – powerful motivation to follow and support levee regulations and protocols.

Financial Challenges and Available Support. Many reclamation districts lack the financial resources to do more than basic maintenance work. The expense of improvements that would bring their levees to a higher standard is often beyond their capacity. Although expensive, these improvements are necessary to prevent overtopping during major storms, especially storms that occur in concert with unusually high seasonal tides (known as "King tides"). The majority of the funding for the work comes from the property owners themselves. This can be a severe hardship for those districts with relatively small numbers of property owners. These smaller districts often struggle to find funds for even basic needs. (See Appendix 3, a Bradford Island newsletter and informational insert explaining their Prop 218 assessment.)

Several sources of financial support are now available from the State, through DWR, to supplement the assessment-based revenue of the districts: the Subventions Program, special projects grants, and Directed Actions.

- Subventions program – This is a cost-sharing program, with the State currently reimbursing 75% of the cost of qualified levee maintenance work after the first \$1,000 per mile. However, the reimbursement is limited to levee maintenance, not to support of ancillary equipment, no matter how essential that equipment might be. For example, clearing ditches of vegetation is eligible, but not pump repair.

It is also important to note that the reimbursement cycle is nearly two years. For example, a proposal submitted by July 1, 2015, for the 2015-16 fiscal year, will receive formal acceptance by November 1, 2015. Before receiving reimbursement from the State, the district submits final invoices after the close of the fiscal year on June 30, 2016. Next, DWR and the Department of Fish and Wildlife (DFW) physically inspect the work to confirm that it was done according to the application and also to confirm that there was no net loss of habitat. After any challenges, appeals, and/or discussion, DWR authorizes payment of the final invoices, to the extent that it accepts the work. Actual disbursement of funds to the District may not occur until well into the spring of 2017.

This two-year reimbursement cycle presents challenges to small districts, as does the responsibility for paying 25% of the costs (plus first \$1,000 per mile). The Districts have little if any funding other than assessments to pay the costs of the first two-year cycle. Once through that first two-year cycle, they can usually manage the reimbursement cycle on a rolling year-to-year basis. However, the 25% of the cost remains a financial challenge every year. Further, California Prop 1E, which funds this program and supports most of the basic maintenance work, is due to sunset this year. Many districts' plans hinge on the outcome of a current proposal to remove that sunset.

- Special Projects funding – DWR sends out a request for proposals for levee improvement projects when they know how much is available in a given year,

i.e., \$60 million this past fiscal year, with a limit of \$15 million per district per project. The districts' proposals, first a short form and then a complete application with engineering specifications and drawings, go through two sequential grading and ranking processes. Staff engineers and biologists evaluate the proposals, assigning points based on priorities set forth in the Delta Reform Act.

Special projects require less cost share by the district, i.e. typically 10% retained and 90% reimbursed, and may allow some advance partial funding, depending on the scope of the project. The documentation requirements are greater than for the Subventions Program. For the most part, districts submit monthly status reports and invoices, and obtain DWR approval before paying the contractor for completed work.

- Directed Actions – This program is a “special circumstances” program. In the face of a pending or potential emergency with implications for the state water supply, the DWR Director can authorize funding for emergency action. Examples include the repairs to the Bradford Island levee damaged by the ship collision in 2009, and an agreement with Jersey Island to make emergency improvements in preparation for the December 2005/January 2006 “Pineapple Express” storm front. Had that winter storm overtopped the levees of Jersey Island, it is highly likely that additional islands would have also flooded and thus endangered the water supply for the State.

The table below shows the amounts received by each district through the Subventions and Special Projects Programs, in dollars and as a percent of total district revenues. Revenue other than that from these state programs is comprised of the assessments received from district property owners. The difference in non-State-funded revenue between the more populous districts (i.e. Bethel Island, Hotchkiss, and Byron) and the less populous districts reflects the financial advantage of a larger assessment base. However, the financial needs of the smaller districts for levee maintenance and improvement are not proportionately less. In fact, the smaller districts are just as likely to contain, and be responsible for protecting, key infrastructure and/or to provide a barrier to seawater intrusion

*(Information provided by LAFCO MSR 2015)*

Reclamation District Name and Number	Total Revenues	Subventions Program (SP)	Special Projects Program (SPP)	Percent of Total from State
Bethel Island Municipal Improvement (BIMID)				
2012-2013	\$553,746	\$130,653	\$6,762	24.8%
2013-2014	\$543,271	\$66,934	\$30,440	17.9%
Hotchkiss (799)				
2012-2013	\$513,910	\$87,825	0	17.0%
2013-2014	\$681,759	\$76,003	\$165,340	35.4%



<b>Byron (800)</b>				
2012-2013	\$1,487,371	\$128,341	0	.09%
2013-2014	\$1,451,294	\$31,295	0	.02%
<b>Jersey Island (830)</b>				
2012-2013	\$4,235,078	\$232,273	\$3,437,133	86.6%
2013-2014	\$3,738,175	\$881,860	\$2,300,000	85.1%
<b>Orwood/Palm (2024)</b>				
2012-2013	\$3,366,749	0	\$3,050,412	91.6%
2013-2014	\$524,506	\$67,880	\$140,939	39.8%
<b>Webb (2026)</b>				
2012-2013	\$615,689	\$201,683	0	32.8%
2013-2014	\$2,456,735	Included in SPP	\$2,256,677	91.9%
<b>Bradford (2059)</b>				
2012-2013	\$2,229,692	\$6,358	\$1,916,597	86.2%
2013-2014	\$523,123	\$192,672	0	36.8%
<b>Veale (2065)</b>				
2012-2013	\$63,762	0	0	0
2013-2014	\$531,720	\$33,620	\$399,600	81.5%
<b>Quimby Island (2090)</b>				
2012-2013	\$151,716	\$76,716	0	50.6%
2013-2014	\$106,407	\$103,872	0	97.6%
<b>Coney Island (2117)</b>				
2012-2013	Not Reported	Not Reported	Not Reported	0
2013-2014				
<b>Bixler (2121)</b>				
2012-2013	\$5,000	0	0	0
2013-2014	\$5,000	0	0	0
<b>Winter Island (2122)</b>				
2012-2013	Not Reported	Not Reported	Not Reported	0
2013-2014	Not Reported	Not Reported	Not Reported	0
<b>Dutch Slough (2137)</b>				
2012-2013	\$750,395	\$560,315	0	74.7%
2013-2014	\$1,111,946	\$910,316	0	81.9%

Increasing urbanization where development is allowed (i.e. in the Delta Secondary Zone) offers potential for financial benefit beyond the increased revenue generated by a parcel assessment on new district residents. As developers seek approval to build new communities, the appropriate planning agencies can consider including financial support of existing levees in the requirements for approval. For example, the East Cypress Corridor Plan approved by the City of Oakley for development of annexed land located in the interior of Hotchkiss Tract (Reclamation District 799) included \$11 million for reconstruction, improvement, and pump replacement for existing levees. This funding was in addition to the cost borne by the developer in building a new FEMA certified and accredited interior "ring" levee surrounding the Summer Lake Development.

It is important to note that FEMA certification and accreditation do not require physical inspection of the levee. Certification is based on FEMA's review of documentation that the levee meets design construction standards for at least the one-percent-annual chance (or "100-year") flood. Accreditation requires confirmation of the adequacy of the

operation and maintenance plan provided by the levee owner. As FEMA's own literature states: "Levee certification does not warrant or guarantee performance, and it is the responsibility of the levee owner to ensure the levee is being maintained and operated properly." FEMA further states: "FEMA accreditation is not a health and safety standard – it only affects insurance and building requirements."

Future Opportunities. As noted above in the "Background" section, many other entities besides residents of the districts benefit from the protection of the levees. State and local agencies are now discussing how a broader population of such beneficiaries might equitably share in the cost of maintaining and/or improving these levees.

In March 2016, the Delta Protection Commission began a workshop that includes a series of meetings tasked with developing a fair system of "beneficiary-pays" funding for needed levee maintenance and improvements. This is in conjunction with the Delta Stewardship Council's Delta Levee Investment Strategy, also still in progress, that is trying to assess the value of all assets – including key infrastructure --- within each reclamation district, protected by each district's levees. The "beneficiary-pays" workshop expects to conclude by June 2016. It then will make recommendations to the Delta Stewardship Council. The Council will give the recommendations consideration in pursuing future legislation, but there is no certainty the recommendations will be implemented.

In the meantime, Contra Costa Water District has spearheaded an interagency cooperative venture to accomplish much-needed improvements to the levees in Bacon Island (Reclamation District 2028), which is adjacent to the County, lying within San Joaquin County. Reclamation District 2028 submitted the application to DWR for Special Project funding to improve 4.7 miles of levee along Old River and to create areas of native grassland and scrub shrub habitat. Reclamation District 2028 will be the contracting agency with DWR and provide in-kind funding through staff time and land taken out of production for habitat and levee materials. Others that will benefit from the project also will help to finance it through funding or in-kind services.

In February 2015, DWR selected this project for \$10.2 million in grant funding, approximately 97% of the project cost of \$10.57 million. The beneficiaries of the project will participate as follows:

- Reclamation District 2028 will be responsible for the environmental review, permitting, design and implementation.
- Alameda County Water District, Contra Costa Water District (CCWD), Metropolitan Water District, Santa Clara Valley Water District and Zone 7 will provide monetary contributions to the Project.
- East Bay Municipal Utility District and San Francisco Public Utilities Commission will provide in-kind technical support and implementation support.
- CCWD will serve as the fiscal agent for the agencies' financial contributions.
- Pacific Gas & Electric (PG&E) will provide in-kind service through relocation of a high-pressure natural gas line and overhead electrical lines.

Where do we go from here? The answer to the “if or when” question posed at the beginning of this report depends on what we do locally to protect the County’s Delta levees while agencies with the authority to set policy continue to debate issues that will determine the long-term future of the Delta. Meantime, we all have a stake in the integrity of the existing levees. They are today’s line of defense against flooding with catastrophic potential for Contra Costa County and for much of the State as well. We must all pay attention to, and encourage support of the everyday, practical and sensible activities that keep these levees safe, to the benefit of all of us.

## **FINDINGS**

- F1. The portion of the Delta that lies within Contra Costa County includes six of the eight western islands, deemed by the State to be of particular importance to preventing seawater intrusion that would impair the quality of water for nearly two-thirds of the State, including much of the East Bay area.
- F2. Loss (i.e. submersion) of any of the six islands in the Delta within Contra Costa County has potential to affect adversely much more than just Contra Costa County.
- F3. Key infrastructure located within the Contra Costa County reclamation districts benefits the entire County, including major County roads and highways, a rail-line, PG&E power transmission lines, natural gas wells, petroleum pipelines, Contra Costa Water District intakes, pumping stations, and portions of both the Contra Costa Canal and EBMUD’s Mokelumne aqueduct.
- F4. The levees in the County’s portion of the Delta have been built up or otherwise strengthened on a piecemeal basis over the century or more of their existence.
- F5. Because the levees remain vulnerable to natural hazards and human activities, they require constant vigilance – i.e., frequent inspection coupled with timely maintenance and prompt repairs.
- F6. The Army Corp of Engineers inspects federal levees, as well as non-federal levees that qualify for the Rehabilitation and Inspection Program.
- F7. All of our County’s levees are non-federal levees and the only non-federal levees in the County that qualify for participation in the Rehabilitation and Inspection Program are in Holland and Byron Reclamation Districts.
- F8. The only levees in the County that are independently evaluated for structural integrity are those in Reclamation Districts 800 and 2026, Holland and Byron.
- F9. LAFCO’s MSR of the reclamation districts, which it performs every 5-years, focuses on financial and administrative management of the districts.

- F10. LAFCO relies on self-reported information from the districts, without physical inspection, to evaluate how well the districts are maintaining the integrity of the levees for which they are responsible.
- F11. There is no formal or standardized educational or training resource available to the districts for levee inspection, maintenance, and repair, which can support new levee superintendents or managers while they acquire the experience to recognize problems early, learn how to appropriately respond, and learn how to balance environmental regulations with maintenance protocols.
- F12. Levee management requires recognizing seasonal timeframes and juggling multiple deadlines, including preparing for storm season and the "no-mowing" period, when local bird populations nest, as well as timely application for the subvention and/or special projects funding programs.
- F13. Unpermitted encroachments can hinder visual inspection of the levee surface and create new structural weaknesses or potential conduits for seepage.
- F14. Education about the potential danger of unpermitted encroachments can be a highly effective management tool for mitigating this type of hazard because increased understanding of the potential consequences of such encroachments can support longer-term adherence to levee regulations and protocols.
- F15. Since early recognition of potential trouble spots and prompt repair work are critical to maintaining levee integrity, while resources for levee patrols are limited, the presence of an educated and aware residential population can supply additional eyes to provide the constant vigilance that is crucial to safeguarding the levees.
- F16. In addition to permitting procedures and intermittent newsletters, there are other opportunities to educate the public, and especially residents of reclamation districts, about the hazards that can damage or impair the levees.
- F17. Explaining the hazards to levees by multiple means at appropriate times -- i.e., just before the start of storm season in the fall -- can help to keep awareness at a heightened and effective level.
- F18. Efforts to educate and raise public awareness could be enhanced by cross-departmental and/or cross-agency cooperation such as including Flood Control safety bulletins with other seasonally appropriate, apt-to-be-read or mandatory mailings such as property tax bills or voter information packets.
- F19. It takes nearly 2 years from the application date for reclamation districts to receive reimbursement for levee maintenance work approved by DWR under the Subventions Program.

- F20. The cost of the initial funding required of reclamation districts under DWR's Subventions Program can be prohibitive for some reclamation districts, resulting in under-utilization of this highly beneficial program.
- F21. Some reclamation districts that are unable to maintain the staff, equipment, and material stockpiles needed for emergency major repairs, rely on informal mutual-aid arrangements.
- F22. Planning agencies can require that developers who seek to develop areas within reclamation districts financially contribute to existing levees as a condition of approval of their proposed developments, as was done with the East Cypress Corridor Plan for residential development in the interior of Hotchkiss Tract, Reclamation District 799.
- F23. The feasibility of interagency cooperative ventures to accomplish levee improvements has been demonstrated by multi-agency coalition for to improve the levees in Reclamation District 2028, Bacon Island.

## **RECOMMENDATIONS**

- R1. After identifying the necessary funding, LAFCO should consider including independent physical inspections of levee conditions, in addition to the self-reported evaluations of the conditions, in the MSRs of all County reclamation districts, if necessary by hiring an independent engineering firm to perform this function.
- R2. After identifying the necessary funding, the County reclamation districts should collaborate in establishing and supporting a shared website, possibly approaching one of the Districts that already has a website to take the lead. This website should include "Best Practices", a calendar of date- or seasonal-specific tasks, such as preparation for nesting season when certain work is prohibited, and dates when Subventions Program applications are due, and a common log of significant levee incidents to identify and track historical trouble spots.
- R3. After identifying the necessary funding, the County reclamation districts should consider taking turns hosting a short, local, annual conference for all District Board members and staff. Each conference should include an educational presentation on a matter of common interest, such as changes in regulations or levee standards, new technology or procedures for levee work, new sources of funding, and/or most effective techniques for successful grant applications.
- R4. After identifying the necessary funding, reclamation districts should consider adding a "training module" for new and re-elected Board members to their required governance training (i.e. Brown Act and Ethics). This "module" or session should cover the district's levee regulations and protocols, the consequences of noncompliance with regulations and protocols, flood preparedness, and

emergency response training – or at minimum a “back to basics” session with the consulting engineer to cover these concerns.

