



AGENDA

REGULAR MEETINGS

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CLAYTON CITY COUNCIL and CLAYTON REDEVELOPMENT AGENCY and OAKHURST GEOLOGIC HAZARD ABATEMENT DISTRICT

TUESDAY, DECEMBER 7, 2010

7:00 p.m.

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

Mayor: Hank Stratford
Vice Mayor: David T. Shuey

Council Members
Howard Geller
Joseph A. Medrano
Julie K. Pierce

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail on Monday prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

*** CITY COUNCIL ***

December 7, 2010

7:00 p.m.

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Stratford.

2. **CLOSED SESSION** – None.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Stratford.

4. **CONSENT CALENDAR**

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

(a) **Information Only**

1. Notification by Republic Services (dba Allied Waste Services) that residential and commercial solid waste collection and disposal services rates will increase by 0.95% (90% of the annual CPI average increases, per the Franchise Agreement), effective January 1, 2011. ([View Here](#))

(b) Approve the minutes of the regular meeting of November 16, 2010 and the special meeting of November 23, 2010. ([View Here](#))

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

(d) Adopt a Resolution approving and adopting updated City of Clayton Standard Specifications for Public Improvements (per Caltrans' revisions through November 2010) and authorizing the posting of same on the City's website. ([View Here](#))

(e) Adopt a Resolution declaring the results of canvass of returns in the November 2010 General Municipal Election declaring two persons elected to the City Council of Clayton, California for full four-year terms of office. ([View Here](#))

5. **RECOGNITIONS AND PRESENTATIONS** – None.

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

David T. Shuey and Ross "Hank" Stratford
(City Clerk)

7. **ANNUAL REORGANIZATION OF CLAYTON CITY COUNCIL**([View Here](#))

(a) Election of Mayor by the City Council [past Mayor to conduct the election].

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

(c) Recognitions and comments by Mayor and Council Members.

8. REPORTS

- (a) Planning Commission – No meeting held to report.
- (b) Trails and Landscaping Committee – No meeting held to report.
- (c) City Manager/Staff
- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.
- (e) Other

9. PUBLIC COMMENT ON NON-AGENDA ITEMS

Citizens may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) by completing a speaker card available on the Lobby table and submitting it to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called by the Mayor, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed as each item is considered by the City Council.

10. PUBLIC HEARINGS - None.

11. ACTION ITEMS

- (a) Consideration of a 2nd Reading and Adoption of Ordinance No. 430 to amend the Contracts Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to implement *California Government Code* Section 20475 (2.0% at 60 Full Formula for Miscellaneous Employees and 2.0% at 50 Full Formula for Local Public Safety) providing a Second Tier of Lower Level Pension Benefits for new City Employees. ([View Here](#))
(City Clerk)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Adopt a motion to have the City Clerk read Ordinance No. 430 by title and number only and waive further reading; **4)** Approve a motion to adopt Ordinance No. 430.

- (b) Consideration of a request by the new owners (NUCP, Inc.) of the Flora Square mixed-use commercial building located at 1026 Oak Street for the City Council's approval to allow a commercial recreation use (longevity fitness studio) as a ground floor lease occupancy rather than a commercial retail sales ground floor use as conditioned in the development's approved Site Plan Review permit (Oak Center SPR 01-06) and the associated Disposition and Development Agreement (DDA). ([View Here](#))
(Community Development Director)

Staff recommendation: Following the staff report and public comments, that Council approve the prepared Resolution authorizing a "fitness studio" use on ground floor in Flora Square subject to the listed conditions.

- (c) Continued consideration of the status of holding the 8th annual "Clayton Counts Down" New Year's Eve event being at risk due to the amount of community and business donations and event volunteers. ([View Here](#))
(Council Members Pierce and Medrano)

Staff recommendation: Provide instruction to staff as to holding the "Clayton Counts Down" event on December 31, 2010.

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

13. ADJOURNMENT– the next regularly scheduled City Council meeting is December 21, 2010.

#

*** CLAYTON REDEVELOPMENT AGENCY ***

December 7, 2010

1. CALL TO ORDER THE BOARD OF DIRECTORS - Chairman Medrano.

2. PUBLIC COMMENTS

Citizens may address the Redevelopment Agency on items within the Agency's jurisdiction, (which are not on the agenda) by completing a speaker card and forwarding it to the Secretary. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Chair's discretion. When the Chair calls one's name, the speaker shall advance to the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. Board Members may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed as each item is considered.

3. CONSENT CALENDAR

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

- (a) Approve the minutes of the regular meetings of September 7, 2010 and November 2, 2010. ([View Here](#))

4. ANNUAL REORGANIZATION OF THE BOARD OF DIRECTORS([View Here](#))

- (a) Nominations and election of Chair (Chairman to conduct the election)
- (b) Nominations and election of Vice Chair (New Chair to conduct the election).

5. PUBLIC HEARINGS - None

6. ACTION ITEMS – None.

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

8. ADJOURNMENT - the next regular Redevelopment Agency meeting will be scheduled as needed.

*** * * * ***

***OAKHURST GEOLOGIC HAZARD ABATEMENT DISTRICT* (GHAD)**

DECEMBER 7, 2010

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

2. **CLOSED SESSION** – None.

3. **PUBLIC COMMENTS**

Citizens may address the Abatement District Board on items within the Board's jurisdiction, (which are not on the agenda) by completing a speaker card and forwarding it to the Secretary. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Chair's discretion. When one's name is called by the Chair, the speaker shall advance to the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Abatement District Board may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed as each item is considered.

4. **CONSENT CALENDAR**

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

(a) Approve the minutes from the regular meeting of September 7, 2010. ([View Here](#))

5. **ANNUAL REORGANIZATION OF THE BOARD OF DIRECTORS**([View Here](#))

(a) Nominations and election of Chair (Chairman to conduct the election)

(b) Nominations and election of Vice Chair (New Chair to conduct the election).

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

7. **ADJOURNMENT** - the next regular GHAD meeting will be scheduled as needed.

* * * * *

Agenda Date: 12-7-10

Agenda Item: 4a



Received

NOV 29 2010

City of Clayton

November 24, 2010

Mr. Gary Napper
City Manager
6000 Heritage Trail
Clayton, CA 94517

Dear Gary:

Allied Waste Services is providing notification of our intention to adjust the residential and commercial refuse collection rates by an amount equal to ninety percent (90%) of the average percentage increase in the Consumer Price Indices (US-U and SF-U) occurring during the full calendar year preceding the January adjustment date. I have attached the CPI information for both indices referenced in our franchise agreement.

The October 2009 – October 2010 changes in CPI (consistent with past use of Oct-Oct changes) yields the following rate allowance:

CPI-U for National:	1.2%
CPI-U for San Francisco area	0.9%

Average of the 2 CPIs:	1.05%
90% of the average CPI change:	0.945% or rounding would be 0.95% CPI increase

The total rate adjustment will be .95% and will take effect on January 1, 2011.

A generic bill message will be on the December invoice.

Feel free to contact me at (925) 671-5823 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Timothy M. Argenti'.

Timothy M. Argenti
GENERAL MANAGER


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Data extracted on: November 30, 2010 (1:34:15 PM)

Consumer Price Index - All Urban Consumers

12-Month Percent Change

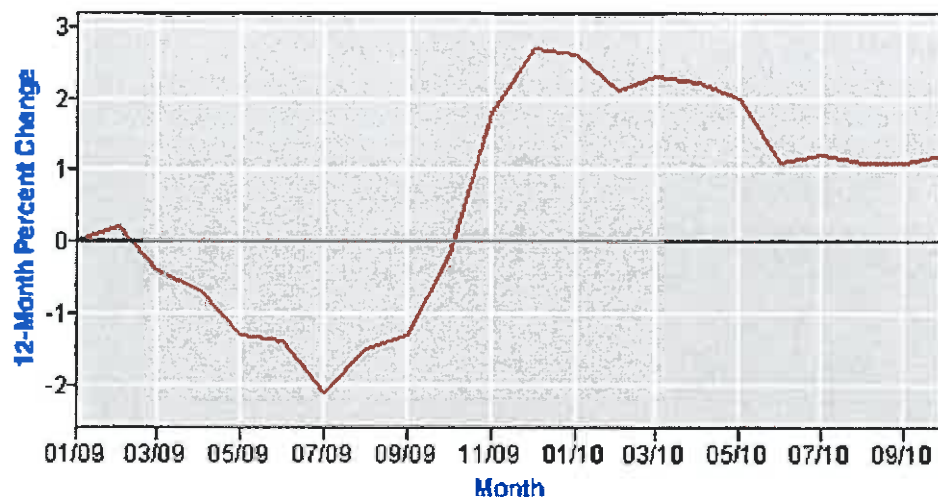
Series Id: CUUR0000SA0

Not Seasonally Adjusted

Area: U.S. city average

Item: All items

Base Period: 1982-84=100



Download: .xls

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2009	0.0	0.2	-0.4	-0.7	-1.3	-1.4	-2.1	-1.5	-1.3	-0.2	1.8	2.7	-0.4	-0.6	-0.1
2010	2.6	2.1	2.3	2.2	2.0	1.1	1.2	1.1	1.1	1.2				2.1	


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Data extracted on: November 30, 2010 (1:29:26 PM)

Consumer Price Index - All Urban Consumers

Series Id: CUURA422SA0, CUUSA422SA0

Not Seasonally Adjusted

Area: San Francisco-Oakland-San Jose, CA

Item: All items

Base Period: 1982-84=100

Download:
[.xls](#)

Year	Oct
2009	226.051
2010	228.107

12

-

Month
Percent
Change
Series Id: CUURA422SA0, CUUSA422SA0

Not Seasonally Adjusted

Area: San Francisco-Oakland-San Jose, CA

Item: All items

Base Period: 1982-84=100

Download:
[.xls](#)

Year	Oct
2009	0.1
2010	0.9

Collector from all residential, commercial and industrial sources within the City limits of Clayton. The franchise fee shall be paid quarterly within thirty (30) days after the end of each calendar quarter and shall be based upon actual gross receipts of Collector for the preceding calendar quarter; provided, however, that in partial consideration of the City's agreement to amend and extend the term of the contractual relationship with the City, the Collector agrees pay to City the total franchise fee amount paid to City in fiscal year 2001-2002 through the year 2004, or the 5% franchise fee of the total gross revenues of the Collector received each year in year 2002, and 2003, and 2004, whichever fee amount is the greater.