- R5. Reclamation districts should formalize, or at a minimum document, all “Mutual Aid” agreements for future reference as reclamation district personnel change over time.
- R6. After identifying the necessary funding, the County Tax Collector should consider including informational material on flood preparedness or levee safety precautions, available at no charge from our County Flood Control or Central Valley Flood Control Agency or DWR, with every property tax bill that has an address within a reclamation district.
- R7. After identifying the necessary funding, the County Clerk Recorder should consider including informational material on flood preparedness or levee safety precautions, available at no charge from our County Flood Control or Central Valley Flood Control Agency or DWR, with election materials sent to addresses within a reclamation district.
- R8. After identifying the necessary funding, the Board of Supervisors should consider directing the County Planning Department to provide each applicant for new construction or major remodeling in unincorporated areas within a reclamation district with a brochure or direction to an online website explaining levee safety rules and regulations, along with the reasons for same, applicable to their particular reclamation district and to require that each applicant confirm receipt of the brochure or link to website by initialing.
- R9. The Oakley City Council should direct the Oakley Planning Commission to provide each applicant for new construction or major remodeling within a reclamation district in the City of Oakley with a brochure or direction to an online website explaining levee safety rules and regulations, along with the reasons for same, applicable to their particular reclamation district and to require that each applicant confirm receipt of the brochure or link to website by initialing.
- R10. The Board of Supervisors should consider directing the appropriate planning and/or land use departments to follow the precedent established by the East Cypress Corridor Project and condition approval of proposals for new residential or commercial development, where allowed on any unincorporated County land in a reclamation district, on financial support of the existing levees.
- R11. The City of Oakley should consider following the precedent established by the East Cypress Corridor Project and conditioning approval of proposals for new residential or commercial development, where proposed on Oakley’s annexed land in a reclamation district, on financial support of the existing levees.

R12. After identifying the necessary funding, the Board of Supervisors should consider directing the County's Transportation, Water, and Infrastructure Committee to establish a task force or initiate a staff study to investigate ways to encourage and facilitate grant-seeking coalitions of urban water agencies and/or other beneficiaries of the levee system, on smaller-scale projects with shorter time horizons than those currently being investigated by the Delta Protection Commission (i.e. similar to but including even smaller-scale projects than the Bacon Island improvement coalition).

R13. After identifying the necessary funding, the Board of Supervisors should consider directing the County's Transportation, Water, and Infrastructure Committee to establish a task force to investigate possible ways for the less-advantaged reclamation districts to obtain interim funding, including but not limited to grants or low-interest rate loans, to cover the initial two-year lag-time to obtain reimbursement for essential levee maintenance work from the Subventions Program.

## REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Contra Costa County LAFCO	9, 10	1
The Board of Trustees of Bethel Island Municipal Improvement District	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 799 (Hotchkiss Tract)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 800 (Byron Tract)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 830 (Jersey Island)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2024 (Orwood/Palm Tract)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2025 (Holland Tract)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2026 (Webb Tract)	4, 5, 11 – 17, 21	2 - 5

The Board of Trustees of Reclamation District 2059 (Bradford Island)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2065 (Veale Tract)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2090 (Quimby Island)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2117 (Coney Island)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2121 (Bixler Tract)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2122 (Winter Island)	4, 5, 11 – 17, 21	2 - 5
The Board of Trustees of Reclamation District 2137 (Dutch Slough)	4, 5, 11 – 17, 21	2 - 5
The Contra Costa County Tax Collector	16 - 18	6
The Contra Costa County Clerk Recorder Elections Division	16 - 18	7
The Contra Costa County Board of Supervisors	1 - 3, 19, 20, 22, 23	8, 10, 12, 13
The Oakley City Council	1 – 3, 19, 20, 22	9, 11

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to [epant@contracosta.courts.ca.gov](mailto:epant@contracosta.courts.ca.gov) and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson

725 Court Street

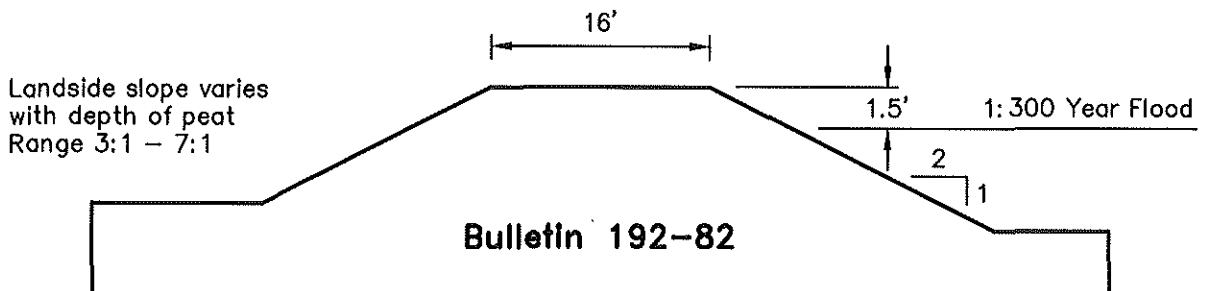
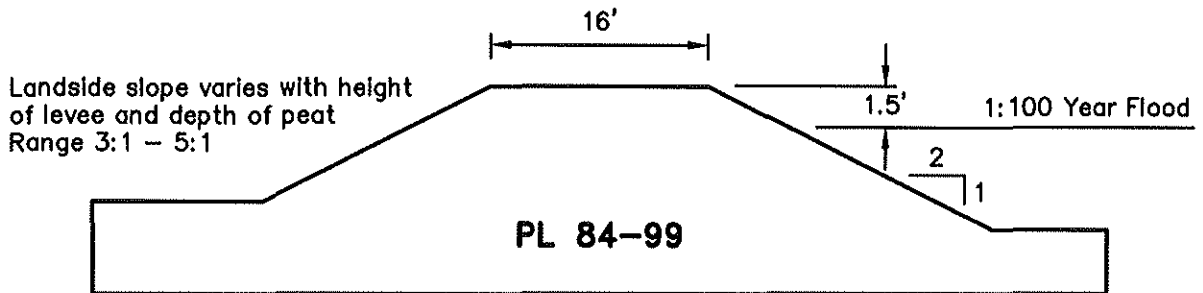
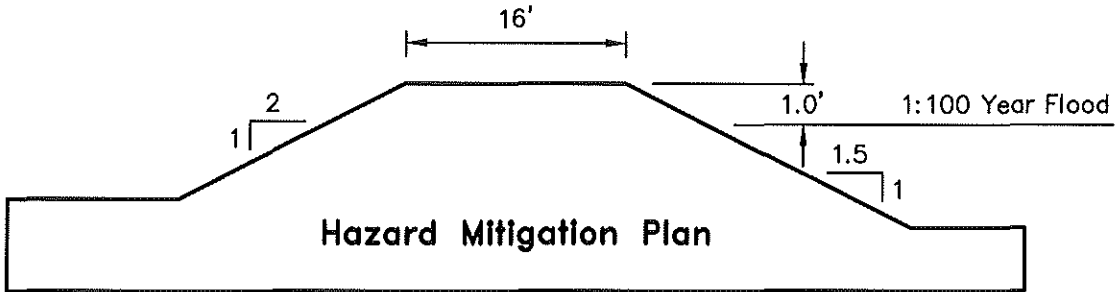
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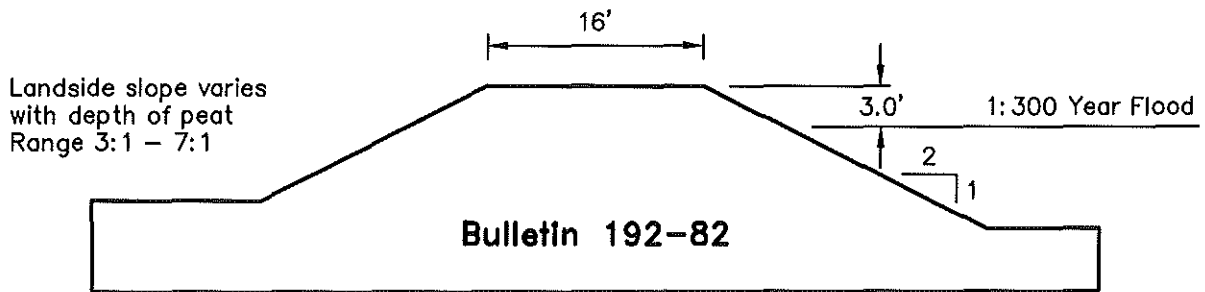
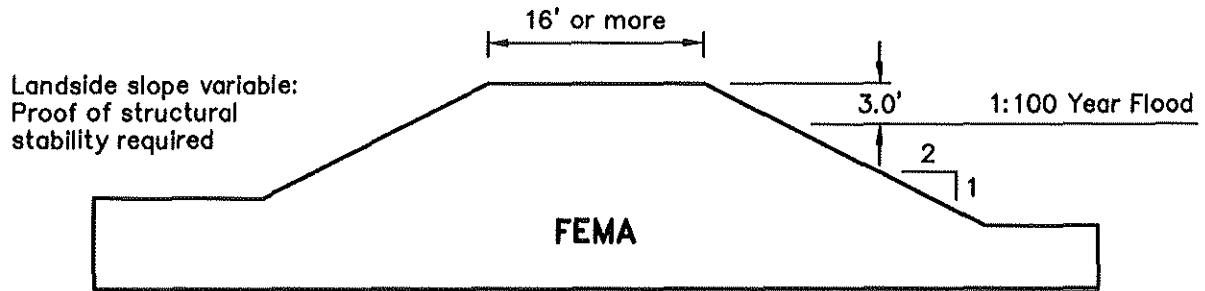


**APPENDIX 1: Delta Levee Standards**

**Agricultural**



# Urban





## APPENDIX 3: SAMPLE (BRADFORD ISLAND) NEWSLETTER WITH PROP 218 ASSESSMENT INSERT

# Bradford Rec. Dist. 2059

Volume 1, No. 4

~Transparency In Our Public Agency~

November 2015

### 2015/16 ASSESSMENT STICKER SHOCK

If you haven't already paid it, the first installment of your 2015/16 property tax bill is late after today, Dec 10th. You probably did a double take at the amount so let us say this again...this high assessment is only for this first year. *See included insert*

*"With four people you can create one very strong kind of energy, but if you can get 65 people working together, and swinging together, that's a whole other kind of energy."*  
Chuck Mangioni

### Barrier Breached October 1, 2015:



The Victory II re-power is scheduled for the end of December to accommodate the corn harvest and taking livestock to market. (*Read more pg. 3*)

Work began in September to remove the Emergency Drought Barrier placed across False River this past July under the Governor's Executive Order.

The rock barrier was breached October 1 and the District has been informed that the entire structure, including the abutments will be removed. The king piles (shown in photo to left) will be cut off and capped.

We knew that Bradford Island played a critical role as one of the Eight Western Delta Islands but in the last five years, this tiny island has become pivotal to an increasing number of California's strategic water initiatives.

This newsletter provides a recap of events over the last five years that are impacting our assessments today.

It also provides an overview of initiatives and recent actions impacting the island.

We will also be providing you with an update of accomplishments, most recently in the past two years, as well as goals projected for the next two years.

## Proposition 218 (Insert)

The District realizes that there may be some confusion regarding the Proposition 218 assessment election that was recently conducted and which passed by majority vote. The following information is provided to help clarify the issue.

**District Finances:** Contra Costa County is the de facto Treasurer of Bradford Reclamation District 2059 (the District). As such, the assessments levied by the District are collected by the County twice a year along with the parcel property tax and any other special fees. Beginning this year, you will see two District assessments on your tax bill—CB and TU. *See Example Figure 1*

**Assessments:** Code CB represents the \$313,605 assessment passed on May 4, 2010 that sunsets after this year. Starting in fiscal year 2016/17 (July 1, 2016 – June 30, 2017), assessment Code CB rolls back to the 2009/10 maximum assessment of \$158,000 and continues at that rate forever—it cannot be raised.

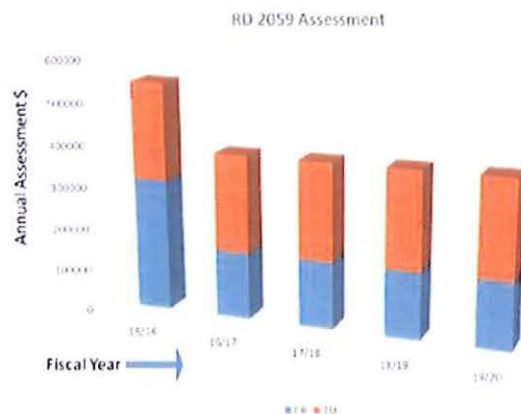
Code TU - O&M (Operations and Maintenance) represents the supplemental \$232,406.90 assessment approved on August 4, 2015 which begins fiscal year 2015/16 and sunsets in five years. *See Figure 2* If you would like to know what your 2009/2010 rate plus your new O&M (Operations and Maintenance) supplemental rate will be, please email a formal request to the District Manager at [angelia\\_bradford@sbcglobal.net](mailto:angelia_bradford@sbcglobal.net).

Figure 1

SPECIAL TAXES & ASSESSMENTS			
DESCRIPTION	CODE	INFORMATION	AMOUNT
RECL DIST 2059 ✓	CB	(925) 209-5480	\$4,537.50
MOSQUITO & VECTOR	DY	(925) 867-3400	\$54.10
EMERGENCY MED B	DY	(925) 646-4680	\$20.00
RECL DIST 2059 O&M ✓	TU	(925) 209-5480	\$3,081.52

The combined assessment will be at its highest rate (\$313,605 + \$232,406.90 = \$546,011.90) for **ONLY ONE (1) year**—the 2015/16 fiscal year. From that point forward, the District's annual assessment through 2019/20 will be \$390,406.90, just \$76,801.90 more than the 2010 Proposition 218 assessment. *See Fig. 2*

Figure 2



Your assessment dollars are used to fund the operation, maintenance and improvement of the District's flood control works to include its levees, ditches, and pump station. In addition, the assessments fund the District general operations to include administration, contract services and the ferry.

The economic downturn starting in 2008 had a substantial impact on the District. Numerous landowners experiencing difficulty paying their annual assessments, a pump station desperately in need of repair, increasing ferry repair bills, a ship running into the levee and a devastating fire on the island all contributed to financial problems for your District. The current assessment was not sufficient to cover District obligations.

The first Prop 218 to raise the landowner assessment cost the District ~\$35,000 and took two attempts to pass. The 1st attempt in February 2009 failed to pass. The 2nd attempt in May 2010 passed, but with a rollback in 5 years to 2009-2010 assessment rates—obligating the District to another Prop 218 in fiscal year 2014-2015 and costing the District another \$45,000+.

Between 2010 and 2015, a new pump station was built at a cost of \$365,000 and we finished the levee upgrade project. On the downside, old debts had gone too long, the District paid out \$49,000 in claims from the levee upgrade project, OES and the Bank of Stockton were calling its debts, and the State and County had serious reservations about the District's financial ability to continue.