5. Franchise Area.

A. Franchise Area Defined. The Franchise Area granted by this Franchise Agreement shall be the corporate limits of the City, and such additional areas as may hereafter be added by reason of annexation.

6. City to Approve Maximum Rates.

A. Maximum Rates; CPI Adjustments. The monthly collection rates inclusive of landfill fees may be increased automatically on an annual basis as of January 1 of each year by an amount equal to ninety percent (90%) of the average percentage increase in the Consumer Price Indices (US-U and SF-U) occurring during the full calendar year preceding the January adjustment date, provided the maximum increase for any one year will be 4%, non-cumulative. No rate reduction shall occur solely as a result of CPI adjustments. Collector agrees to implement new agreed upon rates effective July 1, 2002, and shall not apply an increase to any rates in the year 2003. The rates commencing January 2004 will be adjusted at 100% of the Consumer Price Indices and in years 2005 through 2012, rates will be adjusted by an amount equal to 90% of Consumer Price Indices. Collector agrees that it shall charge those persons,

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

Agenda Date: 12-7-10

Agenda Item: 4b

TUESDAY, November 16, 2010

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:01m. by Mayor Stratford in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Stratford, Vice Mayor Shuey, Councilmembers Geller, Medrano and Pierce (arrived at 7:35 p.m.) Staff present: City Manager Gary Napper, City Attorney Dan Adams, and City Clerk Laci Jackson.
2. **PLEDGE OF ALLEGIANCE** – led by Mayor Stratford.
3. **CONSENT CALENDAR-** It was moved by Councilmember Medrano, seconded by Vice Mayor Shuey (Passed; 4-0 vote).
 - (a) Approved the minutes of the regular meeting of November 2, 2010.
 - (b) Approved Financial Demands and Obligations of the City.
4. **RECOGNITIONS AND PRESENTATIONS-** None.
5. **REPORTS**
 - (a) Planning Commission- Chair Sandra Johnson congratulated Mayor Stratford and Vice Mayor Shuey on their re-election. At their November 9th meeting the Planning Commission approved a Site Plan Review for a home on Lydia Lane. The Commission discussed the possibility of using story poles to outline the mass and height of certain projects such as the Clayton Community Church application.
 - (b) Trails and Landscaping Committee- No meeting to report.
 - (c) The City Manager congratulated Mayor Stratford and Vice Mayor Shuey on their re-election and stated the County Clerk is still counting ballots but the swearing in and reorganization is expected on December 7, 2010. He reported Proposition 22 was approved by the voters though the Clayton Redevelopment Agency will still have to pay \$405,000 to the State this year in addition to its \$2million state diversion last year. He reported the State has a reported \$26 billion deficit which will be a challenge for the new legislators.
 - (d) City Council

Councilmember Geller attended the Board of Realtors reception and the Mayors' Conference in Hercules. He also noted the Lydia Lane Park play structure is completed and it looks great.

Councilmember Shuey visited Lydia Lane Park and was amazed by how quickly the word got out about the new play structure because already several families are using the new park attributes.

Mayor Stratford attended the Veterans' Day ceremony in Concord, the Board of Realtors Reception, and Eagle Scout Court of Honor for Brendan Sullivan and Brandon Fry. He also noted Clayton Valley High School took a pledge to adhere to the "Do the Right Thing" program.

- (e) Other

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

Molly Avilez, Clayton Valley High School student stated she is holding a second Community Blood Drive on November 30, 2010 at Diablo View Middle School from 1:30-7:30 p.m. She stated her goal is to have 200 people attend and donate blood.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Consider a request by the new owners (NUCP, Inc.) of the Flora Square mixed commercial building at 1026 Oak Street for the City Council's approval to allow a commercial recreation use (longevity fitness studio) as a ground floor lease occupancy rather than retail commercial ground floor uses indicated in the Disposition and Development Agreement (DDA).

The Community Development Director received a request from property owner to defer this item to a date unspecified. He stated the partnership group needs more time to talk about opportunities and challenges with the ground floor space. Staff supports the request for continuance.

Mayor Stratford opened the floor for public comments.

Steven Coates, Property Manager of Village Oaks stated he understands the problems the Flora Square building is facing. He stated even with active marketing he has not received many calls from people looking to rent retail space. He said there is not a demand for retail and he is concerned other businesses in ground floor spaces in the downtown area do not have to come before the Planning Commission for approval like he did.

The City Manager stated there is a distinction between the Village Oaks and Flora Square because Flora Square has a prior 2005 Disposition and Development Agreement.

- (b) Discussion on status of 8th annual "Clayton Counts Down" New Year's Eve event being at risk due to lack of community and business donations and volunteers.

The City Clerk reported the Clayton Counts Down committee is in need of volunteers and donations in order to make the event happen this year.

Councilmember Medrano stated 40-50% of attendees are not Clayton residents and when this started it was meant for the Clayton community. He stated the committee decided that because the economy has tightened up there will be a \$5 charge per person to help cover the cost of the event. He stated he would be open to only charging non-residents.

The City Manager stated the notion of charging a fee is somewhat troublesome because the idea of the event from inception was to provide an alternative non-alcohol event for the community that holiday night. With the introduction of a fee it could put a chill on the event. He stated with the down economy donors do not have as much money available for donations.

Councilmember Geller stated he has been looking for volunteers and spoke with the Diablo Valley Ranch and there is a good possibility they could help with man power to help set up. He also suggested widening the donation list to vendors who the City uses for services.

Councilmember Medrano stated if the Council is not in favor of charging at the event, maybe the event fee is deferred if enough donations are received to cover the event.

Councilmember Pierce arrived at 7:35 p.m.

Councilmember Pierce suggested either the Council raise the money by December 1st or the event be cancelled for this year. She stated the community would be less irritated if the event is cancelled rather than charging a fee, and may be more willing to raise money the next year.

Vice Mayor Shuey stated volunteers are needed because these community events are burning out the core of volunteers we do have.

Councilmember Pierce noted City staff should not have to work at such the events on holidays without being paid.

Molly Alvez suggested contacting Clayton Valley High School for volunteers.

Vice Mayor Shuey asked to bring this item back to the Council on December 7th and see how donations and volunteers look by then. He stated he does not like the idea of charging for the event. Open it up to Clayton Valley high school students too.

9. **COUNCIL ITEMS**- None received.

10. **CLOSED SESSION**

(a) *Government Code Sections 54956.9 (a), (b) (1) and (c).*

Conference with Legal Counsel

Pending Litigation: *Katzman, et al. v. City of Clayton, et al.* Coordinated Cases
Master/C07-01461/C07-00707, Superior Court of CA, Contra Costa County
and related coverage issues.

(b) *Government Code Section 54957(b) (1).*

1) City Manager annual performance evaluation. (City Manager did not attend

Report out from Closed Session: Mayor Stratford reported the Council gave direction to Legal Counsel on Item 10(a).

11. **ADJOURNMENT**– On call by Mayor Stratford the meeting adjourned at 9:20 p.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Hank Stratford, Mayor

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

TUESDAY, November 23, 2010

Agenda Date: _____

Agenda Item: _____

1. **CALL TO ORDER & ROLL CALL** – The special meeting was called to order at 9:06 a.m. by Mayor Stratford in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Stratford, Vice Mayor Shuey, Councilmembers Geller, Medrano and Pierce. Staff present: City Manager Gary Napper, Assistant to the City Manager Laura Hoffmeister, Police Chief Dan Lawrence, and City Clerk Laci Jackson.

2. **PUBLIC COMMENT ON NON-AGENDA ITEMS**- None.

3. **STUDY SESSION**

The following business owners/ community members were present: Steve Thomas (NUCP, Flora Square), Sue White (Accurate Business Services), Frank Lagan (Clayton Fitness), Jennifer Lutz (Clayton Community Church), Shawn Robinson (Clayton Community Church), Ed Moresi (Ed's Mudville Grill and Moresi's Chophouse), Doug Van Wyck (State Farm), Ted Meriam (Clayton Historical Society), Ilima Henerman (Vevity Fitness), Mike Monaghan and Sabrina Mendoca (SNAP Fitness), Tamara Steiner (Clayton Pioneer), Johnny Sandu (Johnny's Deli), Dennis Mitchell (Clayton Club), Jim Frazier (Hair by Jim), Sam Sandu (Village Market), Joe Sanchez (J&R Floors), Steve Barton (Clayton Club Saloon).

- (a) Study Session with Town Center business owners and local merchants to discuss matters of mutual interest to include the following subjects:

1. **Critique of the 2010 Concerts series and suggestions for 2011 series.**

Councilmember Pierce stated she and Councilmember Geller handed out approximately 100 surveys at each of the 10 concerts. She stated not all people responded to every question.

The groups consensus was the concerts went extremely well, the frequency and times were good, and the Concerts promoted higher sales at the local eateries.

Johnny Sandu stated he would like to see more signs for the concerts in places like the Shell Station in order to create more foot traffic downtown. Councilmember Geller stated the advertising is done locally because the concerts are intended for Clayton residents and due to the capacity of the park.

Vice Mayor Shuey suggested maybe at Oktoberfest and the Art and Wine Festival businesses could hand out coupons or information about their business.

The Assistant to the City Manager also suggested businesses give flyers to the crowd themselves at the concerts if they are having specials.

2. Request to allow City-approved food and/or alcohol booth(s) at Concerts series.

Councilmember Medrano stated this idea was intended to help find a funding source to offset RDA/City the cost of the concerts. He stated beer and wine companies would donate the beverages and the City would sell it during the concerts.

Councilmember Pierce asked the Police Chief about alcohol related regulations for such booths.

The Police Chief responded the vendor would have to get an ABC license to sell alcohol and it would have to stay in a specified area. He stated this could become a challenge for the Police Department.

Steve Barton commented the event holder would also have to obtain an ABC catering permit.

Shawn Robinson asked if this would be competition for the other businesses in the area selling like beverages.

Councilmember Medrano stated another option would be to have one food booth and one beer/wine booth at each concert which could be run by the local businesses.

Councilmember Geller stated at this time there has not a problem with drinking in the park and people seem to be self monitoring: he stated the event does not need to encourage people to drink more. He stated the original intent of the concerts was to showcase the downtown businesses and encourage attendee patronage.

Steve Barton asked if the concerts will be sustainable without additional funding? Councilmember Geller responded the concerts have strong sponsors with the CBCA and Allied Waste and the donations each year have increased.

Shawn Robinson asked if there could be a major sponsor with each concert, and suggested a \$500 fee to promote the businesses with their logo or banner during the concert.

Tamara Steiner recommended that before the City proceeds with alcohol sales they figure out the impacts it would cause for the other businesses.

Councilmember Pierce stated the concert surveys reveal that most people purchased something from a downtown business on concert nights.

Jim Frazier stated he goes to every concert and noted he gets a lot of new business from being at the concerts and networking. He stated he would be willing to pay more on his business license in order to help fund the concerts.

The City Manager stated a BID (Business Investment District) could be formed by the business owners who could agree to levy or surcharge the business license tax in order to use the funds for programs or marketing of the specified area. The business owners would form a committee and decide how to spend the money levied. It is placed in a restricted-use account and by law cannot be used for any other purpose.

The Assistant to the City Manager stated Walnut Creek has two BID's and they are having success.

Johnny Sandu stated he likes the way the concerts are run right now and suggested selling concert memorabilia might be a way to raise further revenue.

Dennis Mitchell stated the concerts were meant to get people going to the local businesses, not create further competition for them.

Steve Barton asked the Council to look into the sponsorship idea and suggested setting a threshold for donations (maybe \$500), or there could be levels of sponsorship so a group of businesses could get together to sponsor a concert.

Ed Moresi asked how much money CBCA paid toward the concerts. Councilmember Geller state approximately \$7,000. The City Manager added CBCA was invited to the meeting and does hold several events each year from which the City does not receive any direct revenue. He stated if the business owners feel the CBCA should contribute more to the business community from this event then they should communicate that to CBCA.

Jim Frazier stated his goal as a new CBCA Boardmember is to talk with businesses owners and find out why they are not part of CBCA or are not attending meetings. He also stated the CBCA did provide money for the Gazebo and the Daffodil Hill project.

Frank Lagan stated the park is not designed to hold many people. He also stated as a business owner in the Clayton Station area they feel like orphans.

Tamara Steiner asked what could be done to support the Clayton Station businesses. Frank Lagan responded the businesses in that area are not acknowledged and so many merchants come and go.

3. Consideration of suggestions/improvements to various community events held in the Town Center (e.g. CBCA festivals; 4th of July Parade; Labor Day Derby/Car Show, Farmers' Market, etc.).

Sam Sandu started the conversation by stated the fences around his store during the Oktobeferst hurt his business. He stated he sells more than alcohol and being cut off from event hurt all grocery sales.

Shawn Robinson stated this year's Oktoberfest seemed to be the most rowdy and kids were being hassled.

The Police Chief stated the venue of Oktoberfest is a challenge and the location of Village Market makes things difficult. He stated because the CA ABC licenses must be kept separate and to proved better security for the event holder (CBCA), the Village Market was fenced off from the event. He did note this year the Police Department recorded less fights than in previous years.

Johnny Sandu stated that because the fencing required customers to walk much further around the fences to get to his deli he lost businesses. He suggested an entry and exit point be opened on Morris Street in order to allow people easier access to the Village Market and his deli.

Jim Frazier stated as a member of the community he loses business over the weekends of the large events, but because he is a member of the community he accepts that. He suggested Johnny talk with the CBCA and see if they could work out a reduced rate for his deli to be in the food court area.

The Car Show/Labor Day Derby was discussed and no modifications were suggested.

Councilmember Pierce stated this year the free Kiddie Land was eliminated for the 4th of July Parade due to lack of funds and she did not hear any complaints.

4. Roundtable discussion of ideas or programs to promote a healthier local business economy.

Mayor Stratford asked if there was anything the Council could do to help make businesses more successful.

Steve Barton asked what happened to the downtown marketer and analysis. Vice Mayor Shuey responded because of the downturn in the economy the retail specialist was unable to bring any businesses downtown; instead of putting more money into the consultant the Council decided to stop spending money for the time being and await market recovery.

Doug Van Wyck suggested the Council consider using the surrounding universities and their students for marketing projects.

Shawn Robinson stated a health faire might be an interesting event to host each year.

Councilmember Pierce asked if another meeting should be scheduled now to discuss issues such as the BID. The City Manager suggested staff put some program information together and mail a notice to the business owners in early 2011. He also stated if a business owner has a suggestion for a project or something in the downtown there is an Economic Development sub-committee of the City Council where ideas could be directed.

4. **COUNCIL ITEMS**- None received.
5. **ADJOURNMENT**- On call by Mayor Stratford the meeting adjourned at 11:00 a.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Hank Stratford, Mayor



Agenda Date: 12/07/10

Agenda Item: 4c

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: DECEMBER 16, 2010

SUBJECT: INVOICE SUMMARY

RECOMMENDATION

Approve the following Invoices.

12/07/10	Invoices for Payment	\$241,847.50
12/01/10	Paid Invoice – CalPERS Retirement	\$20,812.44

Attachments:

Cash Requirements Report – CC Meeting 12/7/10 (7 pages)

Invoice Expense Allocation Report – CalPERS Payment (1 pages)

City of Clayton

Cash Requirements Report

CC Meeting 12/7/10

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
All City Management Services, Inc.								
All City Management Services, Inc.	12/2/2010	11/10/2010	21157	Crossing Guard WE 11/6/10	\$465.00	\$0.00		\$465.00
				<i>Totals for All City Management Services, Inc.:</i>	<u>\$465.00</u>	<u>\$0.00</u>		<u>\$465.00</u>
Arlene H. Kikkawa-Nielsen								
Arlene H. Kikkawa-Nielsen	12/3/2010	11/8/2010	11/10	Library Volunteer Coord 11/10	\$820.00	\$0.00		\$820.00
				<i>Totals for Arlene H. Kikkawa-Nielsen:</i>	<u>\$820.00</u>	<u>\$0.00</u>		<u>\$820.00</u>
AT&T Yellow Pages								
AT&T Yellow Pages	12/2/2010	11/23/2010	12/10 Balance	Yellow Pages Balance of 2010 Contract	\$4.27	\$0.00		\$4.27
				<i>Totals for AT&T Yellow Pages:</i>	<u>\$4.27</u>	<u>\$0.00</u>		<u>\$4.27</u>
AT&T/ CalNet 2								
AT&T/ CalNet 2	12/2/2010	11/22/2010	11/10	Local Phone Service 11/10	\$1,784.60	\$0.00		\$1,784.60
				<i>Totals for AT&T/ CalNet 2:</i>	<u>\$1,784.60</u>	<u>\$0.00</u>		<u>\$1,784.60</u>
Bank of America								
Bank of America	12/2/2010	11/22/2010	11/22/10	Deposit Slips in 2 shipments 11/10	\$81.62	\$0.00		\$81.62
				<i>Totals for Bank of America:</i>	<u>\$81.62</u>	<u>\$0.00</u>		<u>\$81.62</u>
Bay Area News Group East Bay								
Bay Area News Group East Bay	8/28/2010	8/28/2010	3641061	Legal Notice	\$80.00	\$0.00		\$80.00
				<i>Totals for Bay Area News Group East Bay:</i>	<u>\$80.00</u>	<u>\$0.00</u>		<u>\$80.00</u>
Blackbaud								
Blackbaud	12/2/2010	11/30/2010	90261987	FE Implementation Conslt 11/10	\$4,649.06	\$0.00		\$4,649.06
Blackbaud	12/2/2010	11/30/2010	90260937	FE Implementation 11/10	\$225.00	\$0.00		\$225.00
				<i>Totals for Blackbaud:</i>	<u>\$4,874.06</u>	<u>\$0.00</u>		<u>\$4,874.06</u>
CA Association of Code Enforcement								
CA Association of Code Enforcement	11/30/2010	11/15/2010	11/15/10	CACEO Membership Dues 2011	\$75.00	\$0.00		\$75.00
				<i>Totals for CA Association of Code Enforcement:</i>	<u>\$75.00</u>	<u>\$0.00</u>		<u>\$75.00</u>
Calif. Exterminating Service								
Calif. Exterminating Service	11/30/2010	9/17/2010	0134356	Bee Hive Removal 9/10	\$195.00	\$0.00		\$195.00
				<i>Totals for Calif. Exterminating Service:</i>	<u>\$195.00</u>	<u>\$0.00</u>		<u>\$195.00</u>
CalPERS Health								
CalPERS Health	11/30/2010	11/15/2010	398	Health Premiums 12/10	\$25,319.54	\$0.00		\$25,319.54
				<i>Totals for CalPERS Health:</i>	<u>\$25,319.54</u>	<u>\$0.00</u>		<u>\$25,319.54</u>
CalPERS								
CalPERS	12/2/2010	11/28/2010	PPE 11/28/10	Retirement PPE 11/28/10	\$20,441.86	\$0.00		\$20,441.86
				<i>Totals for CalPERS:</i>	<u>\$20,441.86</u>	<u>\$0.00</u>		<u>\$20,441.86</u>