## RD 2059 PROPOSITION 218 FINANCIAL FACTSHEET

**2009 Proposition 218 Failed Attempt:** Public hearing for voting on February 9, 2009 to increase assessment beginning in fiscal year 2009-2010 and continue indefinitely. The total maximum assessment would be \$295,000. Highlights include:

### Capital Improvement Assumptions:

- Year 1 Pump Station relocation/reconstruction of \$682,062.60 paid off by 2028-2029
- Year 1 Non-reimbursable Subventions Ditch cleaning and culvert repair of \$148,593.68

### Debt Service Assumptions:

- Year 2 begin annual P&I payment of \$95,300 on short term loan of \$830,656.28 assuming 15 yr @8%
- Outstanding OES (Office of Emergency Services) debt from 1983 flood (\$50,000) not included in debt reduction model
- Outstanding DFA (Delta Ferry Authority) debt not included in debt reduction model

### Budget Assumptions:

- Year 2 addition of UnReimbursable Levee Maintenance (annual Ditch Cleaning) \$7575.97 with 5% escalation
- Year 2 Expanded Ferry Service \$15,000
- Rent, utilities, telephone, postage, etc not included in District O & M

**2010 Proposition 218 (CB):** Public hearing for voting on May 4, 2010 to increase assessment beginning in fiscal year 2010-2011. The total maximum assessment would be \$313,605. Highlights include:

### Assessment Ballot Propositions:

- Proposed maximum annual assessment subject to an annual increase of 1.5% and shall expire after fiscal year 2015-2016.
- Beginning with fiscal year 2016-2017, the maximum annual assessment shall revert back to the 2009-2010 maximum annual assessment rates
- Replacement of the pump station by September 30, 2011 a condition or the maximum annual assessment shall revert back to the 2009-2010 maximum annual assessment rates
- The above propositions were conditional for a yes vote by Rosetta Resources, the current mineral rights holders

### Capital Improvement Assumptions:

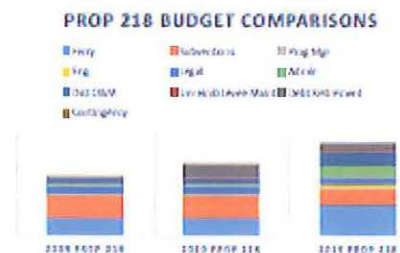
- Year 1 Pump Station relocation/reconstruction of \$682,062.60 paid off by 2028-2029
- Year 1 Non-reimbursable Subventions Ditch cleaning and culvert repair of \$148,593.68
- Year 1 Prop 218 proceeding of \$32,020

### Debt Service Assumptions:

- Year 2 begin annual P&I pmt of \$95,300 on short term loan of \$862,676.28 assuming 15 yr @8%
- Outstanding DFA (Delta Ferry Authority) debt (\$41,740) not included in debt reduction model:

The current board began paying down all debts in fiscal year 2013 – 2014 and in two years has reduced its debt load by 50%--preventing the State from taking over the District. Remember, your Board members are landowners just like you. They pay the same assessments and are not reimbursed for their time, travel, or attendance at any meetings. We believe the SUPPLEMENTAL (TU) assessment will go down because:

- Pending collection of \$81,805.82 in past due assessments, the pump station debt is reduced to \$112,067.18
- All additional debt paid from pending foreclosure sale (past due assessments on parcels)
- With the debt reduced early, the Board has the option to reduce the assessment (proviso that future Boards act responsibly)



In closing, it is important to remember the District may not exist in 5 years due to pending State strategic initiatives; funding for the island will probably be radically different in 5 years which made a 5 year sunset to the August Prop 218 not a mistake but a necessity.

- Outstanding OES (Office of Emergency Services) debt from 1983 flood (\$50,000) not included in debt reduction model
- Carr and Ferrell legal invoices not included in debt reduction model (~ \$130,000)

**Budget Assumptions:**

- Additional hours for District Administrator approved by Board not captured in budget
- Year 2 addition of UnReimbursable Levee Maintenance (annual Ditch Cleaning) \$7575.97 with 5% escalation
- Year 2 Expanded Ferry Service \$15,000

**2015 Proposition 218 (TU):** Public hearing for voting on Aug 4, 2015 to increase assessment beginning in fiscal year 2015-2016. The total maximum assessment would be \$232,406.92. Highlights include:

**Assessment Ballot Propositions:**

- Final maximum annual assessment reduced by \$97,105.26 from initial proposed maximum annual assessment of \$329,512.18 based on landowner input from two public workshops as well as two special Trustee Board meetings
- A 5-yr sunset provision added based on landowner input, a review of strategic initiatives impacting the District, the anticipated reduction in ferry expenses due to the DWR funded upgrades to the Victory II, and the District's improved financial status due to its 50% debt pay down over the last two years

**Revenue Assumptions:**

- \$0 revenue from ferry tickets since unknown quantity. Landowners (according to Contra Costa County Assessor's Office listed as owner of parcel) no longer pay usage fee (tickets)

**Debt Service Assumptions:**

- OES debt (paid \$32,200 since Mar 2012) to be paid off in fiscal year 2015-2016
- Carr and Ferrell \$76,500 settlement paid in \$10,000 annual installments (first installment paid 2014-2015 fiscal year)
- Bank of Stockton debt (paid \$326,127 since 2014) retire \$23,000 in warrants annually.
- Should any past due assessments be paid in full, such revenue shall be used to retire additional warrants.

**Budget Assumptions:**

- Increased Administrative costs to cover payroll and additional approved hours for District Manager
- Increased District Engineer costs to reflect actual costs of engineering for District strategic initiatives such as Emergency Drought Barrier permit issues or flood control issues
- Increased Unreimbursable Levee Maintenance to accurately reflect costs for annual ditch cleaning
- Increased DFA (Delta Ferry Authority) to accurately reflect increased monthly assessment to anticipated \$9,900 per month

August 9, 2016

~ DRAFT ~

Honorable John T. Laettner  
Contra Costa County Civil Grand Jury  
725 Court Street  
P.O. Box 431  
Martinez, CA 94553-0091

**Re: Responses to Contra Costa County Grand Jury Report No. 1605,  
"Caring for the Victims"**

Judge Laettner:

Pursuant to California Penal Code Section 933.05, this letter responds to Contra Costa County Grand Jury Report No. 1605, "Caring for the Victims: Commercial Sexual Exploitation of Children in Contra Costa County." This response was reviewed and authorized by the City Council at the August 9, 2016 City Council Meeting.

#### **GRAND JURY FINDINGS**

**Finding #6:** Many social workers in CFS, law enforcement, officers in Juvenile Hall and victim advocates in the DA's Office are not implementing the CSEC Protocol because they have not yet seen it.

**Response:** Oakley partially disagrees with Finding #6. The City cannot address the practices of other entities, including whether or not other parties "are not implementing the CSEC Protocol because they have not yet seen it."

**Finding #7:** CFS, the leader of the Oversight Committee, has not followed up with its interagency partners that have signed off on the Protocol, but have not submitted their own CSEC department plan/protocols to the Oversight Committee.

**Response:** Oakley partially disagrees with Finding #7. The City cannot address the practices of other entities, including the Contra Costa County Division of Children and Family Services (CFS).



**Finding #9:** Suspected CSEC victims are being arrested and booked into Juvenile Hall for their own safety pursuant to various statutes under the Welfare & Institutions Code, relating to infractions and crimes committed by youth, while the County assesses the appropriate health and social services to provide.

*Response:* Oakley partially disagrees with Finding #9. The City cannot address the practices of other entities, including whether all suspected CSEC victims are being arrested and booked into Juvenile Hall for their own safety. In Oakley, suspected CSEC victims are not automatically arrested and booked into Juvenile Hall. The Oakley Police Department takes an approach that is victim-centered and trauma-informed.

**Finding #11:** No single database covering all CSEC-related arrests, referrals and pending cases exist in the County.

*Response:* Oakley agrees with Finding #11. The City is now aware that no single database exists.

**Finding #12:** Due to the lack of a single database in the County covering all CSEC-related arrests, referrals and pending cases, the County does not know the number of victims of CSEC and where they are located.

*Response:* Oakley partially disagrees with Finding #12. While the City now knows that no single database in the County exists that covers all CSEC-related arrests, referrals and pending cases, the City cannot address whether or not the County knows the number of victims of CSEC or where they are located.

**Finding #13:** County personnel and law enforcement dealing with victims of CSEC are well-meaning, compassionate and dedicated people trying to make the best of a very difficult situation.

*Response:* Oakley partially disagrees with Finding #13. The City cannot address the practices of other entities, but does tend to agree that County personnel and law enforcement dealing with victims of CSEC are well-meaning, compassionate and dedicated people trying to make the very best of a very difficult situation.

**Finding #14:** Most County personnel and law enforcement dealing with victims of CSEC lack in-depth CSEC training, necessary facilities for temporarily accommodating the victims and a clear-cut plan of action, which lays out how to rescue, protect and serve the victims of CSEC in a manner that is caring and trauma-informed.

**Response:** Oakley partially disagrees with Finding #14. The City cannot address the practices of other entities, including how other agencies deal with victims of CSEC. The Oakley Police Department does work toward protecting and serving the victims in a manner that is caring and trauma-informed. Additional in-depth training, facilities for temporary accommodations and a clear-cut plan of action at a countywide level could help improve conditions for the victims of CSEC.

## GRAND JURY RECOMMENDATIONS

**Recommendation #2:** The Board of Supervisors, City Councils and Sheriff's Department should consider recommending that all CSEC interagency partners, as listed in the CSEC Protocol, in Contra Costa County adopt their own CSEC protocols and submit them to CFS for approval.

**Response:** This recommendation will not be implemented because it is not warranted. The City of Oakley believes that public safety agencies should not adopt their own CSEC protocols and submit them to the Contra Costa County Division of Children and Family Services (CFS) for approval. Rather, CFS should work with all countywide public safety agencies to adopt a uniform CSEC protocol that would be consistent across the County.

**Recommendation #9:** The Board of Supervisors, City Councils, and Sheriff's Department should consider recommending that all first responders (usually law enforcement) refer suspected victims of CSEC to specialized and dedicated CSEC personnel, to be established within CFS.

**Response:** This recommendation will not be implemented because it is not warranted. While the recommendation may be an appropriate solution, the CSEC protocol should be determined at the County, not city level. Once a process has been identified, either within or outside of the CSEC protocol, the City of Oakley will follow appropriate protocols for referring suspected victims of CSEC to other personnel.

**Recommendation #11:** City Councils and Sheriff's Department should direct law enforcement to avail themselves of CSEC training programs formulated by CFS.

**Response:** This recommendation has been implemented. The Oakley Police Department has and will continue to attend related training programs.

Again, we thank you for the opportunity to respond to the Grand Jury's recent Report No. 1605. If you have any questions or need any assistance, please contact me directly at (925) 625-7025 or at [montgomery@ci.oakley.ca.us](mailto:montgomery@ci.oakley.ca.us).

Sincerely,

Bryan H. Montgomery  
City Manager

cc: City Council

**A REPORT BY  
THE 2015-2016 CONTRA COSTA COUNTY GRAND JURY  
725 Court Street  
Martinez, California 94553**

**Report 1605**

# **Caring for the Victims**

**Commercial Sexual Exploitation of Children in Contra Costa County**

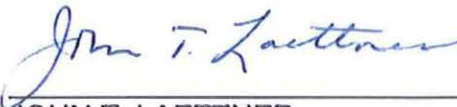
APPROVED BY THE GRAND JURY:

Date: May 10, 2016

  
\_\_\_\_\_  
MICHAEL SIMMONS  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: May 6, 2016

  
\_\_\_\_\_  
JOHN T. LAETTNER  
JUDGE OF THE SUPERIOR COURT

Contact: Michael Simmons  
Foreperson  
925-957-5638

Contra Costa County Grand Jury Report 1605

## **Caring for the Victims**

### **Commercial Sexual Exploitation of Children in Contra Costa County**

**TO: Contra Costa County Board of Supervisors  
Contra Costa County Sheriff  
The City Councils for the following cities: Antioch, Brentwood,  
Clayton, Concord, Danville, El Cerrito, Hercules, Lafayette,  
Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant  
Hill, Richmond, San Ramon, San Pablo, Walnut Creek**

#### **SUMMARY**

Human trafficking is a nationwide problem. In Contra Costa County, law enforcement and other agencies identified at least 108 victims of human trafficking from June 2014 through June 2015; of those cases, thirty-nine involved minors exploited for sex.

The County organized its official response to the problem of human trafficking by organizing a "Coalition of Zero Tolerance for Human Trafficking Summit" in January 2015. The Coalition set up a broad framework for understanding and dealing with human trafficking, which began with training two hundred employees of the Employment & Human Services Department (EHSD) and its interagency partners (County agencies and non-government organizations). EHSD assigned the more difficult problem of caring for commercial sexual exploitation of children (CSEC) to Children and Family Services (CFS), a bureau of EHSD.

CFS started work on a protocol to establish a comprehensive system of care for victims of CSEC, a system that did not previously exist in the County (the "CSEC Protocol"). By October 2015, the CSEC Protocol was complete and submitted to the California State Department of Social Services. However, by March 2016, more than a year after the Coalition Summit, the CSEC Protocol was yet to be fully communicated throughout the County, much less implemented. Many of the interagency partners who are to assist in implementing the Protocol (particularly the police departments of the cities, victim advocates in the District Attorney's (DA) Office and Juvenile Hall) were unaware of their

part in the Protocol and the role of the other agencies.

Until the Protocol is fully implemented, Contra Costa County still does not have a comprehensive system of care for victims of CSEC.

## **METHODOLOGY**

In its 7-month investigation, the Grand Jury:

- Reviewed the pertinent legal statutes on human trafficking and CSEC, both California and Federal,
- Researched State and County documents and reports on the issue,
- Joined meetings of the Coalition for Zero Tolerance for Human Trafficking and the CSEC Steering Committee,
- Visited Juvenile Hall, the Family Justice Center and Calli House for discussions,
- Interviewed representatives and social workers at the Employment & Human Services (EHS) Department, including the Children & Family Services (CFS) bureau,
- Interviewed Probation Department personnel,
- Interviewed police officers from several cities, who worked directly on sex crimes, drugs, domestic violence and human trafficking,
- Interviewed personnel from non-governmental organizations (NGOs) dealing with sexual violence and CSEC victims,
- Interviewed victim advocates from various agencies.

## BACKGROUND

Human trafficking exists in Contra Costa County as it does throughout the United States. It is today's version of slavery. Its victims are exploited due to their lack of resources and sophistication, and treated as commodities rather than as human beings.

Human trafficking exists in four forms:

- Labor trafficking,
- Adult sex trafficking,
- Commercial sexual exploitation of children (CSEC),
- Domestic servitude.

The citizens of Contra Costa County are living with this form of slavery hidden in their midst.

In 2012, California Attorney General Kamala Harris released her report - "The State of Human Trafficking in California" (the AG Report). In the AG Report, Ms. Harris states that human trafficking as a criminal business enterprise (\$32 billion globally) is second only to the drug trade in annual revenues. The AG Report's most important recommendation is that government agencies and the community should take a victim-centered approach in dealing with this crime.

Perhaps the most appalling category of human trafficking is the sexual exploitation of children. Children sexually exploited for commercial reasons cannot legally consent to sex and, therefore, are not willing prostitutes. Victims of CSEC are initiated into sexual slavery between 12 to 14 years old on average. The majority of these children are American citizens according to the County Coalition's Human Trafficking summit report. Typically, they are victims of physical abuse, sexual assault, and psychological and emotional manipulation by adults, i.e., the pimps and the johns. The trauma, stemming from months or years of sexual abuse and emotional manipulation is complex and extensive. For this reason, the County Coalition against Human Trafficking suggests County personnel (law enforcement and social workers) who interact with the CSEC children should be trauma-informed, i.e., properly trained and aware of the complex trauma that the children have undergone.

This Grand Jury report concentrates on the County's efforts to identify, rescue and care for these children and to restore to them a life that is safe, secure and productive.

## DISCUSSION

Prior to the AG Report and the first County summit meeting in January 2015, the County had no formal plan or protocol to address CSEC.