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CC Meeting 12/7/10

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Carl Nielson								
Carl Nielson	11/30/2010	11/22/2010	Libr 11/13/10	Library Deposit Refund 11/13/10	\$200.00	\$0.00		\$200.00
				<i>Totals for Carl Nielson:</i>	<u>\$200.00</u>	<u>\$0.00</u>		<u>\$200.00</u>
CCC Auditor-Controller								
CCC Auditor-Controller	12/2/2010	11/10/2010	10/10	PD Booking Fees	\$98.00	\$0.00		\$98.00
				<i>Totals for CCC Auditor-Controller:</i>	<u>\$98.00</u>	<u>\$0.00</u>		<u>\$98.00</u>
CCC General Services								
CCC General Services	11/30/2010	11/18/2010	4041	Traffic Signal Maint 10/10	\$3,293.82	\$0.00		\$3,293.82
				<i>Totals for CCC General Services:</i>	<u>\$3,293.82</u>	<u>\$0.00</u>		<u>\$3,293.82</u>
CCC Library								
CCC Library	11/30/2010	11/18/2010	11/18/10	Additional Library Hrs 7/10-9/10	\$4,313.07	\$0.00		\$4,313.07
				<i>Totals for CCC Library:</i>	<u>\$4,313.07</u>	<u>\$0.00</u>		<u>\$4,313.07</u>
CCC Tax Collector								
CCC Tax Collector	12/2/2010	9/14/2010	2010-11	Property Taxes 10-11	\$5,480.96	\$0.00		\$5,480.96
				<i>Totals for CCC Tax Collector</i>	<u>\$5,480.96</u>	<u>\$0.00</u>		<u>\$5,480.96</u>
City of Concord								
City of Concord	12/2/2010	11/5/2010	22740	Dispatch Svc 11/10	\$13,173.00	\$0.00		\$13,173.00
City of Concord	12/2/2010	11/12/2010	22795	Live Scan - Stanford 11/10	\$32.00	\$0.00		\$32.00
City of Concord	12/2/2010	11/5/2010	22741	PD Router Service 11/10	\$112.00	\$0.00		\$112.00
				<i>Totals for City of Concord:</i>	<u>\$13,317.00</u>	<u>\$0.00</u>		<u>\$13,317.00</u>
Clayton Comm. Library Foundation								
Clayton Comm. Library Foundation	11/30/2010	11/22/2010	11/22/10	Advance from CC Library Fund 11/10	\$5,000.00	\$0.00		\$5,000.00
				<i>Totals for Clayton Comm. Library Foundation:</i>	<u>\$5,000.00</u>	<u>\$0.00</u>		<u>\$5,000.00</u>
Clean Street								
Clean Street	11/30/2010	10/31/2010	61937	Street Sweeping 10/10	\$3,500.00	\$0.00		\$3,500.00
Clean Street	12/2/2010	11/30/2010	62250	Street Sweeping 11/10	\$3,500.00	\$0.00		\$3,500.00
				<i>Totals for Clean Street:</i>	<u>\$7,000.00</u>	<u>\$0.00</u>		<u>\$7,000.00</u>
Contra Costa Topsoil								
Contra Costa Topsoil	11/30/2010	11/5/2010	90719	Lydia Ln Playground 11/10	\$830.30	\$0.00		\$830.30
				<i>Totals for Contra Costa Topsoil:</i>	<u>\$830.30</u>	<u>\$0.00</u>		<u>\$830.30</u>
Contra Costa Trans. Authority								
Contra Costa Trans. Authority	11/30/2010	11/10/2010	11/10/10	Share of FY 09-10 Congest Mgmt Costs	\$411.38	\$0.00		\$411.38
				<i>Totals for Contra Costa Trans. Authority:</i>	<u>\$411.38</u>	<u>\$0.00</u>		<u>\$411.38</u>
Contra Costa Water Dist.								
Contra Costa Water Dist.	11/9/2010	11/9/2010	E Series 9-10/10	Water Service 9-10/10	\$29,297.47	\$0.00		\$29,297.47

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Delta Fence Company, Inc.				<i>Totals for Contra Costa Water Dist.:</i>	<u>\$29,297.47</u>	<u>\$0.00</u>		<u>\$29,297.47</u>
Delta Fence Company, Inc.	11/30/2010	11/8/2010	22339	Marsh Creek Cir Migr Fencing 10/10	\$2,187.00	\$0.00		\$2,187.00
				<i>Totals for Delta Fence Company, Inc.:</i>	<u>\$2,187.00</u>	<u>\$0.00</u>		<u>\$2,187.00</u>
Gerald & Lorraine Mole								
Gerald & Lorraine Mole	12/2/2010	11/8/2010	SWP 07-10	Refund Unused SWP 07-10 Deposit	\$1,570.48	\$0.00		\$1,570.48
				<i>Totals for Gerald & Lorraine Mole:</i>	<u>\$1,570.48</u>	<u>\$0.00</u>		<u>\$1,570.48</u>
Globalstar LLC								
Globalstar LLC	12/2/2010	10/16/2010	2592849	PD Comm Trailer Sat Phone 10/10	\$26.87	\$0.00		\$26.87
				<i>Totals for Globalstar LLC:</i>	<u>\$26.87</u>	<u>\$0.00</u>		<u>\$26.87</u>
Goldfarb & Lipman								
Goldfarb & Lipman	11/30/2010	11/12/2010	99625	RDA LMI Legal Svc 10/10	\$73.50	\$0.00		\$73.50
				<i>Totals for Goldfarb & Lipman:</i>	<u>\$73.50</u>	<u>\$0.00</u>		<u>\$73.50</u>
Health Care Dental Trust								
Health Care Dental Trust	11/30/2010	11/9/2010	116637	Dental Premiums 12/10	\$2,469.51	\$0.00		\$2,469.51
				<i>Totals for Health Care Dental Trust:</i>	<u>\$2,469.51</u>	<u>\$0.00</u>		<u>\$2,469.51</u>
Jeffrey Miller & P Hollingsworth								
Jeffrey Miller & P Hollingsworth	12/2/2010	11/20/2010	C&D #244	Refund C&D Deposit 11/10	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Jeffrey Miller & P Hollingsworth:</i>	<u>\$2,000.00</u>	<u>\$0.00</u>		<u>\$2,000.00</u>
John Deere Landscapes Inc								
John Deere Landscapes Inc	11/30/2010	11/4/2010	56386014	Landscape Materials 11/10	\$1,563.55	\$0.00		\$1,563.55
				<i>Totals for John Deere Landscapes Inc:</i>	<u>\$1,563.55</u>	<u>\$0.00</u>		<u>\$1,563.55</u>
Kilbourne & Kilbourne								
Kilbourne & Kilbourne	11/30/2010	11/17/2010	69397	Employee Recognition Gifts 12/10	\$1,195.50	\$0.00		\$1,195.50
				<i>Totals for Kilbourne & Kilbourne:</i>	<u>\$1,195.50</u>	<u>\$0.00</u>		<u>\$1,195.50</u>
Konica Minolta Bus Solutions								
Konica Minolta Bus Solutions	12/2/2010	11/30/2010	12591-JGZ-10 Rtn Al	Adm Copier Buyout Final Bill	\$1,257.96	\$0.00		\$1,257.96
				<i>Totals for Konica Minolta Bus Solutions:</i>	<u>\$1,257.96</u>	<u>\$0.00</u>		<u>\$1,257.96</u>
LarryLogic Productions								
LarryLogic Productions	11/30/2010	11/17/2010	1099	Video CC Meeting 11/16/10	\$270.00	\$0.00		\$270.00
				<i>Totals for LarryLogic Productions:</i>	<u>\$270.00</u>	<u>\$0.00</u>		<u>\$270.00</u>
Leonard's Construction								
Leonard's Construction	11/30/2010	11/16/2010	57388	Lydia Ln Playground 11/10	\$1,150.00	\$0.00		\$1,150.00
				<i>Totals for Leonard's Construction:</i>	<u>\$1,150.00</u>	<u>\$0.00</u>		<u>\$1,150.00</u>

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Lexipol LLC								
Lexipol LLC	12/2/2010	11/1/2010	4787	LE Policy Update Subscription 10-11	\$2,450.00	\$0.00		\$2,450.00
				Totals for Lexipol LLC:	<u>\$2,450.00</u>	<u>\$0.00</u>		<u>\$2,450.00</u>
LSA Associates Inc								
LSA Associates Inc	11/30/2010	11/11/2010	104064	Clayton CC EIR 10/10	\$19,551.39	\$0.00		\$19,551.39
				Totals for LSA Associates Inc:	<u>\$19,551.39</u>	<u>\$0.00</u>		<u>\$19,551.39</u>
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	11/30/2010	11/9/2010	410-1152-10	Library HVAC Maint 10/10	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	11/30/2010	11/9/2010	410-1151-10	City Hall HVAC Maint 10/10	\$150.00	\$0.00		\$150.00
				Totals for Marken Mechanical Services Inc:	<u>\$300.00</u>	<u>\$0.00</u>		<u>\$300.00</u>
Martell Water Systems, Inc.								
Martell Water Systems, Inc.	11/30/2010	11/10/2010	17905	Lydia Ln Playground 11/10	\$226.42	\$0.00		\$226.42
				Totals for Martell Water Systems, Inc.:	<u>\$226.42</u>	<u>\$0.00</u>		<u>\$226.42</u>
Municipal Pooling Authority								
Municipal Pooling Authority	12/1/2010	12/1/2010	12/10	LTD, Life & AD&D Premiums 12/10	\$1,156.67	\$0.00		\$1,156.67
Municipal Pooling Authority	12/2/2010	11/24/2010	ES-1003A	Suppl Vehicle Damage Prem 10-11	\$98.48	\$0.00		\$98.48
				Totals for Municipal Pooling Authority:	<u>\$1,255.15</u>	<u>\$0.00</u>		<u>\$1,255.15</u>
NBS Govt. Finance Group								
NBS Govt. Finance Group	11/30/2010	11/19/2010	F11191005-JR	Arbitrage Rebate RDA 11/10	\$1,700.00	\$0.00		\$1,700.00
				Totals for NBS Govt. Finance Group:	<u>\$1,700.00</u>	<u>\$0.00</u>		<u>\$1,700.00</u>
Nicholas Engineering								
Nicholas Engineering	11/30/2010	11/17/2010	2185-1	Geotechnical Testing Svc 11/10	\$3,400.00	\$0.00		\$3,400.00
				Totals for Nicholas Engineering:	<u>\$3,400.00</u>	<u>\$0.00</u>		<u>\$3,400.00</u>
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	11/24/2010	11/24/2010	236982	Outside Phone Booth 12/10	\$73.00	\$0.00		\$73.00
				Totals for Pacific Telemanagement Svc:	<u>\$73.00</u>	<u>\$0.00</u>		<u>\$73.00</u>
PERMCO, Inc.								
PERMCO, Inc.	11/26/2010	11/29/2010	9301		\$3,646.00	\$0.00		\$3,646.00
PERMCO, Inc.	11/26/2010	11/29/2010	9305		\$375.38	\$0.00		\$375.38
PERMCO, Inc.	11/26/2010	11/29/2010	9303		\$86.63	\$0.00		\$86.63
PERMCO, Inc.	11/26/2010	11/29/2010	9307		\$1,706.94	\$0.00		\$1,706.94
PERMCO, Inc.	11/26/2010	11/29/2010	9308		\$5,657.75	\$0.00		\$5,657.75
PERMCO, Inc.	11/26/2010	11/29/2010	9309		\$6,446.94	\$0.00		\$6,446.94
PERMCO, Inc.	11/26/2010	11/29/2010	9302		\$311.25	\$0.00		\$311.25
PERMCO, Inc.	11/26/2010	11/29/2010	9306		\$375.00	\$0.00		\$375.00
PERMCO, Inc.	11/26/2010	11/29/2010	9304		\$62.25	\$0.00		\$62.25
PERMCO, Inc.	11/26/2010	11/29/2010	9304		\$62.25	\$0.00		\$62.25

City of Clayton

Cash Requirements Report

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PERMCO, Inc.	11/26/2010	11/29/2010	9304	Totals for PERMCO, Inc.:	\$83.00	\$0.00		\$83.00
					\$18,813.39	\$0.00		\$18,813.39
PG&E								
PG&E	12/2/2010	11/17/2010	7293447797	Service 11/10	\$16,970.50	\$0.00		\$16,970.50
PG&E	12/2/2010	11/22/2010	1218096305	Service 11/10	\$2,144.64	\$0.00		\$2,144.64
PG&E	12/2/2010	11/18/2010	1199663768	Service 11/10	\$481.90	\$0.00		\$481.90
PG&E	12/2/2010	11/22/2010	Individual Svc 11/10	Service 11/10	\$520.52	\$0.00		\$520.52
				Totals for PG&E:	\$20,117.56	\$0.00		\$20,117.56
pmsigns								
pmsigns	11/30/2010	11/15/2010	17760	Peacock Ctrk Rpl Lettering 11/10	\$2,323.15	\$0.00		\$2,323.15
pmsigns	11/30/2010	11/15/2010	17715	Gym Repl Lettering 11/10	\$5,737.26	\$0.00		\$5,737.26
				Totals for pmsigns:	\$8,060.41	\$0.00		\$8,060.41
Rutan & Tucker LLP								
Rutan & Tucker LLP	11/30/2010	11/8/2010	595873	Land Use & Econ Dev Legal Svc 10/10	\$50.00	\$0.00		\$50.00
				Totals for Rutan & Tucker LLP:	\$50.00	\$0.00		\$50.00
Seifel Consulting Inc.								
Seifel Consulting Inc.	11/30/2010	11/10/2010	10795	Clayton Existing Conditions Anlys 10/10	\$322.32	\$0.00		\$322.32
				Totals for Seifel Consulting Inc.:	\$322.32	\$0.00		\$322.32
SWRCB Fees								
SWRCB Fees	11/30/2010	11/16/2010	WD-0046723	State Water Annual Permit Fees 10-11	\$5,400.00	\$0.00		\$5,400.00
				Totals for SWRCB Fees:	\$5,400.00	\$0.00		\$5,400.00
Toni Guttry								
Toni Guttry	12/2/2010	11/8/2010	SWP 21-09	Refund Unused SWP 21-09 Fees	\$1,117.09	\$0.00		\$1,117.09
				Totals for Toni Guttry:	\$1,117.09	\$0.00		\$1,117.09
Unique Pools								
Unique Pools	12/1/2010	11/24/2010		Refund SWP 10-10 Dep less fees	\$1,785.24	\$0.00		\$1,785.24
				Totals for Unique Pools:	\$1,785.24	\$0.00		\$1,785.24
US Bank Corp Pymt System								
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Well Monitoring 9/10 & 10/10	\$3,091.91	\$0.00		\$3,091.91
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	APA-Membership Dues 2010	\$580.00	\$0.00		\$580.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Oktoberfest-Lamination Supplies	\$59.13	\$0.00		\$59.13
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Office Supplies	\$216.79	\$0.00		\$216.79
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Calendars	\$122.14	\$0.00		\$122.14
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Neopost Lease	\$256.68	\$0.00		\$256.68
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Computer Supplies	\$27.30	\$0.00		\$27.30
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Heater Rental for Mayor's Conf	\$202.75	\$0.00		\$202.75
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Decorations for Mayor's Conf	\$15.30	\$0.00		\$15.30

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US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Tablecloths for Mayors Conf	\$153.00	\$0.00		\$153.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	ABAG General Assembly-Pierce	\$85.00	\$0.00		\$85.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Meeting Supplies	\$4.36	\$0.00		\$4.36
US Bank Corp Pymt System	12/3/2010	10/22/2010	ADM 10/10	Office Supplies	\$129.82	\$0.00		\$129.82
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$216.92	\$0.00		\$216.92
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Office Supplies	\$110.82	\$0.00		\$110.82
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Postage	\$11.08	\$0.00		\$11.08
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Car Washes	\$22.50	\$0.00		\$22.50
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Command Trl Supplies	\$29.46	\$0.00		\$29.46
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Flat Tire Repair	\$25.00	\$0.00		\$25.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Mace Holder	\$37.09	\$0.00		\$37.09
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Command Trl-Oktoberfest	\$47.23	\$0.00		\$47.23
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Postage	\$11.08	\$0.00		\$11.08
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Car Wash	\$7.95	\$0.00		\$7.95
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$55.00	\$0.00		\$55.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Car Washes	\$15.00	\$0.00		\$15.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$132.19	\$0.00		\$132.19
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Training + Credit	\$8.00	\$0.00		\$8.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Uniform shirts	\$314.91	\$0.00		\$314.91
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Repl Strobe Bulb for Vehicle	\$39.78	\$0.00		\$39.78
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$114.64	\$0.00		\$114.64
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Car Washes	\$15.00	\$0.00		\$15.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Hitch Pin for Vehicle	\$12.77	\$0.00		\$12.77
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$290.57	\$0.00		\$290.57
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Bleach	\$3.69	\$0.00		\$3.69
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$130.31	\$0.00		\$130.31
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Car Wash	\$7.50	\$0.00		\$7.50
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$213.73	\$0.00		\$213.73
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Car Wash	\$7.50	\$0.00		\$7.50
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Fuel	\$1,218.26	\$0.00		\$1,218.26
US Bank Corp Pymt System	12/3/2010	10/22/2010	PD 10/10	PD Evidence Supplies	\$151.26	\$0.00		\$151.26
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Printer Cartridge	\$157.30	\$0.00		\$157.30
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Boots	\$158.40	\$0.00		\$158.40
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Pins for Tractor	\$117.47	\$0.00		\$117.47
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW PAPA Seminar	\$70.00	\$0.00		\$70.00
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Tape	\$9.60	\$0.00		\$9.60
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Paint, tarps, tape, etc	\$336.41	\$0.00		\$336.41
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW EH Flowers	\$17.51	\$0.00		\$17.51
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Graffiti Remover	\$262.20	\$0.00		\$262.20
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Saws & Blades	\$273.06	\$0.00		\$273.06
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Streetlight Parts	\$1,182.42	\$0.00		\$1,182.42
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW EH Lights	\$719.59	\$0.00		\$719.59
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Safety Vests	\$378.55	\$0.00		\$378.55
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Fuel	\$205.53	\$0.00		\$205.53

City of Clayton

Cash Requirements Report

CC Meeting 12/7/10

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Misc tools & supplies	\$298.25	\$0.00		\$298.25
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Streetlight Wire	\$1,793.48	\$0.00		\$1,793.48
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Landscape Supplies	\$195.88	\$0.00		\$195.88
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Arrowboard Parts	\$861.98	\$0.00		\$861.98
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Fuel	\$293.19	\$0.00		\$293.19
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Landscape Fuel	\$613.35	\$0.00		\$613.35
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Fuel	\$653.16	\$0.00		\$653.16
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	Base Rock PW Paver-Median Project	\$2,163.58	\$0.00		\$2,163.58
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Concrete Pavers-Median Proj	\$310.92	\$0.00		\$310.92
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Hoses & Nozzles	\$110.31	\$0.00		\$110.31
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Landscape Fuel	\$53.76	\$0.00		\$53.76
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Cold Patch	\$212.38	\$0.00		\$212.38
US Bank Corp Pymt System	12/3/2010	10/22/2010	PW 10/10	PW Landscape Fuel	\$436.51	\$0.00		\$436.51
Totals for US Bank Corp Pymt System:					\$20,078.21	\$0.00		\$20,078.21
GRAND TOTALS:					\$241,847.50	\$0.00		\$241,847.50

City of Clayton

Invoice Expense Allocation Report

Vendor Name	Transaction Date	Description	Status	Account Number	Account Description	Amount
Tax Identification Number	Transaction Number	Transaction Type				
CalPERS	11/14/2010	Retirement 11/14/10		101-7220-02	PERS Retirement	\$3958.97
CalPERS	PPE 11/14/10	Invoice	Paid	101-7220-03	PERS Retirement	\$2311.05
				101-7220-04	PERS Retirement	\$1174.00
				101-7220-06	PERS Retirement	\$12057.68
				230-7220-06	PERS Retirement - COPS	\$887.54
				101-2206-00	PERS Liability	\$10.23
				101-7220-01	PERS Retirement	\$412.97

Totals for CalPERS: \$20812.44



Agenda Date: 12-7-10

Agenda Item: 4d

Approved: _____

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: DECEMBER 7, 2010

SUBJECT: CONSIDERATION OF RESOLUTION APPROVING, AND ADOPTING FOR USE, CITY OF CLAYTON STANDARD SPECIFICATIONS, DATED NOVEMBER 2010, AND AUTHORIZING POSTING ON THE CITY'S WEBSITE

RECOMMENDATION

Adopt resolution.