County agencies began to develop that protocol by focusing on the applicable law. Section 236.1 of the California Penal Code addresses human trafficking (including CSEC). With respect to CSEC victims, it provides:

- *“Any person who causes, induces, or persuades a person who is a minor to engage in a commercial sex act is guilty of human trafficking.”*
- *“Consent by a victim of human trafficking who is a minor at the time of commission of the offense is not a defense to a criminal prosecution under this section.”*

The following two provisions on CSEC are set forth in the Welfare and Institutions Code:

- Section 300. *“... a child who is sexually trafficked as described in 236.1 of the Penal Code or who receives food and shelter in exchange for, or who is paid to perform sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child... is within the jurisdiction of the juvenile court which may adjudge that person to be a **dependent child of the court** ....These children shall be known as commercially sexually exploited children.”* (Emphasis added.)
- Section 300.2 *“... the purpose of the provisions of this chapter relating to dependent children is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of [such] children.”*

In January 2015, three years after the AG Report, the Contra Costa County District Attorney called for a summit on human trafficking. Chaired by a senior manager from EHSD, a multi-disciplinary coalition was formed called the Coalition for Zero Tolerance for Human Trafficking.

In June 2015, the Coalition Chair issued a memo to the Board of Supervisors stating that a comprehensive system of care for victims of CSEC does not exist in Contra Costa County. The memo also said that the best practice for care of victims of CSEC might be the Family Justice Centers in Richmond and Concord. These are multiservice centers – “one-stop-shops” – for victims of domestic violence.

Under state law, EHSD is designated as the lead agency for setting up a system of care for the victims of human trafficking in Contra Costa County. In March 2015, the Coalition tasked CFS, a division of EHSD, with organizing a CSEC Steering Committee.



The Committee was to prepare an interagency protocol (the "CSEC Protocol") for the care of victims of CSEC in Contra Costa County.

In developing a protocol, the Committee acted in accordance with Welfare and Institutions (WIC) Code sections 16524.6– 16524.11, These WIC sections provide, in part:

- 16524.6 "...in order to adequately serve children who have been sexually exploited, it is necessary that counties develop and utilize a multidisciplinary approach to case management, service planning and provision of services."
- 16524.6 "... that counties develop and utilize interagency protocols to ensure services are provided as needed to this population."
- 16524.7. (a) (1) "There is hereby established the Commercially Sexually Exploited Children Program. This program shall be administered by the State Department of Social Services."
- 16524.7. (a) (2) "The department, in consultation with the County Welfare Directors of California, shall develop an allocation methodology to distribute funding for the program. Funds allocated shall be utilized to cover expenditures related to the costs of implementing the program, prevention and intervention services, and training related to children who are victims of commercial sexual exploitation."
- 16524.7. (a) (4) "Funds provided to the counties electing to participate in the program shall be used for prevention activities, intervention activities and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation."
- 16524.7. (a) (4) (D) [A key mandate to the funding allocation is] "hiring county staff trained and specialized to work with children who are victims of commercial sexual exploitation to support victims and their caregivers, and to provide case management interagency and cross-departmental response." (Emphasis added.)

In October 2015, the CSEC Steering Committee was renamed CSEC Protocol Oversight Committee. The Committee submitted the "Interagency Protocol for Serving Commercially Sexually Exploited Children in Contra Costa County" (the "CSEC Protocol") to the State Department of Social Services. This move allowed the County to participate in California's CSEC Program, thereby qualifying for funds to support victims of CSEC.

The State Department of Social Services initially released \$25,000 to the County for CSEC planning. In early 2016, the State then released \$277,628 as a Tier II grant for training and actual services for victims of CSEC. The State also earmarked \$82,107 as "Augmentation for Federal CSEC activities."

The CSEC Protocol sets up the framework for collaboration and coordination among County agencies, cities and NGOs providing rescue, protection and care for victims of CSEC.

The Protocol states, in part:

- *"This Protocol has been created and adopted by the CSEC Protocol Oversight Committee."*
- *"Contra Costa County Children & Family Services (CFS) will be responsible for providing leadership and staff support for the CSEC Protocol Oversight Committee."*
- *"[The Committee, led by CFS,] will implement and oversee the Interagency Protocol."*
- *"Additionally, the [interagency] partners will create protocols (within their own agencies or NGOs) to aid in the identification, assessment and delivery of services to CSEC youth in the community."*
- *Mental Health, under County Health Department should "perform assessment of a CSEC victim's mental health and recommend services."*

The Protocol also contains a flow chart that shows the coordinated response for a victim of CSEC from the community, law enforcement and CFS. At all of the major decision points, referrals to CFS and hotline calls to CFS are the key initial action points. In essence, CFS is the proposed hub and navigator for care of victims of CSEC.

To date, over 200 CFS personnel have received basic training, a starting point for training staff to care for victims of CSEC. Additional training is necessary for the specialization of certain personnel to act as the "navigators" for the victims of CSEC within Child Welfare. This carries out the mandate of Section 16524.7 of the Welfare & Institutions Code, which requires *"hiring county staff trained and specialized to work with children who are victims of commercial sexual exploitation."* (Emphasis added.)

Because Contra Costa County lacks foster parents with specialized training to handle victims of CSEC, social workers often must place these children in foster homes outside of the County. Although a concern and a cause of additional expense to the County, the benefit may be that it puts more distance between the victim of CSEC and his or her exploiters.

Training for law enforcement personnel (police officers and deputy sheriffs) in interviewing victims of CSEC needs to be more victim-centered and trauma-informed. Many officers do not have even basic CSEC training, only a short briefing on the

subject. This lack of training may contribute to the unwillingness of a majority of suspected victims of CSEC to name their pimp exploiters or to accept needed social services and mental health appraisal/therapy. These youths are usually distrustful of police. Estimates of cooperation by victims of CSEC are uniformly low. Such estimates run from a high of 2 out of 10, to 2 out of 100, with one estimate of "zero cooperation." The non-cooperation behavior may also be due to the coercion and manipulation practiced by the children's exploiters.

Perhaps indicative of the lack of CSEC training for law enforcement first responders, the DA's Office has prosecuted fewer cases of CSEC pimps in 2015 than it has in previous years.

The current typical referral practice among law enforcement personnel (city police, the DA's Office and Juvenile Hall) who encounter CSEC youth is to call in Community Violence Solutions (CVS), a non-government organization (NGO) specializing in domestic violence, sexual assault and trafficking victims. Although well regarded in its area of expertise, CVS has limited resources. Whether future referrals to CVS will continue remains unknown, since the new Protocol proposes that the hub of care for victims of CSEC should be CFS, not CVS.

Law enforcement also calls in the victim advocates from the DA's Office. These advocates navigate victim assistance for the law enforcement community. Victim advocates respond first by keeping the victims of CSEC safe, usually within Juvenile Hall, and providing them with therapy, using non-Health Department therapists, who are paid for by victim compensation funds.

As a pragmatic measure, law enforcement sometimes books suspected victims of CSEC into Juvenile Hall under various statutes in the Welfare and Institutions Code dealing with crimes committed by youth. Such bookings allow authorities to keep victims of CSEC under protective custody, away from their exploiters. It also provides Probation and CVS time to assess the situation and to give these youth access to therapy and social services. However, Juvenile Hall rarely consults CFS social workers in these situations. Due to this lack of consultation with CFS, a non-criminal hold order for the child is seldom requested. Placing the child in Juvenile Hall on a criminal charge runs the risk of exposing the child to criminal behavior. Once in Juvenile Hall, most victims of CSEC are uncooperative and ultimately released back to their next of kin where they will likely walk back to their exploiters. Return of these children to an unsafe situation conflicts with the mandate of Section 300 of the Welfare & Institutions Code, which is *"to provide maximum safety and protection to children who are currently being physically, sexually, or emotionally abused."*

Calli House, part of the Contra Costa Health Department's Homeless Youth Services, is another facility, separate from Juvenile Hall and CVS, which is available for CSEC support services. Calli House provides temporary health, therapy and housing assistance to runaway minors in the County. Occasionally, upon request by CVS or CFS, it takes in suspected victims of CSEC who are not booked into Juvenile Hall. CFS

does not have an equivalent county-funded temporary housing facility for victims of CSEC.

The County lacks a centralized database covering all CSEC arrests, referrals and pending cases. Such data would be extremely valuable both in assisting law enforcement in tracking down the exploiters, as well as providing a broader and more complete picture of the victims of CSEC and treatment options with the highest chances of success. Some city police departments share CSEC data with the FBI and the DA's Office. Juvenile Hall shares resident data with CVS when called in to assist on suspected victims of CSEC. The DA's Office shares CSEC data with CVS, when utilizing the Children Interview Center for forensic interviews with suspected victims. CFS has its own CSEC data for its child welfare cases. However, such departmentalized data tracking is no substitute for a comprehensive and centralized database open to all agencies within the County.

## FINDINGS

- F1 A comprehensive system of care for victims of CSEC still has not been fully implemented in Contra Costa County.
- F2 The County is now 15 months into developing and implementing this comprehensive system of care for victims of CSEC that it began developing in January 2015.
- F3 A CSEC Protocol, which provides a comprehensive system of care for victims of CSEC, was prepared under the leadership of CFS.
- F4 The CSEC Protocol provides the framework for cooperation and coordination among the County, its cities and NGOs.
- F5 The State Department of Social Services has released Contra Costa County's allocations of CSEC monies under the Commercially Sexually Exploited Children Program administered by the State Department of Social Services.
- F6 Many social workers in CFS, law enforcement, officers in Juvenile Hall and victim advocates in the DA's Office are not implementing the CSEC Protocol because they have not seen it.
- F7. CFS, the leader of the Oversight Committee, has not followed up with its interagency partners that have signed off on the Protocol, but have not submitted their own CSEC department plan/protocols to the Oversight Committee.
- F8 CFS lacks personnel who can act as the hub of all CSEC referrals from law enforcement by assessing the health, psychiatric and physical needs of victims of CSEC and who can navigate these services for them.
- F9. Suspected CSEC victims are being arrested and booked into Juvenile Hall for their own safety pursuant to various statutes under the Welfare & Institutions Code, relating to infractions and crimes committed by youth, while the County assesses the appropriate health and social services to provide.
- F10. The County has not provided funding to CFS for temporary housing facility for victims of CSEC.
- F11. No single database covering all CSEC-related arrests, referrals and pending cases exists in the County.
- F12. Due to the lack of a single database in the County covering all CSEC-related arrests, referrals and pending cases, the County does not know the number of victims of CSEC and where they are located.

- F13. County personnel and law enforcement dealing with victims of CSEC are well-meaning, compassionate and dedicated people trying to make the best of a very difficult situation.
- F14. Most County personnel and law enforcement dealing with victims of CSEC lack in-depth CSEC training, necessary facilities for temporarily accommodating the victims and a clear-cut plan of action, which lays out how to rescue, protect and serve the victims of CSEC in a manner that is caring and trauma-informed.

## **RECOMMENDATIONS**

- R1 The Board of Supervisors should review the Interagency Protocol for Serving Commercially Sexually Exploited Children in Contra Costa County finalized in October 2015.
- R2 The Board of Supervisors, City Councils and Sheriff's Department should consider recommending that all CSEC interagency partners, as listed in the CSEC Protocol, in Contra Costa County adopt their own CSEC protocols and submit them to CFS for approval.
- R3 The Board of Supervisors should consider directing CFS, as the lead implementing bureau, to follow up on the required plans and protocols from the interagency partners, as listed in the CSEC Protocol, implementing the CSEC Protocol.
- R4 The Board of Supervisors should consider directing CFS to expand its CSEC Response Flow Chart to include all critical steps to be taken for the welfare of the child victim, including mental health evaluation by the Health Department and child Welfare hold requests by the social workers.
- R5 The Board of Supervisors should consider directing CFS to train or hire specialized CSEC personnel who will serve as points of primary referral and assist in navigating the services provided to victims of CSEC utilizing funds provided by the State Department of Social Services.
- R6 The Board of Supervisors should consider directing CFS to follow the model of the Family Justice Centers in assisting victims of CSEC navigate the multitude of available services.
- R7 The Board of Supervisors should consider seeking funds to acquire or lease a physical facility to temporarily house victims of CSEC, which would allow suspected victims of CSEC to be placed in a legal, non-criminal temporary hold, rather than having law enforcement book the child into Juvenile Hall with a criminal charge.
- R8 If the County secures funding to construct or lease a CFS physical facility, the Board of Supervisors should consider housing specialized CSEC navigators at the facility, similar to the model used by the Calli House.

R9 The Board of Supervisors, City Councils, and Sheriff's Department should consider recommending that all first responders (usually law enforcement) refer suspected victims of CSEC to specialized and dedicated CSEC personnel, to be established within CFS.

R10 The Board of Supervisors should direct CFS to formulate CSEC training programs, containing different emphases for different County departments, interacting with victims of CSEC.

R11 City Councils and Sheriff's Department should direct law enforcement to avail themselves of CSEC training programs formulated by CFS.

### REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Contra Costa County Board of Supervisors	F1-14	R1-10
Contra Costa County Sheriff's Department	F6, F7, F9, F11-F14	R2, R9, R11
City of Antioch	F6, F7, F9, F11-F14	R2, R9, R11
City of Brentwood	F6, F7, F9, F11-F14	R2, R9, R11
City of Clayton	F6, F7, F9, F11-F14	R2, R9, R11
City of Concord	F6, F7, F9, F11-F14	R2, R9, R11
City of Danville	F6, F7, F9, F11-F14	R2, R9, R11
City of El Cerrito	F6, F7, F9, F11-F14	R2, R9, R11
City of Hercules	F6, F7, F9, F11-F14	R2, R9, R11
City of Lafayette	F6, F7, F9, F11-F14	R2, R9, R11
City of Martinez	F6, F7, F9, F11-F14	R2, R9, R11
City of Moraga	F6, F7, F9, F11-F14	R2, R9, R11
City of Oakley	F6, F7, F9, F11-F14	R2, R9, R11
City of Orinda	F6, F7, F9, F11-F14	R2, R9, R11
City of Pinole	F6, F7, F9, F11-F14	R2, R9, R11
City of Pleasant Hill	F6, F7, F9, F11-F14	R2, R9, R11

City of Pittsburg	F6, F7, F9, F11-F14	R2, R9, R11
City of Richmond	F6, F7, F9, F11-F14	R2, R9, R11
City of San Pablo	F6, F7, F9, F11-F14	R2, R9, R11
City of San Ramon	F6, F7, F9, F11-F14	R2, R9, R11
City of Walnut Creek	F6, F7, F9, F11-F14	R2, R9, R11

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to [epant@contracosta.courts.ca.gov](mailto:epant@contracosta.courts.ca.gov) and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson

725 Court Street

P.O. Box 431

Martinez, CA 94553-0091



# OAKLEY



CALIFORNIA

## STAFF REPORT

**Date:** August 9, 2015

**To:** City Council

**From:** Bryan Montgomery, City Manager

A handwritten signature in blue ink, appearing to read 'B. Montgomery'.

**SUBJECT:** Resolution of Acceptance relating to the Donation to the City of approximately 16.62 acres of Property located north of the BNSF Rail Line Right-of-Way and east of Rose Ave. (APNs 037-191-019 & 037-191-025).

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### Summary

This property does not have a formal address but is located north of the BNSF rail line right-of-way and west of Rose Avenue (see attached aerial photo). The property is zoned Light Industrial, though serves to some degree as a historical drainage basin.

While the primary use of the property would likely continue to be as a drainage basin, portions may be used for other public purposes, such as right-of-way, park, etc.

### Fiscal Impact

There will be some cost to maintain the property over time – estimated at less than \$1,000 per year in its current state.

### Recommendation

Approve the Resolution to receive, by donation, approximately 16.62 acres of property as described herein.