BACKGROUND

The City of Clayton last adopted Standard Plans and Specifications for the construction of public improvements in September of 2008. The new specifications were based upon on Caltrans' specifications and were to be automatically updated as Caltrans updated its specifications.

However, since that time Caltrans has made significant changes to its specifications (approximately 350 pages of changes to a 900 page document). While most of the changes are automatically incorporated into the City's specifications, changes to titles, sections numbers and references have made it necessary for us to prepare an updated set of Standard Specifications.

The proposed updated Standard Specifications, dated November, 2010, are being presented herewith for approval and adoption by the City Council.

FISCAL IMPACT

None.

CONCLUSION

Based upon the above, it is recommended that the City Council approve the attached resolution approving and adopting for use the City of Clayton Standard Specifications, dated November 2010, and authorizing its posting on the City's website.

Attachments: Resolution
Standard Specifications, dated November 2010
Summary of Changes in Caltrans Specifications – 2008 to present

RESOLUTION NO. - 2010

**A RESOLUTION APPROVING AND ADOPTING UPDATED CITY OF CLAYTON
STANDARD SPECIFICATIONS (DATED NOVEMBER 2010) AND AUTHORIZING
POSTING OF SAME ON THE CITY'S WEBSITE**

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

WHEREAS, the City of Clayton last prepared and adopted Standard Plans and Specifications for the construction of public improvements in August, 2008; and

WHEREAS, the Standard Specifications are based upon the Standard Specifications issued by the State of California Department of Transportation (Caltrans); and

WHEREAS, since the City's Standard Specifications were last adopted, Caltrans has made significant changes and additions to their Standard Specifications necessitating the updating of the City's Standard Specifications; and

WHEREAS, the City Engineer has prepared the updated Standard Specifications, dated November, 2010, attached hereto and incorporated herein by reference; and

WHEREAS, the City Engineer has recommended approval and adoption of the updated Standard Specifications as well as posting of the documents on the City's website.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby approve, and adopt for use, the attached City of Clayton Standard Specifications, dated November 2010, and directs the City Clerk to post said document on the City's website for access by any interested parties.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 7th day of December 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

HANK STRATFORD, Mayor

ATTEST:

Laci J. Jackson, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on December 7, 2010.

Laci J. Jackson, City Clerk



STANDARD SPECIFICATIONS

**THE LATEST EDITION OF THE STATE OF CALIFORNIA DEPARTMENT OF
TRANSPORTATION (CALTRANS) STANDARD SPECIFICATIONS SHALL APPLY
UNLESS MODIFIED OR SUPPLEMENTED IN THESE SPECIFICATIONS.**

November, 2010

**Approved and adopted by the City of Clayton City Council on XXX, 2010
Resolution No. XX - 2010**

**CITY OF CLAYTON
6000 HERITAGE TRAIL
CLAYTON, CA 94517
(925) 673-7300**

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CITY OF CLAYTON
STANDARD SPECIFICATIONS

November, 2010

THE LATEST EDITION OF THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) STANDARD SPECIFICATIONS SHALL APPLY UNLESS MODIFIED OR SUPPLEMENTED IN THESE SPECIFICATIONS.

All references to Measurement and Payment do not apply to land development or encroachment permit projects. These specifications are supplemented by City Standard Plans, State Standard Plans, CCCSD Standard Plans and Specifications (sanitary sewer work only), and the construction documents for the specific project being constructed.

GENERAL PROVISIONS

SECTION 1

DEFINITIONS AND TERMS

1-4 DEFINITIONS

1-4.01 General

Whenever in the City Specifications or other contract documents the following terms, or pronouns in place of them, are used, the intent and meaning shall be interpreted as follows:

CITY – The City of Clayton, Contra Costa County, California.

CITY CLERK – The legally authorized City Clerk of the City of Clayton.

CITY COUNCIL – The legally authorized governing body of the City of Clayton.

CITY SPECIFICATIONS – City of Clayton, California, Standard Specifications.

CITY STANDARD PLANS – City of Clayton, California, Standard Plans.

DEVELOPER – Owner or permittee of a City-approved land development or encroachment permit project

1-4.02 Glossary

The following are modifications to the definitions specified in the Caltrans Standard Specifications.

Contractor – shall also mean the developer or permittee responsible for the work. A contractor must have a valid State of California Contractors License to work in the public right of way.

Department – The City of Clayton.

Director – The duly appointed City Manager of the City of Clayton.

Engineer or Office Engineer – The City Engineer or his designated representative.

holiday – delete March 31st, Cesar Chavez Day, and 2nd Monday in October, Columbus Day.

State – The City of Clayton.

SECTION 2

BIDDING

(Section 2 of the Caltrans Standard Specifications does not apply)

2-1.01 Proposal Form

All bids must be made upon the bid form attached in the Specifications. The bid form is bound in a book together with the Notice to Contractors and Special Provisions. The bidder shall completely fill out the form in a clear and legible manner. Should there be any conflict between the unit price and the total shown by the bidder on the bid form for any individual item, the unit price shall govern.

2-1.02 Approximate Quantities

The quantities shown on the bid form are approximate and are given only as a basis for the comparison of bids, unless the Special Provisions specifically fix the quantity. The City does not expressly, nor by implication, represent that the actual amount of work will correspond to the estimate.

2-1.03 Examination Of Plans, Specifications, Special Provisions, And Site Of Work

The bidder is required to examine carefully the site of the work contemplated, the Bid, Plans, Specifications and Contract forms, and it will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and quantities of work to be performed and materials to be furnished, and as to the requirements of the Bid, the Specifications, Plans, Special Provisions, and the Contract. It is mutually agreed that submission of a Bid by the bidder shall be considered prima facie evidence that the bidder has made such an examination.

2-1.04 Addenda

The Engineer may, when he deems necessary, and at a time prior to the bid opening, issue addenda to the Plans and Specifications to amend, clarify or correct matter contained therein. Such addenda shall constitute a part of said Plans and Specifications and shall be equally binding with them. Addenda will be forwarded to all prospective bidders, insofar as they are known to the Engineer, in any manner determined by the Engineer.

2-1.05 Bidder's Guaranty

All bids shall be presented under sealed cover and shall be accompanied by cash, cashier's or certified check or a bidder's guaranty shall be in an amount equal to at least ten percent (10%) of the amount of the bid and made payable to the City of Clayton.

2-1.06 Withdrawal Of Bids

Any bids may be withdrawn, at any time prior to the time fixed in the Public Notice for the opening of bids, by filing a written request with the City Clerk for the withdrawal of the bid. The request shall be executed by the bidder or his representative. The withdrawal of a bid prior to the bid opening does not prejudice the right of the bidder to file a new bid. No bids may be withdrawn after the time fixed in the Public Notice for opening of bids.

2-1.07 Rejection Of Proposal Containing Alterations, Erasures Or Irregularities

Any bid may be rejected by the City Council if such bid shows any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, or substantial irregularities of any kind.

SECTION 3

CONTRACT AWARD AND EXECUTION

(Does Not Apply)

3-1.02 Contract Award

The award of the contract, if awarded, will be made within thirty (30) calendar days after the opening of the proposals. The award of the contract will be to the lowest responsible bidder whose proposal complies with all the requirements prescribed. Such time for award of the contract may be extended by the City Council.

The right is reserved by the City Council to reject any and all proposals at its discretion.

3-1.03 Contract Bonds (Public Contract Code §§ 10221 and 10222)

The Contractor shall, at his sole expense, furnish two (2) good and sufficient bonds. One bond shall be a faithful performance bond and the other a labor and materials bond. Each of the said bonds shall be executed in a sum of not less than 100% of the total contract price and shall be issued by a corporate surety or sureties admitted by the State of California Department of Insurance.

Whenever any surety on any such bonds becomes insufficient, or the City Engineer has reasonable cause to believe that such surety or sureties have become insufficient, a demand in writing may be made of the Contractor to furnish good and sufficient bonds as required by the terms of the contract. Thereafter, no payment shall be made upon such contract to the Contractor or any assignee of the Contractor until such further bond or bonds or additional surety has been furnished. All alterations, extensions of time, extra work, and other changes authorized by the contract documents may be made without securing the consent of the surety or sureties on the contract bonds.

3-1.09 Contract Execution

The contract shall be signed by the successful bidder and returned, together with the contract bonds, within ten (10) calendar days after the Contractor has received the contract. Failure to execute a contract and file acceptable bonds and certificates of insurance as provided herein shall result in forfeiture of the proposal guaranty.

3-1.10 Bidders' Securities

Within ten (10) calendar days after the award of the contract by the City Council and upon request by the bidder, the City Clerk will return to the unsuccessful bidders, the bidder's guaranty accompanying their respective bids.

SECTION 4

SCOPE OF WORK

(Subsection 4-1.035 Does Not Apply)

SECTION 5

CONTROL OF THE WORK

5-1.005 General

The City of Clayton does not utilize a website for contract administration and forms. Any available forms may be provided by and submitted electronically to the Engineer.

5-1.04 Contract Components

If there is a conflict between contract documents, the document highest in precedence shall control. The precedence shall be:

1. Permits from other agencies as may be required by law
2. Special Provisions
3. Project Plans
4. City Standard Plans
5. City Standard Specifications
6. Caltrans Standard Specifications
7. Caltrans Standard Plans
8. CCCSD Standard Plans and Specifications (for sanitary sewer work only)

Change Orders, Supplemental Agreements and approved revisions to Plans and Specifications will take precedence over items 2 through 6 above. Detailed plans shall have precedence over general plans.

Should it appear that the work to be done, or any matter relative thereto, is not sufficiently detailed or explained in these Specifications, Plans, and the Special Provisions, the Contractor shall apply to the Engineer for such further explanations as may be necessary, and shall conform to such explanation or interpretation as part of the contract, so far as may be consistent with the intent of the original specifications. In the event of doubt or question relative to the true meaning of the specifications, reference shall be made to the Engineer, whose decision shall be final.

In the event of any discrepancy between any drawing and the figures written thereon, the figures shall be taken as correct.

5-1.07 Lines And Grades

Additional provision: The Developer's Engineer will set stakes and furnish cut sheets to the City a minimum of twenty four (24) prior to the start of work.