### Attachments

1. Aerial photograph of the property.
2. Resolution

# Exhibit A, "the Property"

APNs: 037-191-019 and 025



RESOLUTION NO. \_\_-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ACCEPTING THE DONATION OF APPROXIMATELY 16.62 ACRES OF REAL PROPERTY LOCATED NORTH OF THE BURLINGTON NORTHERN SANTA FE RAIL LINE RIGHT-OF-WAY AND EAST OF ROSE AVENUE (ASSESSOR PARCEL NUMBERS 037-191-019 & 037-191-025), AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS THAT MAY BE REQUIRED AND CONSENTING TO THE RECORDATION OF THE GRANT DEED IN THE OFFICIAL RECORDS, COUNTY OF CONTRA COSTA.**

**WHEREAS**, the owners of approximately 16.62 acres of real property identified by the Contra Costa County Assessor as Parcel Numbers 037-191-019 & 037-191-025 (herein identified as "the Property") and also described in the aerial photo found in Exhibit A and attached hereto; and

**WHEREAS**, the owners of the Property desire to donate it to the City at no cost and at no obligation; and

**WHEREAS**, the City Council adopts this Resolution to accept the donation of the Property as provided herein; and

**WHEREAS**, this Resolution also provides authorization by the City Council of the for the City Manager to execute any documents necessary, or as may become necessary, to accomplish the acceptance of the Property by the City, subject to approval as to form of such documents by the City Attorney.

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

1. The City Manager is hereby authorized to execute all required agreements to accomplish the formal acceptance of the Property by the City.
2. The City Council of the City of Oakley hereby accepts the Property described in the grant deed and consents to the recordation by the City Clerk of the grant deed in the Official Records, County of Contra Costa.
3. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Oakley, California, this 9<sup>th</sup> day of August 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

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

ATTEST:

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

\_\_\_\_\_  
Date



## STAFF REPORT

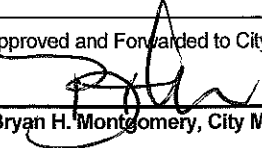
**Date:** Tuesday, August 9, 2016

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

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

**Subject:** Adoption of a Resolution Approving a Deferred Improvement Agreement for New Lifeline Ministries 4246 Empire Avenue (Southeast Corner of Empire Avenue and Meeks Lane)

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

### Background and Analysis

On February 12<sup>th</sup>, 2013 the City Council adopted Resolution 14-13 approving a Conditional Use Permit and Development Plan for the expansion of the assembly and private school uses at the existing church and school located at 4246 Empire Avenue. Condition of Approval Number 44 requires the applicant to construct the improvements along the Meeks Lane frontage prior to issuance of a building permit but also allows the applicant and the City to execute a Deferred Improvement Agreement (DIA) to secure the construction of the improvements in the future. The cost of the improvements has not yet been calculated and will be worked out prior to executing the DIA.

After discussions between City Staff and the applicant, a paragraph was added to the standard DIA to clarify the soonest the City can call up the agreement. The third paragraph in Section 2 states: "The City shall not call up the deferred improvement agreement for Developer's property at 4246 Empire Avenue until such time as the first development requiring dedication of right of way and construction of frontage improvements on Meeks Lane adjacent to and east of Developer's property occurs."

### Fiscal Impact

There is no fiscal impact associated with this action.

### Staff Recommendation

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

### Attachments

- 1) City Council Resolution 14-13

- 2) Draft Deferred Improvement Agreement (DIA)
- 3) Resolution for DIA

**RESOLUTION NO. 14-13****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
APPROVING A CONDITIONAL USE PERMIT AND DEVELOPMENT PLAN  
(CUP 03-12) TO EXPAND THE ASSEMBLY AND PRIVATE SCHOOL USES  
AT AN EXISTING CHURCH AND SCHOOL SITE LOCATED AT 4246 EMPIRE  
AVENUE.****FINDINGS**

**WHEREAS**, on September 13, 2012, Mr. Bill LaSpada of New Lifeline Ministries ("Applicant") filed application CUP 03-12 requesting approval of a conditional use permit and development plan to expand the assembly and private school uses at an existing church and school site located at 4246 Empire Avenue. Expansion includes installing 9 modular buildings (12' by 40' each) totaling approximately 4,300 s.f. and using them for assembly, classrooms, and restrooms, and associated improvements to the property and adjacent right of way. The buildings are proposed to be connected to form a 108' by 40' footprint. The site is zoned R-6 (Single Family Residential) District. APN 035-631-034. ("Project"); and

**WHEREAS**, on October 16, 2012, the project application was deemed complete per Government Code section 65920 et. seq; and

**WHEREAS**, the project is designated as *Single Family Residential High Density (SH)* in the Oakley 2020 General Plan, and zoned "R-6" (Single Family Residential) District; and

**WHEREAS**, the project is exempt from further environmental analysis under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332, "Class 32 – In-Fill Development Projects"; and

**WHEREAS**, on February 1, 2013, the Notice of Public Hearing for the project was posted at Oakley City Hall, Freedom High School, and at 204 2<sup>nd</sup> Street (City Annex), and mailed out to all owners of property within a 300-foot radius of the subject property's boundaries and to applicable agencies and parties requesting such notice; and

**WHEREAS**, on February 12, 2013 the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public and applicant, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as conditioned; and

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

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

**WHEREAS**, these Findings are based upon the City's General Plan, the City's Zoning Ordinance, and the information submitted to the City Council at its February 12, 2013 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the project (hereinafter the "Record"); and

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

A. In regards to the application requesting approval of a conditional use permit and development plan to expand the assembly and private school uses at an existing church and school site located at 4246 Empire Avenue:

1. The site for the proposed use is adequate in size and shape to accommodate the use in a manner complementary with the land and uses in the neighborhood in that it can accommodate the on site improvements and allows for such uses with approval of a conditional use permit; and
2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use in that the site will be accessed off of Empire Avenue, which is able to handle the traffic generated by the use; and
3. The proposed use will be operated and maintained so as to be compatible with the intended character of the area and will not change the essential character of the area that is intended by the General Plan and the applicable zoning ordinances in that the use is remaining the same; and
4. The proposed use provides for continued growth and orderly development of the community and is consistent with the various elements and objectives of the General Plan in that it will add additional landscaping on a partially undeveloped lot in an area of high visibility, potentially result in repainted/repared buildings, result in removal of old signage and installation of new signage, and provide additional religious and educational services for residents of Oakley and surrounding areas.

B. The project complies with Measure J Growth Management requirements.

**BE IT FURTHER RESOLVED THAT**, on the basis of the above Findings and the Record, the City Council approves of the Applicant's request for a Conditional Use Permit and Development Plan, subject to the following Conditions of Approval:



Applicant shall comply with the requirements of the Oakley Municipal Code ("OMC"). Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan received by the Community Development Department on September 13, 2012.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED:

**(Bold indicates modification made by City Council at public hearing)**

*Planning Division Conditions*

**General:**

1. This Conditional Use Permit and Development Plan (CUP 03-12) is approved, as shown on the plans date stamped by the Community Development Department Planning Division on September 13, 2012, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.
2. This approval shall be effectuated within a period of two (2) years from the effective date of this resolution by pulling a building permit and if not effectuated shall expire on February 12, 2015. Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Zoning Code.
3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on February 12, 2013.
4. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.
5. Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on City, State and Federal Holidays. The restrictions on allowed working days and times may be modified on prior written approval by the Community Development Director.
6. Should archaeological materials be uncovered during grading, trenching or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.

7. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

**Parking/Capacity:**

8. The assembly seating area shall be limited to no more than 2,760 square feet or 207 seats, whichever is greater, for any given function.

**Site Plan:**

9. All development shall comply with the R-6 District applicable standards found in OMC section 9.1.404.
10. All parking stall striping shall be double striped. Parking stalls shall be 9 feet wide by 19 feet deep and all drive aisles shall be a minimum 24 feet in width as reviewed and approved by the Community Development Director.
11. A lighting and photometric plan for all onsite lighting shall be submitted prior to the issuance of building permits. The minimum requirement shall be one foot of candle light within public parking areas and pedestrian pathways.
12. Any proposed light poles shall provide glare shields where adjacent to existing residences per the review and approval of the Community Development Director.
13. The trash enclosure shown on the site plan as "future trash enclosure" shall match Oakley Disposal and City standards and shall provide adequate space to accommodate both trash and recycling. Also, trash enclosures shall be constructed with a roof to match the building design and materials, have metal gates, and when appropriate, be surrounded by landscaping with climbing vines on three sides per the review and approval of the Community Development Director.
14. Any storage associated with the approved uses shall be contained inside one of the buildings. Storage containers, pallets, boxes, cardboard, etc. shall not be stored outside.
15. The proposed basketball court may be replaced with other recreational or passive uses, subject to the review and approval of Planning Division, Building Division, and Engineering Department.

**Architecture:**

16. Any structural or cosmetic damage to any of the modular buildings, including but not limited to the gutters, trim, panels, doors, or AC units shall be repaired to like-new appearance.

17. Any roof mounted equipment shall be architecturally screened from view using materials, design and colors that compliment the main building.
18. The modular buildings shall be painted to match the other three buildings on site in base color and trim color(s). If the applicant chooses to repaint all of the buildings, the color scheme shall be subject to the review and approval of the Planning Division.
19. The AC Screen Trellis shall completely cover the AC units from the front and any side angle visible from public view. A combination of trellis and landscaping may be used to satisfy this condition.
20. Any light fixtures on the outside of the modular buildings shall be decorative and matching fixtures, per the review and approval of the Community Development Director.

**Landscaping Requirements:**

21. A landscaping and irrigation plan for all areas shown on the site plan shall be submitted for review and approval of the Community Development Director prior to the issuance of building permits. The landscaping plan shall include the project's frontage and side yards. Landscaping shall conform to the City's Water Conservation Landscape Ordinance 82-26 and shall be installed prior to final occupancy. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with the City's Water Conservation Ordinance.
22. California native drought tolerant plant or shall be used as much as possible. All trees shall be a mix of fifteen-gallon, 24-inch box and 36-inch box, all shrubs shall be a minimum five-gallon size, except as otherwise noted.
23. Parking lot trees shall provide 50 percent shading of the parking areas at tree maturity.
24. Prior to occupancy, an on-site inspection shall be made of privately owned lands by a licensed landscape architect to determine compliance with the approved landscape plan. A signed certification of completion shall be submitted to the Community Development Director for review and approval.
25. If occupancy is requested prior to the installation of the landscape and irrigation improvements, then either a cash deposit or a letter of credit shall be delivered to the City for 125 percent of the estimated cost of the uncompleted portion of the landscape and irrigation improvements. If compliance is not achieved after six months of occupancy as determined by the Community Development Director, the City shall contract for the completion of the landscaping and irrigation.

improvements to be paid for by the held sum. The City shall return the unused portion within one year of receipt or at the completion of all work.

26. Landscaping shall be maintained as shown on the landscape plan in perpetuity.
27. All existing areas of the site that are currently not landscaped shall be improved with landscaping in a manner consistent with the proposed landscaping for the current development.
28. Installation and/or location of the proposed Raywood Ash tree shown within the Empire Avenue right of way on the preliminary landscape plan date stamped September 13, 2012 is subject to the review and approval of the City Engineer.
29. Landscaping and grade around the modular buildings shall be designed to screen the transition of the buildings to ground. Shrubs, mounds, and other landscaping may be used to satisfy this condition, subject to the review and approval of the Planning Division, Building Division and Engineering Department.

**Signage:**

30. All existing signage shall be removed prior to installation of any new signage.
31. The proposed signage shall meet the requirements of the City's Zoning Ordinance. All proposed signage shall be reviewed by the Planning and Building Divisions.
32. The proposed monument sign shown on the preliminary landscape plans date stamped September 13, 2012, shall be limited to a maximum of 36 square feet of sign area per side (OMC section 9.5.122). Sign area is calculated pursuant to OMC section 9.5.120.
33. The final location of the freestanding monument sign shall be subject to the review and approval of the Planning Division and Engineering Department.
34. The base of the freestanding monument sign shall be landscaped with seasonal color or a combination of seasonal color and shrubs or groundcover, consistent with OMC section 9.5.122.
35. The address of the property shall be included on both faces of the freestanding monument sign.
36. All signs shall be on permanent structure and of design and material to compliment the proposed commercial building. No signs on the premises shall be animated, rotating or flashing. No flags, pennants, banners, pinwheels or similar items shall be permitted on the premises, with the exception of a United States flag and California state flag.

37. Temporary signage for such things as special events and grand openings, shall require a Temporary Use Permit per the review and approval of the Community Development Director.

#### ***Building Division Conditions***

38. Plans shall meet the currently adopted Uniform Codes as well as the newest T-24 Energy Requirements per the State of California Energy Commission. To confirm the most recent adopted codes please contact the Building Division at (925) 625 – 7005.
39. An Automatic Life Safety Sprinkler System shall be required in all new construction pursuant to Ordinance 22-06. The Automatic Life Safety Sprinkler Systems in commercial and industrial buildings shall be designed and installed to the standards and requirements found in the most recent version of the NFPA (National Fire Protection Association). Automatic Life Safety Sprinkler Systems in hotels and apartments shall be installed to the standards and requirements found in the most recent version of the NFPA, Standard 13R.
40. Prior to requesting a Certificate of Occupancy from the Building Division all Conditions of Approval required to occupancy must be completed.

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

##### **General:**

41. Submit improvement plans prepared by a registered civil engineer to the City Engineer for review and approval and pay the appropriate processing costs in accordance with the OMC and these conditions of approval.
42. Submit grading plans including erosion control measures and revegetation plans prepared by a registered civil engineer to the City Engineer for review and pay appropriate processing costs in accordance with the OMC and these conditions of approval.
43. Submit landscaping plans for publicly maintained landscaping, including planting and irrigation details, as prepared by a licensed landscape architect to the City Engineer for review and pay appropriate processing costs in accordance with the OMC and these conditions of approval.

##### **Roadway Improvements:**

44. Construct the frontage of Meeks Lane to City public road standards for a 36-foot wide roadway within a 56-foot right-of-way, including curb, five-foot monolithic sidewalk (width measured from curb face), necessary longitudinal and transverse drainage, pavement widening to a minimum of 28 feet, and conforms to existing

improvements. The face of curb shall be located 18 feet from the centerline and any conforms to existing improvements must take place outside of the limits of the project. **This obligation may be deferred by the applicant by entering into a deferred improvement agreement with the City. If a deferred improvement agreement is executed, the applicant shall submit landscaping plans that show landscaping and slope retention, as necessary, of the undeveloped portion of property along Meeks Lane.**

45. Provide an in-lieu cash payment to the City for the Empire Avenue frontage improvements that the City constructed on the property owner's behalf. The amount of the cash payment shall be the actual cost incurred by the City for the curb, gutter, pavement widening, design and construction administration and oversight. The amount of the cash payment has been calculated to be: \$36,164.95. **This obligation may be met by the applicant by entering into a reimbursement agreement with the City, subject to City Manager approval. The term of the reimbursement agreement shall be for no longer than 15 consecutive years.**

**Road Alignment/Sight Distance:**

46. Submit a preliminary plan and profile to the City Engineer for review showing all required improvements to Meeks Lane. The sketch plan shall be to scale, show horizontal and vertical alignments, transitions, curb lines, lane striping and cross sections and shall provide sight distance for a design speed of 25 miles per hour. The plan shall extend a minimum of 150 feet  $\pm$  beyond the limits of the proposed work.
47. Locate the project signs so as to not obstruct sight distance at the intersection of Empire Avenue and Meeks Lane and the project driveways. The design speed for Empire Avenue shall be 40 mph.

**Road Dedications:**

48. Convey to the City, by offer of dedication, the right of way for Meeks Lane for the planned future half width of 28-feet along the project frontage.
49. Relinquish abutter's rights of access along Empire Avenue and Meeks Lane except for the single existing driveway location.

**Access to Adjoining Property:**

50. Furnish necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.

51. Applicant shall only be allowed access to the project site at the single existing location along Empire Avenue.

**Landscaping in the Public Right of Way:**

52. Enter into an agreement with the City that requires the right of way landscaping adjacent to the site to be maintained as part of the on-site landscaping at the property owner's expense to a standard acceptable and agreed upon by the City.