5-1.08 Inspection

Additional Provision: The City shall be notified at least twenty four (24) hours before any work is commenced or resumed and before each phase of work is to be inspected.

5-1.13 Final Inspection

Additional Provision: Upon completion of the work, the Contractor shall submit a letter stating that all the improvements have been completed in accordance with the approved plans and request that the City accept these improvements. No final inspection will be made until all fees are paid.

5-1.18 Property And facility Preservation

Additional Provision: The contractor and/or developer shall locate and preserve all property corners, monuments, bench marks and other survey points within the area of work. Any damaged points shall be reset by a licensed land surveyor at the contractor's and/or developer's expense.

5-1.19 Hours Of Work

Work within the public right-of-way is restricted to 7:00 a.m. to 6:00 p.m. on weekdays. Work that encroaches into the driving lanes on Clayton Road or Marsh Creek Road shall not occur prior to 9:00 a.m. in the north/westbound direction or after 3:00 p.m. in the south/eastbound direction unless written authorization is obtained from the Engineer.

No work will be allowed within the public right-of-way on Saturday, Sunday or legal holidays without written permission from the Engineer.

SECTION 6

CONTROL OF MATERIALS

6-3.01 Testing By Contractor

Unless otherwise specified in the special provisions, the Contractor shall provide all required materials and construction testing. For development projects, the developer shall provide all required materials and construction testing.

All test results shall be provided to the City within twenty four (24) hours of test completion. Subsequent work may not proceed until City has reviewed and accepted preceding test results.

The cost of such testing shall be borne by the Contractor and/or developer.

SECTION 7

LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC (Subsections 7-1.01A(1), 7-1.01A(2), 7-1.01A(2)(a) and 7.101A(3) do not apply to land development projects)

7-1.01E Trench Safety

Additional Provision: Contractor shall provide his annual trench and/or excavation permit issued by the State Division of Occupational Safety and Health.

7-1.17 Acceptance Of Contract

Additional Provision: The work will not be accepted until a 15% maintenance bond has been provided by the contractor or developer, all fees have been paid, and cleanup has been completed.

SECTION 8

PROSECUTION AND PROGRESS

(Subsections 8-1.04, 8-1.06, 8-1.07, 8-1.08, 8-1.09 and 8-1.11 do not apply to land development projects)

8-1.03 Beginning Of Work

Additional Provision: For land development projects, no work will be permitted to proceed until:

- 1) Plans are submitted and approved by the City;
- 2) All fees are paid and permits/licenses are issued;
- 3) Bonds and insurance certificates are submitted and approved;
- 4) Easements and permits to enter upon private property are obtained;
- 5) A preconstruction meeting has been held.

8-1.05 Temporary Suspension Of Work

Additional Provision: For land development projects, the City may suspend work if any of the following occur:

- 1) The developer, contractor, job engineer, or other Owner's representative fails to comply with these specifications, the City of Clayton Municipal Code, or specific instructions of the Engineer;
- 2) Traffic is improperly controlled; A hazardous condition exists;
- 3) Defective materials or work are not corrected;
- 4) Dust problems are not corrected;
- 5) Stormwater treatment facilities are not provided or properly maintained.

SECTION 9

MEASUREMENT AND PAYMENT

(Does not apply to land development projects)

9-1.11 Payments Withheld

The City may withhold or, on account of later discovered evidence, nullify all or part of any certification made to the Contractor by the City as to the amount determined to be due the

Contractor, to such extent and period of time only as may be necessary protect the City from loss on account of:

- 1) Defective work not remedied;
- 2) Claims filed or reasonable evidence indicating probable filing;
- 3) Failure to properly pay Subcontractors for material or labor;
- 4) Reasonable doubt that the work can be completed for the balance then unpaid;
- 5) Damage to another Contractor, or third party.

9-1.12 Contractor's Financial Obligation

The Contractor shall promptly make payment to all persons supplying labor and materials, and before final acceptance of the work and final payment to the Contractor, including all sums retained by the City, the Contractor shall furnish to the City, satisfactory evidence that all claims for labor and material furnished and used in the construction of said work have been settled and that no legal claim can be filed against the City for such labor and material.

MISCELLANEOUS

SECTION 10 (Blank)

SECTION 11 (Blank)

SECTION 12

CONSTRUCTION AREA TRAFFIC CONTROL DEVICES

12-1.01 Description

Additional Provision: It shall be the contractor's responsibility to notify all affected public service agencies including, but not limited to, police, fire district, emergency medical providers, school districts, public transit agencies, etc. as to construction schedules and the contractor shall maintain a current list or diagram of limited access areas.

12-2.02 Flagging Costs

Flagging costs will be borne solely by the contractor.

12-3.03A Flashing Arrow Signs Required

Flashing arrow signs are required on all arterial street lane closures.

12-3.13 Roadway Widening

Where widening occurs adjacent to a traffic lane is in use, the area adjacent to the traffic lane shall be sloped at 4:1 to provide for public safety. The material used for this slope shall be completely removed as the new structural section is being constructed to allow proper compaction and to tie the existing base rock and the new base rock together. The 4:1 slope will be required until the new base rock is 0.5 feet below the existing pavement section.

If temporary K railings are used, the 4:1 slope may be omitted.

SECTION 13 (Blank)

SECTION 14

ENVIRONMENTAL STEWARDSHIP

(Shall Apply Without Modification)

SECTION 15

EXISTING HIGHWAY FACILITIES

15-1.03 Recycling

All existing facilities to be removed shall be removed from the worksite and, where appropriate, disposed of at recycling facilities. Prior to commencement of work, Contractor shall provide the City a list of recycling facilities he intends to use for the work. Prior to completion of the work and acceptance by the City, the contractor shall provide proof of delivery of such materials from the recycling facilities, including the actual quantities delivered and recycled.

15-2.04 Salvage

Additional Provision: All undamaged materials specified to be salvaged, shall be delivered to the City's corporation yard at 6000 Heritage Trail. The Engineer shall be given twenty four (24) hours notice prior to delivery of salvaged materials.

15-2.05A Frames, Covers, Grates, and Manholes

Additional Provisions: On manholes being adjusted to grade, only one additional manhole adapter ring will be allowed. It shall be attached by set screws or welding so that it does not move under heavy truck traffic. The top of the structure must be reconstructed as new construction if it does not fit the finished pavement grade within 0.05 feet.

Prior to beginning work, a false bottom shall be constructed in all manholes to prevent debris from falling into the pipes.

GRADING

SECTION 16

CLEARING AND GRUBBING

16-1.03 Construction

Additional Provisions: All trees are to be protected unless marked by the Engineer for removal. If the contractor or developer damages or removes an unmarked tree, he shall replace the tree with an equivalent tree of a species and size to be determined by the Engineer. Further, the cost to maintain the new tree until it is the size of the damaged or removed tree, in an amount to be determined solely by the Engineer, shall be paid to the City by the contractor or developer.

Tree stumps and roots over four (4) inches in diameter shall be completely removed and the ground recompact to 90% relative compaction.

The contractor shall have a water truck on the site during the clearing and grubbing phase.

16-1.04 Removal And Disposal Of Materials

All materials removed shall be disposed of in accordance with Subsection 7-1.13, "Disposal of Materials Outside the Highway Right of Way." The contract work area shall be left with a neat and finished appearance.

SECTION 17

WATERING

(Shall Apply Without Modification)

SECTION 18

DUST PALLIATIVE

(Shall Apply Without Modification)

SECTION 19

EARTHWORK

19-2.03 Blasting

Blasting will not be allowed within the City Limits.

19-3.02 Excavation For Culverts

When the plans require embankment construction prior to culvert excavation, the embankment shall first be constructed to two (2) feet above the top of pipe or to subgrade. Trench excavation and backfill shall conform to City Standard Plan S-16.

19-3.025A Shaped Bedding

Shaped bedding in lieu of bedding material as shown on City Standard Plan S-16 shall not be allowed.

19-3.025B Sand Bedding

Sand bedding will only be allowed if required by the utility company that is responsible for the conduit.

19-3.06 Structure Backfill

Additional Provision: Trench backfill shall conform to City Standard Plan S-16.

19-5.03 Relative Compaction (95 Percent)

Additional Provision: The limits of the 95% relative compaction requirement shall be from back of curb to back of curb in the public right-of-way.

SECTION 20

EROSION CONTROL AND HIGHWAY PLANTING **(Shall Apply Without Modification)**

SECTION 21

(Blank)

SECTION 22

FINISHING ROADWAY
(Shall Apply Without Modification)

SECTION 23
(Blank)

SUBBASES AND BASES

SECTION 24

LIME STABILIZED SOIL
(Shall Apply Without Modification)

SECTION 25

AGGREGATE SUBBASES

25-1.02a Aggregate Subbases

Aggregate subbase shall conform to the grading and quality requirements shown in the Table for Class 2 Aggregate Subbase.

25-1.05 Compacting

The surface of the aggregate subbase shall not be higher than the grades established by the Engineer or shown on the plans. Low areas shall be filled with aggregate base during the spreading operation for aggregate base.

SECTION 26

AGGREGATE BASES

26-1.02B Class 2 Aggregate Base

Aggregate base shall conform to the grading and quality requirements shown in the Table for Class 2, 3/4 " maximum aggregate base.

26-1.04 Spreading

The aggregate base under the gutter shall be spread and compacted at the same time as the roadway aggregate base.

26-1.05 Compacting

The surface of the aggregate base shall not be higher than the grades established by the Engineer or shown on the plans. Low areas shall be filled with asphalt concrete during the spreading operation for the base course of hot mix asphalt or finish course for single lift hot mix asphalt sections.

The work specified in this Section includes furnishing, spreading and compacting mineral aggregate on the subgrade in accordance with these Specifications.