**Street Lights:**

53. Install streetlights along the project Meeks Lane frontage. The City Engineer shall determine the final number and location of the lights, and the lights shall be on an LS2-A rate service. The lights shall be General Electric spun aluminum "cobra head" style.

**Grading:**

54. Submit a geotechnical report to the City Engineer for review that substantiates the design features incorporated into the frontage improvements including, but not limited to grading activities, compaction requirements, utility construction, slopes, retaining walls, and roadway sections.
55. At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet of the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to indicate and implement corrective action in their area of responsibility. The names of the individual responsible for noise and litter control shall be expressly identified in the notice. The notice shall be reissued with each phase of major grading activity. A copy of the notice shall be concurrently transmitted to the City Engineer. The notice shall be accompanied by a list of the names and addresses of the property owners noticed, and a map identifying the area noticed.
56. Dust control measures shall be provided for all stockpiling per the review and approval of the City Engineer.
57. Submit a dust and litter control plan to the City Engineer prior to beginning any construction activities.
58. Grade any slopes with a vertical height of four feet or more at a slope of 3 to 1. Retaining walls that may be installed to reduce the slope must be masonry and comply with the City's building code.

59. Submit a haul route plan to the City Engineer for review and approval prior to importing or exporting any material from the site. The plan shall include the location of the borrow or fill area, the proposed haul routes, the estimated number and frequency of trips, and the proposed schedule of hauling. Based on this plan the City Engineer shall determine whether pavement condition surveys must be conducted along the proposed haul routes to determine what impacts the trucking activities may have. The project proponents shall be responsible to repair to their pre-construction condition any roads along the utilized routes.
60. Prior to commencement of any site work that will result in a land disturbance of one acre or more, the applicant shall provide evidence to the City Engineer that the requirements for obtaining a State General Construction Permit have been met. Such evidence may be a copy of the Notice of Intent letter sent by the State Water Resources Control Board. The WDID Number shall be shown on the grading plan prior to approval by the City Engineer.
61. Submit an updated erosion control plan reflecting current site conditions to the City Engineer for review and approval no later than September 1st of every year while the Notice of Intent is active.
62. The burying of any construction debris is prohibited on construction sites.

**Utilities/Undergrounding:**

63. Underground all new and existing utility distribution facilities, including those along the frontage of Meeks Lane. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures as a part of the Improvement Plan submittals for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer.
64. All utility boxes shall be installed underground and all wires and cables must be installed in conduits. Compliance with this condition shall be at the discretion of the City Engineer.
65. Above ground utility boxes shall be camouflaged per the review and approval of the City Engineer.

**Drainage Improvements:**

66. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

**National Pollutant Discharge Elimination System (NPDES):**



67. Comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, the Regional Water Quality Control Board (Central Valley - Region IV), including the Stormwater C.3 requirements as detailed in the Guidebook available at [www.cccleanwater.org](http://www.cccleanwater.org).

Compliance shall include developing long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMP's in accordance with the Contra Costa Clean Water Program for the site's storm water drainage:

- Utilize pavers or other pervious materials for driveways, walkways, and parking areas wherever feasible.
- Minimize the amount of directly connected impervious surface area.
- Delineate all storm drains with "No Dumping, Drains to the Delta" permanent metal markers per City standards.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Install filters in on-site storm drain inlets.
- Sweeping the paved portion of the site at least once a month utilizing a vacuum type sweeper.
- Use of landscape areas, vegetated swales, pervious pavement, and other infiltration mechanisms to filter stormwater prior to entering the storm drain system.
- Provide a sufficient amount of on-site trash receptacles.
- Distribute public information items regarding the Clean Water Program to customers.
- Other alternatives as approved by the City Engineer.

**Fees/Assessments:**

68. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 00-85 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.

- A. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);
- B. Regional Transportation Development Impact Mitigation Fee or any future alternative regional fee adopted by the City (authorized by Ordinance No. 14-00, adopted by Resolution No. 73-05);

- C. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);
- D. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);
- E. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03);
- F. Fire Facilities Impact Fee, collected by the City (adopted by Ordinance No. 09-01);
- G. General Plan Fee (adopted by Resolution No. 53-03)
- H. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. 112-07 & 124-07)

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments.

- 69. The applicant shall be responsible for paying the County Recorder's fee for the Notice of Determination as well as the State Department of Fish and Game's filing fee.
- 70. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide landscaping and park maintenance, subject to an assessment for maintenance based on the assessment methodology described in the Engineer's Report. The assessment shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. Any required election and/or ballot protest proceedings shall be completed prior to issuance of a certificate of occupancy. The Applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of annexation shall be paid by Applicant.
- 71. Annex the property to the City of Oakley Landscape and Lighting District No. 1 for citywide street lighting costs and maintenance, subject to an assessment for street light maintenance based on the assessment methodology described in the Engineer's Report. The assessment shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. Any required election and/or ballot protest proceedings shall be completed prior to issuance of a certificate of occupancy. The applicant shall apply for annexation and provide all information and documents required by the

City to process the annexation. All costs of annexation shall be paid by Applicant.

72. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the final map. Should the building be occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rata share for the remainder of the tax year prior to the City conducting a final inspection.
73. Participate in the formation of a mechanism to fund the operation and maintenance of the storm drain system, including storm water quality monitoring and reporting. The appropriate funding mechanism shall be determined by the City and may include, but not be limited to, an assessment district, community services district, or community facilities district. The funding mechanism shall be formed prior to issuance of a certificate of occupancy, and the project proponent shall fund all costs of the formation.
74. Applicant shall comply with the drainage fee requirements for Drainage Area 29C as adopted by the County Board of Supervisors. The applicant shall pay the fee in effect at the time of building permit issuance. Certain improvements required by the Conditions of Approval for this development or the OMC may be eligible for credit or reimbursement against the drainage area fee. The developer should contact the City Engineer to personally determine the extent of any credit or reimbursement for which they might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.

#### ***Advisory Notes***

Please note advisory notes are attached to the conditions of approval but are not a part of the conditions of approval. Advisory notes are provided for the purpose of informing the applicant of additional ordinance requirements that must be met in order to proceed with development.

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. The project will require a grading permit pursuant to the OMC.
- C. Comply with the requirements of the Ironhouse Sanitary District.
- D. Comply with the requirements of the East Contra Costa Fire Protection District.

- E. Comply with the requirements of the Diablo Water District.
- F. Comply with the requirements of the Building Inspection Department. Building permits are required prior to the construction of most structures.
- G. This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, PO Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the 12<sup>th</sup> of February, 2013 by the following vote:

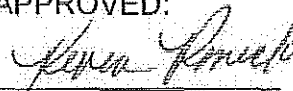
AYES: Burgis, Hardcastle, Pope, Rios, Romick

NOES:

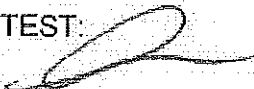
ABSENT:

ABSTENTIONS:

APPROVED:

  
Kevin Romick, Mayor

ATTEST:

  
Libby Vreonis, City Clerk

2-21-13

Date

**Recording Requested by:**

City Engineer  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

**When Recorded Mail To:**

City Engineer  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

A.P.N. 034-030-006

Space above this line for Recorder's Use

DEFERRED IMPROVEMENT AGREEMENT BETWEEN  
THE CITY OF OAKLEY AND PENTECOSTAL HOLINESS CHURCH  
FOR 4246 EMPIRE AVENUE (NEW LIFELINE MINISTRIES)  
(APN 035-631-034)

This agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_  
2013, by and between the City of Oakley, a municipal corporation ("CITY") and  
Pentecostal Holiness Church ("DEVELOPER").

**RECITALS**

A. DEVELOPER is the owner of certain real property located within the  
City of Oakley, County of Contra Costa, at 4246 Empire Avenue, and more  
particularly described in Exhibit A (legal description), attached hereto and  
incorporated herein ("Property"). A map showing the location of the Property is  
attached as Exhibit B (plat map).

B. DEVELOPER wishes to make improvements to the property and to  
operate it as a church and school and has applied to CITY for a Use Permit to  
operate the proposed project. DEVELOPER has received a Use Permit from the  
CITY that, among other things, requires that DEVELOPER construct specified  
public improvements as conditions of approval.

C. The conditions of approval permitted DEVELOPER to execute a  
deferred improvement agreement in-lieu of constructing improvements prior to  
occupancy of the Property.

D. DEVELOPER has requested, and CITY has agreed, to defer DEVELOPER's obligation to make certain improvements listed below. By entering into this Agreement, DEVELOPER remains obligated to make such improvements, but in accordance with the period of time set forth herein.

## **AGREEMENT**

### **1. Recitals**

The foregoing Recitals are true and correct and are made a part hereof.

### **2. Improvements to be Constructed.**

DEVELOPER shall construct all improvements required as conditions of approving the requested Use Permit for the Property, which was conditionally approved by the Oakley City Council on February 21, 2013 by the approval of Use Permit # CUP 03-12. The improvements deferred by this Agreement are described as follows:

Construct the frontage of Meeks Lane to City public road standards for a 36-foot wide right of way with 56-foot right-of-way, including curb, five-foot monolithic sidewalk (width measured from curb face), necessary longitudinal and transverse drainage, pavement widening to a minimum of 28 feet, and conforms to existing improvements. The face of curb shall be located 18 feet from the centerline and any conforms to existing improvements must take place outside of the limits of the project. Improvements shall also include slope retention as necessary along Meeks Lane as well as landscaping.

The City shall not call up the deferred improvement agreement for Developer's property at 4246 Empire Avenue until such time as the first development requiring dedication of right of way and construction of frontage improvements on Meeks Lane adjacent to and east of Developer's property occurs.

At the time the deferred improvement agreement is called up, the property owner shall submit improvement plans, including joint trench composite plans as required by Conditions of Approval Number 41, 42 and 43, to the City Engineer and pay appropriate fees in accordance with the Ordinance Code and the deferred improvement agreement.

The current estimated cost of constructing the required improvements is \$XX,XXX.XX.

All such improvements shall be constructed in accordance with the CITY's design standards and ordinances or as may be approved in writing by the City Engineer. Upon completion DEVELOPER shall furnish CITY with a complete and reproducible set of final as-built plans, including any authorized modifications.

### **3. Completion Time.**

Notwithstanding the typical requirement for a development project that all required improvements be constructed prior to occupancy or use of the project, DEVELOPER shall commence construction of the improvements described herein within ninety days of written notice from CITY and shall complete construction no later than one-hundred-and-eighty days thereafter.

DEVELOPER shall submit improvement plans, prepared by a registered civil engineer, to the City Engineer and pay all applicable fees. DEVELOPER agrees to cooperate with other property owners, the CITY, and other public agencies to provide the improvements set forth herein as part of a joint cooperative plan, including the formation of a local improvement district, if this method is feasible to secure the installation and construction of the improvements. Time is of the essence of this agreement.

### **4. Security**

Concurrently with the submission of the plans required by this Agreement to the City Engineer, DEVELOPER shall furnish CITY with the following security in the forms specified in Government Code sections 66499.1 and 66499.2 or in a form satisfactory to the City Attorney if different from said Government Code forms:

- a. Faithful Performance. Either a cash deposit, a corporate surety bond issued by a company duly and legally licensed to conduct a general surety business in the State of California, or an instrument of credit equivalent to one hundred percent (100%) of the estimate set forth in Section 2 and sufficient to assure CITY that the improvements will be satisfactorily completed.

- b. Labor and Materials. Either a cash deposit, a corporate surety bond issued by a company duly and legally licensed to conduct a general surety business in the State of California, or an instrument of credit equivalent to one-hundred per cent (100%) of the estimate set forth in Section 2 and sufficient to assure CITY that DEVELOPER'S contractors, subcontractors, and other persons furnishing labor, materials, or equipment shall be paid therefore.
- c. If required by CITY, a cash deposit, corporate surety bond, or instrument of credit sufficient to assure CITY that the surface water drainage of the subdivision shall not interfere with the use of neighboring property, including public streets and highways.

CITY shall be the sole indemnitee named on any instrument required by this Agreement. Any instrument or deposit required herein shall conform to the provisions of Chapter 5 of the Subdivision Map Act.

## **5. Insurance Required**

Prior to the commencement of work under this Agreement, DEVELOPER shall obtain or cause to be obtained and filed with the CITY, all insurance required by CITY as set forth in its standard insurance requirements at the time such work is to commence, and such insurance must be approved by the Administrative Services Director of CITY, or his designee, as to form, amount and carrier. Prior to the commencement of work under this Agreement, DEVELOPER, at its own cost and expense, shall also procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the DEVELOPER and its agents, representatives, employees, and subcontractors. DEVELOPER shall provide proof satisfactory to CITY of such insurance that meets the requirements of this Agreement and under forms and amounts of insurance satisfactory in all respects to the CITY. DEVELOPER shall maintain in full force and effect the insurance coverage in the forms and amounts specified by the CITY throughout the term of the work to be completed, and until final completion and acceptance of the work by the CITY. DEVELOPER shall not allow any work to commence until DEVELOPER has obtained all insurance required and has provided evidence thereof to CITY.



**a. Variation** The City may approve a variation in the insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

**1. Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, DEVELOPER shall provide written notice to City at DEVELOPER's earliest possible opportunity and in no case later than five days after DEVELOPER is notified of the change in coverage.

**2. Failure to Maintain Insurance.**

i. Throughout the term of the work to be completed, and until final completion and acceptance of the work by CITY, DEVELOPER shall maintain in full force and effect insurance coverage in the forms and amounts specified by CITY. If, at any time during the performance of the work to be completed, DEVELOPER fails to maintain any item of required insurance in full force and effect, DEVELOPER shall immediately discontinue all work under this Agreement and CITY will withhold all Contract Payments due or that become due until notice is received by CITY that such insurance has been restored in full force and effect and that the premiums therefore have been paid for a period satisfactory to the City Manager.

**3. Workers' Compensation and Employers Liability Coverage.**

The insurer shall agree to waive all rights of subrogation against the CITY, its officers, officials, employees and volunteers for losses arising from work performed by the DEVELOPER for the CITY.

**4. All Coverages.**

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in

limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.

- a. **Acceptability of Insurers.** Insurance is to be placed with insurers with a Bests' rating of no less than A:VII.
- b. **Verification of Coverage.** DEVELOPER shall furnish CITY with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.
- c. **Subcontractors.** DEVELOPER and/or DEVELOPER's general contractor shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

## 6. **Work Performance and Guarantee**

Except as otherwise expressly provided in this Agreement, and excepting only items of routine maintenance, ordinary wear and tear and unusual abuse or neglect, DEVELOPER guarantees all work executed by DEVELOPER and/or DEVELOPER's agents, and all supplies, materials and devices of whatsoever nature incorporated in, or attached to the work, or otherwise delivered to CITY as a part of the work pursuant to the Agreement, to be free of all defects of workmanship and materials for a period of one (1) year after initial acceptance of the entire work by CITY. DEVELOPER shall repair or replace any or all such work or material, together with all or any other work or materials which may be displaced or damaged in so doing, that may prove defective in workmanship or material within said one-year guarantee period without expense or charge of any

nature whatsoever to CITY. DEVELOPER further covenants and agrees that when defects in design, workmanship and materials actually appear during the one-year guarantee period, and have been corrected, the guarantee period shall automatically be extended for an additional year to insure that such defects have actually been corrected.

In the event the DEVELOPER shall fail to comply with the conditions of the foregoing guarantee within thirty (30) days time, after being notified of the defect in writing, CITY shall have the right, but shall not be obligated, to repair or obtain the repair of the defect, and DEVELOPER shall pay to CITY on demand all costs and expense of such repair. Notwithstanding anything herein to the contrary, in the event that any defect in workmanship or material covered by the foregoing guarantee results in a condition which constitutes an immediate hazard to the public health, safety, or welfare, CITY shall have the right to immediately repair, or cause to be repaired, such defect, and DEVELOPER shall pay to CITY on demand all costs and expense of such repair. The foregoing statement relating to hazards to health and safety shall be deemed to include either temporary or permanent repairs that may be required, as determined in the sole discretion and judgment of CITY.

If CITY, at its sole option, makes or causes to be made the necessary repairs or replacements or performs the necessary work, DEVELOPER shall pay, in addition to actual costs and expenses of such repair or work, fifty percent (50%) of such costs and expenses for overhead and interest at the maximum rate of interest permitted by law accruing thirty (30) days from the date of billing for such work or repairs.

#### **7. Inspection of the Work**

DEVELOPER shall guarantee free access to CITY through its City Engineer and his designated representative for the safe and convenient inspection of the work throughout its construction. Said CITY representative shall have the authority to reject all materials and workmanship which are not in accordance with the plans and specifications, and all such materials and or work shall be removed promptly by DEVELOPER and replaced to the satisfaction of CITY without any expense to CITY in strict accordance with the improvement plans and specifications.

#### **8. Agreement Assignment**

This Agreement shall not be assigned by DEVELOPER without the written consent of CITY which consent shall not be unreasonably withheld.

**9. Abandonment of Work**

Neither DEVELOPER nor any of DEVELOPER's agents or contractors are or shall be considered to be agents of CITY in connection with the performance of DEVELOPER's obligations under this Agreement.

If DEVELOPER refuses or fails to obtain prosecution of the work, or any severable part thereof, with such diligence as will insure its completion within the time specified, or any extension thereof, or fails to obtain completion of said work within such time, or if DEVELOPER should be adjudged as bankrupt, or should make a general assignment for the benefit of DEVELOPER's creditors, or if a receiver should be appointed, or if DEVELOPER, or any of DEVELOPER's contractors, subcontractors, agents or employees should violate any of the provisions of this Agreement, the CITY, through its City Engineer, may serve written notice on DEVELOPER and DEVELOPER's surety or holder of other security of breach of this Agreement, or of any portion, thereof, and default of DEVELOPER.

In the event of any such notice of breach of this Agreement, DEVELOPER's surety shall have the duty to take over and complete the improvements herein specified; provided, however, that if the surety, within thirty (30) days after the serving upon it of such notice of breach, does not give CITY written notice of its intention to take over the performance of the contract, and does not commence performance thereof within thirty (30) days after notice to CITY of such election, CITY may take over the work and prosecute the same to completion, by contract or by any other method CITY may deem advisable, for the account and at the expense of DEVELOPER and DEVELOPER's surety shall be liable to CITY for any damages and/or reasonable and documented excess costs occasioned by CITY thereby; and, in such event, CITY, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to DEVELOPER as may be on the site of the work and necessary therefor.

**10. Use of Streets or Improvements**

At all times prior to the final acceptance of the work by CITY, the use of any or all streets and improvements within the work to be performed under this

Agreement shall be at the sole and exclusive risk of DEVELOPER. The issuance of any building permit by CITY for the Proposed Project shall not be construed in any manner to constitute a partial or final acceptance or approval of any or all such improvements by CITY. DEVELOPER agrees that CITY'S Building Official may withhold the issuance of building or occupancy permits when the work or its progress may substantially and/or detrimentally affect public health and safety.

#### **11. Safety Devices**

DEVELOPER shall provide and maintain such guards, watchmen, fences, barriers, regulatory signs, warning lights, and other safety devices adjacent to and on the site as may be necessary to prevent accidents to the public and damage to the Property. DEVELOPER shall furnish, place, and maintain such lights as may be necessary for illuminating the said fences, barriers, signs, and other safety devices. At the end of all work to be performed under this Agreement, all fences, barriers, regulatory signs, warning lights, and other safety devices (except such safety items as may be shown on the plans and included in the items of work) shall be removed from site of the work by the DEVELOPER, and the entire site left clean and orderly.

#### **12. Acceptance of Work**

Upon notice of the completion of all work and the delivery of a set of final as-built plans to CITY by DEVELOPER, CITY through its City Engineer or his designated representative, shall examine the work without delay, and, if found to be in accordance with said plans and specifications and this Agreement, shall recommend acceptance of the work to the City Council. The City Council may accept the improvements by the adoption of a resolution, and the City Engineer shall notify DEVELOPER or his designated agents of such acceptance.

#### **13. Patent and Copyright Costs**

In the event that said plans and specifications require the use of any material, process or publication which is subject to a duly registered patent or copyright, DEVELOPER shall be liable for, and shall indemnify CITY from any fees, costs or litigation expenses, including attorneys' fees and court costs, which may result from the use of said patented or copyrighted material, process or publication.

#### 14. Alterations in Plans and Specifications

Any alteration or alterations made in the plans and specifications which are a part of this Agreement or any provision of this Agreement shall not operate to release any surety or sureties from liability on any bond or bonds required by the Agreement and made a part hereof, and consent to make such alterations is hereby given, and the sureties to said bonds hereby waive the provisions of Section 2819 of the Civil Code of the State of California.

#### 15. Liability

- a. DEVELOPER Primarily Liable. DEVELOPER hereby warrants that the design and construction of the improvements will not adversely affect any portion of adjacent properties and that all work will be performed in a proper manner. DEVELOPER agrees to indemnify, defend, release, and hold harmless CITY, and each of its elective and appointive boards, commissions, officers, agents and employees, from and against any and all loss, claims, suits, liabilities, actions, damages, or causes of action of every kind, nature and description, directly or indirectly arising from an act or omission of DEVELOPER, its employees, agents, or independent contractors in connection with DEVELOPER'S actions and obligations hereunder; provided as follows:
  1. That CITY does not, and shall not, waive any rights against DEVELOPER which it may have by reason of the aforesaid hold harmless agreement, because of the acceptance by CITY, or the deposit with CITY by DEVELOPER, of any of the insurance policies described in Section 4 hereof.
  2. That the aforesaid hold harmless agreement by DEVELOPER shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this paragraph, regardless of whether or not CITY has prepared, supplied, or approved of plans and/or specifications for the subdivision, or regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

- b. Design Defect. If, in the opinion of the CITY, a design defect in the work of the improvements becomes apparent during the course of construction, or within one (1) year following acceptance by the CITY of the improvements, and said design defect, in the opinion of the CITY, may substantially impair the public health and safety, DEVELOPER shall, upon order by the CITY, correct said design defect at his sole cost and expense, and the sureties under the Faithful Performance and Labor and Materials Bonds shall be liable to the CITY for the corrective work required.
- c. Litigation Expenses. In the event that legal action is instituted by either party to this Agreement, and said action seeks damages for breach of this Agreement or seeks to specifically enforce the terms of this Agreement, and, in the event judgment is entered in said action, the prevailing party shall be entitled to recover its attorneys' fees and court costs. If CITY is the prevailing party, CITY shall also be entitled to recover its attorney's fees and costs in any action against DEVELOPER's surety on the bonds provided under Section 3.

**16. Recordation**

This Agreement shall be recorded in the office of the County Recorder of Contra Costa County.

**17. Notices**

All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to CITY shall be addressed as follows:

City Manager and City Engineer  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

Notices required to be given to DEVELOPER shall be addressed as follows:

New Lifeline Ministries  
4246 Empire Avenue  
Oakley, CA 94561

Any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.



**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement in duplicate at Oakley, California, the day and year first above written.

**CITY OF OAKLEY**

**DEVELOPER**

By: \_\_\_\_\_  
Bryan H. Montgomery, City Manager

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

Print name: \_\_\_\_\_

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

Print name: \_\_\_\_\_

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Derek P. Cole, City Attorney

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**EXHIBIT B**

**PLAT**

RESOLUTION NO. \_\_-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING A DEFERRED IMPROVEMENT AGREEMENT FOR FRONTAGE IMPROVEMENTS ALONG MEEKS LANE WITH NEW LIFELINE MINISTRIES AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT**

**WHEREAS**, the City Council of the City of Oakley, California, wishes to enter into a Deferred Improvement Agreement with New Lifeline Ministries for the frontage improvements along Meeks Lane as required by City Council Resolution 14-13; and

**WHEREAS**, this agreement will require the developer to complete the public improvements in accordance with the project conditions of approval and City standard construction design.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Oakley that the Deferred Improvement Agreement with New Lifeline Ministries is hereby approved and the City Manager is hereby authorized to execute the Deferred Improvement Agreement for the frontage improvements along Meeks Lane in the form attached hereto as Exhibit A and is made part of this resolution.

**PASSED AND ADOPTED** by the City Council of the City of Oakley, California, on this 9<sup>th</sup> day of August 2016 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

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

ATTEST:

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

\_\_\_\_\_  
Date

# OAKLEY



CALIFORNIA

Agenda Date: 08/09/2016

Agenda Item: 3.11

## STAFF REPORT

**Date:** August 9, 2016  
**To:** Bryan H. Montgomery, City Manager  
**From:** Deborah Sultan, Finance Director  
**SUBJECT:** City of Oakley Quarterly Investment Report (4th Quarter FY 2015-16)

Approved and Forwarded to City Council:

  
Bryan Montgomery, City Manager

### Background and Analysis

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

### Fiscal Impact

City resources are organized and accounted for on a fund basis with some of those funds being restricted for specified uses and others that are unrestricted. For investment purposes, however, the funds are invested as a pool. The Investment Report for the Period Ending June 30, 2016 attached shows a combined pool balance of \$35,280,155.76. In addition, the pool had combined 4th Quarter accrued interest earnings of \$30,208.02. Interest for the period continues to reflect the lower rates currently being offered on safe, short-term investments.

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

### Recommendation

Staff recommends the City Council accept the investment report for the 4th Quarter of Fiscal Year 2015-2016.

### Attachments

City of Oakley Investment Report for the quarter ended June 30, 2016.



**Quarterly Investment Report**  
For the Quarter Ended June 30, 2016

Type*	Name of Institution	Rate	Maturity****	Cost Amount	Market Value**
<b>Investments in Wells Fargo Bank Account</b>					
12	Overnight Sweep Investment	0.007%	7/1/2016	\$ 2,844,682.56	\$ 2,844,682.56
<b>Investments with Wells Fargo Investment Advisors:</b>					
9	Institutional Money Market	0.148%	N/A	1,775,634.02	1,775,634.02
<b>Investments with State of California:</b>					
3	Local Agency Investment Fund (LAIF)-City	0.550%	N/A	19,826,085.26	19,838,401.66
<b>Investments with CalTRUST</b>					
11	Short-Term Investment Account-City	0.718%	N/A	9,055,334.29	9,092,704.32
<b>Total Investments Other than Bond Proceeds</b>				<b>33,501,736.13</b>	<b>33,551,422.56</b>
<b>Investments with Wells Fargo Trust (bond proceeds): ***</b>					
<b>2012 Refunding Revenue Bonds</b>					
9	<i>Government Money Market</i> Wells Fargo Advantage Gov MM Svc	0.010%	N/A	127,506.53	127,506.53
4	<i>Certificates of Deposit (3)</i> Discover Bank		5/16/12 - 5/16/17	250,000.00	252,527.50
	GE Capital Retail Bank	1.750%	5/18/12 - 5/18/17	250,000.00	252,317.50
	Goldman Sachs Bank USA	1.800%	5/16/12 - 5/16/17	250,000.00	252,417.50
<b>2014 Refunding Revenue Bonds</b>					
9	<i>Government Money Market</i> Wells Fargo Advantage Gov MM Svc	0.010%	N/A	326,148.62	326,148.62
<b>2006 Certificates of Participation</b>					
9	<i>Government Money Market</i> Wells Fargo Advantage Gov MM Svc	0.010%	N/A	574,764.48	574,764.48
<b>Total Investments of Bond Proceeds</b>				<b>1,778,419.63</b>	<b>1,785,682.13</b>
<b>Total All City Investments</b>				<b>\$ 35,280,155.76</b>	<b>\$ 35,337,104.69</b>

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

Wells Fargo Investment Advisors	218.27
Local Agency Investment Fund	24,568.22
Caltrust Short-Term Investment Account	5,421.53
Accrued Interest as of 06/30/16	<u>\$ 30,208.02</u>

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

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

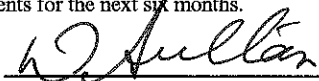
\*\* **Market Valuation** for LAIF was obtained at <http://www.treasurer.ca.gov/pmia-laif/mktvalue/2016/201606.pdf>

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

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

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

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

  
Approved by Deborah Sultan  
Finance Director

  
Date



## STAFF REPORT

**Date:** August 9, 2016  
**To:** Bryan H. Montgomery, City Manager  
**From:** Deborah Sultan, Finance Director  
**SUBJECT:** **Approve Resolution Establishing Certain City Police Fees**

Approved and Forwarded to the City Council:

  
Bryan Montgomery, City Manager

### Background and Analysis

As part of the transition to a new Police Department, staff has conducted a review of the City's fee schedule and determined that changes were needed to include additional fees for services. The new fees are those formerly collected by the County and fees for new City Police services.

State law contains a number of provisions which affect a City's establishing new police fees. They can be summarized generally as follows: a City may set fees to recover the full cost of providing services, but fees cannot be levied in excess of the cost of service or for general revenue purposes. The attached Fee list includes the calculation of the cost of providing services offered by the Police Department and, with few exceptions, full cost recovery is recommended for fees the City charges and deposits collected for the listed services. Staff had identified the following new fees:

**Accident and crime reports** – A survey of local agencies show most charge a nominal fee of \$5per report. Staff is recommends the City charge the same amount.

**Clearance letter** - \$12 for resident and \$25 for non-resident is based upon the City's cost of service.

**Concealed weapons fee** - \$450 with a \$75 renewal fee is based on the City's cost of services. The fees charged by the Department of Justice and State fingerprinting fees are additional and paid by the applicant.

**Gun Storage** - \$12 & \$5/month and review of local criminal history of \$25 are based upon the City's cost of providing the service.

**Vehicle Repossession** (VIN Verification charge) - \$15 is pursuant to Government Code Section 41612.

**Booking Fee** - \$564 was re-established by Contra Costa County as identified by a three-year average. The City is required to pay the County for each booking in excess of the three-year average.

**Fiscal Impact**

The fiscal impact of the recommended action is not expected to be significant overall. The additional revenues will cover most of the additional expenditures.

**Recommendation**

Staff recommends the Council adopt the attached resolution that establishes the fees listed therein.



**RESOLUTION NO. \_\_-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
APPROVING THE REVISED FEE SCHEDULE FOR POLICE SERVICES**

**WHEREAS**, on April 28, 2015 the City Council adopted Resolution No.51-15 approving the 2015 Schedule of City Fees; and

**WHEREAS**, the City recently formed the City Oakley Police Department, terminating the contract for police services with Contra Costa County; and

**WHEREAS**, Police department staff conducted a comprehensive review of the 2015 Schedule of Fees to determine what changes or additions should be made and;

**WHEREAS**, as required by Article XIII of the California Constitution and law, cities can only charge rates or fees that are equal or less than the reasonably anticipated costs of providing the services, conferring a benefit, granting a privilege, performing regulatory duties, enforcing laws or as a condition of property development;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Oakley hereby approves the adjustments and additions of fees for City Police services pursuant to the schedule attached hereto as Exhibit "A" and the modification of fees shall take effect immediately.

**PASSED AND ADOPTED** this 9th day of August by the City Council of the City of Oakley by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

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

ATTEST:

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

\_\_\_\_\_  
Date

	2015 ESTIMATED AVG COST OF SERVICE	2016 PROPOSED FEES			Basis for proposed fees
		Fixed Fee	Time and Material Deposit	Additional Fee or Deposit Comment	
<b>SPECIAL PERMITS &amp; LICENSES</b>					
<b>Bingo License</b>					
New		\$50			Per Municipal Code 4.8.004 e 2
Yearly Renewal		\$10			Per Municipal Code 4.8.004 e 2
Taxicab Owner Permit	\$286	\$286			Cost of service
Taxicab Driver Permit	\$286	\$286			Cost of service
<b>POLICE SERVICES</b>					
Abandoned vehicle	\$63			No charge	Existing policy
ABC Permit Letter	\$65	\$50			Cost of service
Accident report - property damage only	n/a	\$5			Cost of service
Accident report - Injury (1-20/20+ / Extensive)	n/a	\$5			Cost of service
Booking Fee		\$564			Contra Costa County fee
Citation sign-off / vehicle inspection – Resident	\$39			No charge	Existing policy
Citation sign-off / vehicle inspection – Non-resident	\$39	\$39			Cost of service
Clearance Letters					Existing policy
Fee for Resident		\$12			Cost of service
Fee for non-resident		\$25			Cost of service
<b>Concealed weapons fee</b>					
Initial fee (plus State fingerprinting processing fee)	\$457	\$450		Plus current DOJ fees	Cost of service
Renewal of existing license (plus State processing fee)	\$75	\$75		Plus current DOJ fees	Cost of service
Crime reports	n/a	\$5			Cost of service
Curfew violations	n/a				Cost of service
DUI Emergency response cost recovery	n/a			Actual cost for staff, equipment, lab work.	Cost of service
False alarm response (greater than 2 in 30 days)	\$88	\$88		After 2 alarms in 30 days	Cost of service
<b>Fingerprint Services/Livescan</b>					
Livescan applicant fingerprinting/Rolling Fee	\$21	\$21			
<b>Gun Storage Services pursuant to Court orders</b>					
Administrative processing fee (per incident)	\$12	\$12			Cost of Service
Storage fee (per month or any fraction thereof) per gun	\$0	\$5			Cost of Service
<b>Parties and nuisances – Subsequent calls for service</b>					
Review of Local Criminal History	\$25	\$25		Hourly charge; \$415 minimum	Cost of service
Rotational Tow Application Fees	\$350	\$350			Cost of Service
Special event permit –No ABC liquor license letter required	\$411	\$411			Cost of service
Special event – non-profit organization (with or without ABC letter)	\$411	\$411			Cost of service
Special event – wide vehicle escort/parades	n/a			Hourly charge; deposit set by PD	Existing policy
Second hand dealer license / Pawns	\$165	\$165		Plus Department of Justice fee	Maximum permitted by code
Solicitor / Peddler permits	\$245	\$245			
<b>Subpoena deposit – Ofc. civil cases/day</b>					
Subpoena duces tecum (Per EC 1563)	n/a	\$24 per hour plus \$.10 per page		Per EC 1563	Maximum permitted by Code
Production of documents only		\$15			Evidence Code Section 1563 (b)
Appearance request (officers/records)		\$275			Government Code 68096.1
Vehicle abatement – Administrative fee	\$492	\$492			Cost of service
Vehicle Repossession Fee (VIN Verification charge individuals only)		\$15			Government Code 41612
Stored vehicle release – Recovered stolen vehicle	\$21				Existing policy
Stored vehicle release	\$100	\$100			Cost of service
Police Call For Service Fee (by Agreement)				Hourly to the nearest 1/10 hour.	Actual cost
Parking Citation required by State		\$3		\$3 per parking citation	SB 1407- Ch 311, Statutes of 2008

# OAKLEY

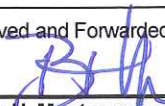


CALIFORNIA

Agenda Date: 08/09/2016  
Agenda Item: 3.13

## STAFF REPORT

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

**Date:** August 9, 2016  
**To:** Bryan Montgomery, City Manager  
**From:** Nancy Marquez-Suarez, Asst. to the City Manager/HR Manager  
**SUBJECT:** **Adopt Resolution Regarding 2016-17 Compensation and Benefits Program and Employee Salary Ranges**

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### Summary and Background

On June 14, 2016 the City Council adopted a resolution approving the Compensation and Benefits Program and Employee Salary Ranges; however, the Salary Range attachment was not the updated version. This agenda item includes the correct Salary Range document.

The City's Compensation Policy, originally adopted in June of 2001 and amended in 2008, outlines the process of determining employee compensation and benefits, as well as the process for the establishment of salary ranges.

#### **a) Proposed Compensation and Benefits Program for Fiscal Year 2016-17**

Pursuant to the Policy, the annual Compensation and Benefits Program is evaluated annually and informed by the City's financial condition and a comparative analysis of salaries and benefits in other cities. The six comparative cities used in the analysis are: Antioch, Benicia, Brentwood, Hercules, Pittsburg, and Pleasant Hill.

Unlike most cities, compensation adjustments are not "automatic" for Oakley City Staff, but rather based on performance (the adjustments are not step-oriented or based solely on cost-of-living adjustments). The proposed merit range for employee compensation for the 2016-2017 Fiscal Year is 0% to 5%. If approved, each employee will undergo a comprehensive employee performance evaluation and the supervisor may recommend and the City Manager approve a salary increase anywhere between 0% and 5%, with any increase being effective the first pay period of August.

The proposed Fiscal Year 2016- 2017 Compensation and Benefits plan includes:

- A merit increase range of 0% to 5%, effective the first pay period of August
- A new, updated list of comparative cities will be proposed to the City Council and, when approved, be used for a new salary survey prior to next fiscal year
- An addition of sixteen (16) hours of Administrative Leave provided to salaried employees who work the modified 9/80 schedule
- The exploration of a retiree health trust program that could be considered in the future years
- Adjustment to the salary ranges of City Manager, Police Officer, Police Sergeant and Police Lieutenant
- All other benefits are to remain as-is.

#### **b) Approval of Employee Salary Ranges**

With regard to Salary Ranges, the Policy dictates that 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. The survey helps establish the salary ranges, which does not assume or result in an employee automatically receiving a salary increase. An increase would occur only if the employee's current salary is below the minimum established range.

The last review of ranges took place in fiscal year 2015-2016; therefore, it is proposed that this year the ranges remain the same for almost all of the job classifications. Classifications that will see a change in the range are shaded and identified with an asterisk and are the result of previous understandings and agreements established between the Council and Staff members stemming from agreements.. Attached as Attachment "A" to the resolution are the proposed salary ranges for each employee job classification.

#### **Fiscal Impact**

Approximately \$480,000 is included in the proposed 2016-17 Budget to accommodate the various provisions outlined in the attached resolution.

#### **Recommendation**

Adopt the resolution approving the 2016-17 Compensation and Benefits Program and Employee Salary Ranges.

#### **Attachments**

1. Resolution
2. Salary Ranges for Fiscal Year 2016-17

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
APPROVING THE 2016-17 COMPENSATION AND BENEFITS PROGRAM  
AND EMPLOYEE SALARY RANGES**

**WHEREAS**, the City Council adopted a Compensation Policy on June 25, 2001 and that was amended on June 24, 2008 establishing the City of Oakley's policy regarding employee compensation in conformance to City Ordinance 17-00; and

**WHEREAS**, pursuant to the Compensation Policy, in establishing the Compensation and Benefits Program the City's financial condition is evaluated and informed by a comparative analysis of salaries and benefits.

**WHEREAS**, the City conducts at least every two years a comparative salary and benefit study using the six comparative cities of Antioch, Benicia, Brentwood, Hercules, Pleasant Hill and Pittsburg; and

**WHEREAS**, the last comparative salary and benefit study was conducted for Fiscal Year 2015-16; and

**WHEREAS**, the City Council also desires to set forth the Compensation and Benefits Program for Fiscal Year 2016-17; and

**WHEREAS**, the City Council desires to approve updated salary ranges pursuant to the Compensation Policy.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Oakley hereby approves the following:

1. A merit increase range of 0% to 5%, after a comprehensive performance evaluation and effective the first pay period of August;
2. A new, updated list of comparative cities will be proposed to the City Council and, when approved, be used for a new salary survey prior to next fiscal year;
3. An addition of sixteen (16) hours of Administrative Leave provided to salaried employees who work the modified 9/80 schedule;
4. The exploration of a retiree health trust program that could be considered in the future years;
5. Adjustment to the salary ranges of City Manager, Police Officer, Police Sergeant and Police Lieutenant
6. All other benefits are to remain as-is;
7. The updated Salary Ranges found in Attachment "A" - attached hereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Oakley held on the 9<sup>th</sup> day of August 2016 by the following vote:

AYES:  
NOES:  
ABSTENTIONS:  
ABSENT:

**APPROVED:**

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

**ATTEST:**

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

\_\_\_\_\_  
Date



**City of Oakley**  
**FY 16-17 Salary Schedule**

*Effective Date: 7.29.2016 at noon*

*Approved 8.9.2016*

*Revised: 8.9.2016*

Position	2016-17 Range	
	Monthly Minimum	Monthly Maximum
Administrative Assistant	\$ 3,575	\$ 4,405
Administrative Specialist (Public Works)	\$ 4,902	\$ 6,029
Assistant Engineer	\$ 6,132	\$ 7,590
Assistant to the City Manager (1)	\$ 8,346	\$ 10,293
Associate Engineer	\$ 6,970	\$ 8,579
Building Inspector I w/Cert (2)	\$ 5,370	\$ 6,618
Building Inspector II w/Combo Cert	\$ 5,976	\$ 7,366
City Clerk (3)	\$ 8,261	\$ 9,562
City Councilmembers	\$456.76	
City Manager *	\$18,700	
Code Enforcement Manager	\$ 6,744	\$ 8,197
Code Enforcement Officer	\$ 4,825	\$ 5,622
Code Enforcement Technician (6)	\$ 3,619	\$ 4,217
Economic Development Manager	\$ 8,427	\$ 10,453
Facilities Maintenance Worker	\$ 3,431	\$ 4,208
Finance Director	\$ 10,546	\$ 13,492
Human Resources Technician (4)	\$ 4,339	\$ 5,371
Human Resources Manager (1)	\$ 8,406	\$ 10,519
Paralegal (3)	\$ 5,475	\$ 6,655
Parks & Landscape Maintenance Division Mgr	\$ 7,610	\$ 9,487
Parks & Landscape Maintenance Foreman	\$ 5,466	\$ 6,429
Parks Laborer I	\$ 3,122	\$ 3,997
Parks Laborer II	\$ 3,590	\$ 4,597
Permit Technician	\$ 4,734	\$ 5,849
Planning Manager	\$ 8,524	\$ 10,734
Police Chief	\$ 13,250	\$ 15,000

Police Lieutenant *	\$ 11,000	\$ 13,000
Police Officer *	\$ 6,200	\$ 9,350
Police Records Coordinator	\$ 6,134	\$ 7,567
Police Records Technician	\$ 3,780	\$ 4,595
Police Sergeant *	\$ 7,500	\$ 11,135
Police Services Assistant	\$ 3,413	\$ 4,232
Program Coordinator (4)	\$ 4,310	\$ 5,306
Public Works Dir./City Engineer	\$ 11,507	\$ 14,612
Public Works Inspector I	\$ 5,282	\$ 6,573
Public Works Inspector II	\$ 6,208	\$ 7,677
PW Maintenance Laborer I (6)	\$ 3,187	\$ 3,934
PW Maintenance Laborer II	\$ 3,665	\$ 4,524
Records Management Clerk	\$ 3,997	\$ 4,455
Recreation Manager (5)	\$ 6,708	\$ 8,220
Recreation & Events Coordinator	\$ 4,310	\$ 5,306
Senior Accountant	\$ 7,029	\$ 8,619
Senior Accounting Technician	\$ 4,907	\$ 6,073
Senior Civil Engineer	\$ 7,932	\$ 9,842
Senior Planner	\$ 7,093	\$ 8,838
Streets Maintenance Foreman	\$ 5,466	\$ 6,429
Tree Laborer	\$ 3,049	\$ 3,705

\* Denotes only changes from the FY 15-16 Salary Schedule

1- Employee serves in two positions ( Human Resources Manager)

2- One of two employee serves in both positions ( Code Enforcement Officer)

3- Employee serves in two positions ( Paralegal)

4- Employee serves in two positions (YMWO Program Coordinator)

5- Employee serves in added capacity of Website Coordinator

6- Employee serves in two positions (Parks Laborer I)

Effective Date: 7.29.2016 at noon



**City of Oakley**  
**FY 16-17 Salary Schedule**

Approved 8.9.2016

Revised: 8.9.2016

**2016-17 Range**



Position	Minimum Hourly	Maximum Hourly
Accounting Assistant	\$ 15.00	\$ 20.00
Administrative Assistant	\$ 14.00	\$ 19.00
Assistant to the Chief of Police	\$ 18.50	\$ 30.05
Facilities Attendant	\$ 10.00	\$ 12.00
Intern	\$ 10.00	\$ 12.00
Seasonal Public Works Laborer	\$ 11.00	\$ 15.00
Park Monitor	\$ 10.50	\$ 14.00
Police Services Assistant *	\$ 18.00	\$ 23.00
Receptionist	\$ 11.00	\$ 15.50
Recreation Aide	\$ 10.00	\$ 12.00
Recreation Leader	\$ 11.00	\$ 13.50
Sports Field Maintenance	\$ 10.00	\$ 12.00
Senior Recreation Leader	\$ 11.50	\$ 15.50
Lifeguard	\$ 10.50	\$ 12.50
<i>* Denotes New Job Classification</i>		

# OAKLEY



CALIFORNIA

Agenda Date: 08/09/2016

Agenda Item: 3.14

## STAFF REPORT

**Date:** August 9, 2016  
**To:** Bryan H. Montgomery, City Manager  
**From:** Deborah Sultan, Finance Director  
**SUBJECT:** City of Oakley as Successor Agency to the Oakley Redevelopment Agency  
-Quarterly Investment Report (4th Quarter FY 2015-16)

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

Bryan Montgomery, City Manager

### Background and Analysis

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

### Fiscal Impact

The Investment Report for the Period Ending June 30, 2016 attached shows balances of \$2,070,410.94 in cash for operations and \$2,005,144.47 in bond reserves held by the Bond Trustee.

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

### Recommendation

Staff recommends the City Council, as the Board of the Successor Agency, accept the investment report for the 4th Quarter of Fiscal Year 2015-2016.

### Attachments

City of Oakley as Successor Agency to the Redevelopment Agency Investment Report for the quarter ended June 30, 2016



City of Oakley as Successor Agency to the  
Oakley Redevelopment Agency

**Quarterly Investment Report**

For the Quarter Ended June 30, 2016

Type*	Name of Institution	Rate	Maturity***	Cost Amount	Market Value
<b>Investments in Wells Fargo Bank Account</b>					
	Successor Agency Checking	0.020%	N/A	\$ 2,070,410.94	\$ 2,070,410.94
<b>Total Investments Other than Bond Proceeds</b>				<u>2,070,410.94</u>	<u>2,070,410.94</u>
<b>Investments with Wells Fargo Trust (bond proceeds): **</b>					
<b>2008 Tax Exempt Tax Allocation Bonds</b>					
9	<i>Government Money Market</i> California Asset Management Trust	0.49%	N/A	2,005,144.47	2,005,144.47
<b>Total Investments of Bond Proceeds</b>				<u>2,005,144.47</u>	<u>2,005,144.47</u>
<b>Total Agency Investments</b>				<u>\$ 4,075,555.41</u>	<u>\$ 4,075,555.41</u>


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

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

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

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

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

  
\_\_\_\_\_  
Approved by Deborah Sultan  
Finance Director

  
\_\_\_\_\_  
Date