SECTION 27

CEMENT TREATED BASES **(Shall Apply Without Modification)**

SECTION 28

LEAN CONCRETE BASE **(Shall Apply Without Modification)**

SECTION 29

TREATED PERMEABLE BASES **(Shall Apply Without Modification)**

SECTION 30 through 36 **(Blank)**

SURFACINGS AND PAVEMENTS

SECTION 37

BITUMINOUS SEALS **(Shall Apply Without Modification)**

SECTION 38 **(Blank)**

SECTION 39

HOT MIX ASPHALT

39-1.02E Aggregate

The aggregate for the surface course shall conform to the grading and quality requirements of 1/2" maximum, medium grading, Type B HMA.

The aggregate for the base course shall conform to the grading and quality requirements of 3/4" maximum, medium grading, Type B HMA.

SECTION 40

CONCRETE PAVEMENT

(Shall Apply Without Modification)

SECTION 41

PAVEMENT SUBSEALING AND JACKING

(Shall Apply Without Modification)

SECTION 42

GROOVE AND GRIND PAVEMENT

(Shall Apply Without Modification)

SECTIONS 43 through 48

(Blank)

STRUCTURES

SECTION 49

PILING

(Shall Apply Without Modification)

SECTION 50

PRESTRESSING CONCRETE
(Shall Apply Without Modification)

SECTION 51

CONCRETE STRUCTURES

51-1.02 Minor Structures

Minor concrete structures shall be cast in place unless otherwise authorized by the Engineer.

SECTION 52

REINFORCEMENT
(Shall Apply Without Modification)

SECTION 53

SHOTCRETE
(Shall Apply Without Modification)

SECTION 54

WATERPROOFING
(Shall Apply Without Modification)

SECTION 55

STEEL STRUCTURES
(Shall Apply Without Modification)

SECTION 56

SIGNS

56-2.06 Measurement

Roadside signs shall be measured by the unit from actual count.

SECTION 57

TIMBER STRUCTURES (Shall Apply Without Modification)

SECTION 58

PRESERVATIVE TREATMENT OF LUMBER, TIMBER AND PILING (Shall Apply Without Modification)

SECTION 59

PAINTING (Shall Apply Without Modification)

SECTION 60 (Blank)

DRAINAGE FACILITIES

SECTION 61

CULVERT AND DRAINAGE PIPE JOINTS (Shall Apply Without Modification)

SECTION 62

ALTERNATIVE CULVERTS (Shall Apply Without Modification)

SECTION 63

CAST-IN-PLACE CONCRETE PIPE

(Shall Apply Without Modification)

SECTION 64

PLASTIC PIPE

(Shall Apply Without Modification)

SECTION 65

REINFORCED CONCRETE PIPE

65-1.02A(1) Circular Reinforced Concrete Pipe (Designated or Selected by Class)

Concrete pipe shall meet the minimum strength requirements of Class III pipe in accordance with the requirements of AASHTO Designation M170, unless a stronger class of pipe is shown on the plans. Non-reinforced precast concrete pipe shall not be used in the public right-of-way.

SECTION 66

CORRUGATED METAL PIPE

(Shall Apply Without Modification)

SECTION 67

STRUCTURAL METAL PLATE PIPE

(Shall Apply Without Modification)

SECTION 68

SUBSURFACE DRAINS

(Shall Apply Without Modification)

SECTION 69

OVERSIDE DRAINS

(Shall Apply Without Modification)

SECTION 70

MISCELLANEOUS FACILITIES **(Shall Apply Without Modification)**

SECTION 71 **(Blank)**

SECTION 72

SLOPE PROTECTION **(Shall Apply Without Modification)**

SECTION 73

CONCRETE CURBS AND SIDEWALKS **(Shall Apply Without Modification)**

73-1.05 Curb Construction

Weakened plane joints shall conform to City Standard Plans. Premolded expansion joint fillers are not allowed.

73-1.05B Extruded or Slip-Formed Curb Construction

Weakened plane joints shall conform to City Standard Plans. Premolded expansion joint fillers are not allowed.

73-1.06 Sidewalk, Gutter Depression, Island Paving, Curb Ramp (Wheelchair Ramp) and Driveway Construction

Weakened plane joints shall conform to City Standard Plans. Premolded expansion joint fillers are not allowed.

SECTION 74

PUMPING PLANT EQUIPMENT **(Shall Apply Without Modification)**

SECTION 75

MISCELLANEOUS METAL

75-1.02 Miscellaneous Iron and Steel

Drainage inlet frames and grates shall be galvanized in accordance with the provisions of Section 75-1.05, "Galvanizing".

SECTIONS 76 through 79 (Blank)

RIGHT OF WAY AND TRAFFIC CONTROL FACILITIES

SECTION 80

FENCES

(Shall Apply Without Modification)

SECTION 81

MONUMENTS

81-1.02 Materials

Survey marker disks, frames and covers for survey monuments shall conform to the dimensions and details shown on the City's Standard Plans. All materials shall be supplied by the contractor.

81-1.03 Construction

Survey monuments shall be cast-in-place and shall conform to the dimensions and details shown on the City's Standard Plans. Surplus excavated materials remaining after the monuments have been constructed shall be disposed of outside of the highway right-of-way.

SECTION 82

MARKERS AND DELINEATORS

(Shall Apply Without Modification)

SECTION 83

RAILINGS AND BARRIERS
(Shall Apply Without Modification)

SECTION 84

TRAFFIC STRIPES AND PAVEMENT MARKINGS
(Shall Apply Without Modification)

SECTION 85

PAVEMENT MARKERS
(Shall Apply Without Modification)

SECTION 86

ELECTRICAL SYSTEMS
(Shall Apply Without Modification)

SECTION 87
(Blank)

MATERIALS

SECTION 88

GEOSYNTHETICS
(Shall Apply Without Modification)

SECTION 89
(Blank)

SECTION 90

PORTLAND CEMENT CONCRETE
(Shall Apply Without Modification)

SECTION 91

PAINT

(Shall Apply Without Modification)

SECTION 92

ASPHALTS

(Shall Apply Without Modification)

SECTION 93

LIQUID ASPHALTS

(Shall Apply Without Modification)

SECTION 94

ASPHALTIC EMULSIONS

(Shall Apply Without Modification)

SECTION 95

EPOXY

(Shall Apply Without Modification)

**2010 CALTRANS STANDARD SPECIFICATIONS
SUMMARY OF CHANGES
2008 TO PRESENT**

Section 1 – Definitions and Terms	Added rules of interpretation; updated references, abbreviations and definitions
Section 2 - Bidding	Re-titled from “Proposal Requirements and Conditions”; updated proposal availability and completion requirements (would apply only to federal aid projects for us)
Section 3 – Contract Award and Execution	RE-titled from “Award and Execution of Contract”; updated timing of contract award; bonding and licensing requirements
Section 4 – Scope of Work	Updated descriptions of changes in the work and added provisions for Value Engineering proposals by the contractor
Section 5 – Control of Work	Formalizes documentation requirements for contractor and agency; added “Partnering” requirements for large (over \$10,000,000) projects; clarified subcontracting and equipment requirements; updated “Differing Site Conditions” requirements; updated “Potential Claims and Dispute Resolution” procedures; updated property and facility preservation requirements
Section 6 – Control of Materials	Updated Brand Name and product/work guarantee requirements; updated “Buy America” requirements to include crumb rubber
Section 7 – Legal Relations and Responsibility	Updated Labor Code conformity requirements; added requirements for Lead Compliance Plan if specified in contract; updated “Public Convenience”, “Public Safety” and “Indemnification and Insurance” requirements; added section for “Federal laws for Federal-Aid Contracts”
Section 8 – Prosecution and Progress	Whole Section replaced with updated requirements relating to beginning of work, progress schedules, suspension of work, liquidated damages, delays and contract termination
Section 9 – Measurement and Payment	Whole Section replaced with updated requirements relating to quantity measurements, scope of payments, force account (time and material) payments, quantity change payment adjustments, progress and final payments, and arbitration
Sections 10 and 11 (blank)	No change.
Section 12 – Construction Area Traffic Control Devices	Updated references from Part 6 of the federal Manual of Uniform Traffic Control Devices (“MUTCD”) to Part 6 of the California MUTCD
Section 13 (blank)	No change.

**2010 CALTRANS STANDARD SPECIFICATIONS
SUMMARY OF CHANGES
2008 TO PRESENT
(cont'd)**

Section 14 – Environmental Stewardship	New Section specifying requirements relating to environmental compliance and resource management such as cultural, biological and paleontological resources; noise and vibration, air quality, solid waste, hazardous waste, etc. for areas designated environmentally sensitive
Sections 15 to Section 95 (End)	Miscellaneous technical changes relating to construction materials and methods.

Agenda Date: 12-7-10

Agenda Item: 4e

RESOLUTION NO. XX-2010

**A RESOLUTION DECLARING RESULTS OF CANVASS OF RETURNS IN
THE 2010 GENERAL MUNICIPAL ELECTION, DECLARING TWO PERSONS
ELECTED TO THE CITY COUNCIL OF THE CITY OF CLAYTON**

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

WHEREAS, a duly noticed General Municipal Election was held in the City of Clayton on November 2, 2010 for the purpose of voting for candidates for two (2) full-term offices of Council Member on the City Council of the City of Clayton; and

WHEREAS, following the canvass of returns by the Contra Costa County Clerk and receipt of his report by the City Clerk, the City Council met in a regular public meeting on December 7, 2010 to consider the canvassed returns of the election pursuant to and accordance with applicable provisions of the California Elections Code; and

WHEREAS, the City Council finds that the number of votes cast in the City of Clayton at the General Municipal Election was and is 5,443, an 73.49% turnout; and

WHEREAS, the City Council finds that there were eleven precincts in the City of Clayton established for holding the November 2010 General Municipal Election; and

WHEREAS, the City Council finds that the names of the persons voted for and the number of votes given said persons in the General Municipal Election at each of the above noted precincts and by absentee ballot as candidates for the offices of Council Member on the Clayton City Council and the total votes cast for each candidate, are as set forth in the computer printout by the Contra Costa County Election Department, attached hereto as "Exhibit A" and incorporated herein by such reference.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Clayton, California that the following candidates (listed alphabetically) for the two available elected offices of Council Member of the City Council of the City of Clayton did receive the highest number of votes and are herewith declared to be the two (2) Council Members duly elected to serve on the Clayton City Council for a four-year term of office and until the results of the November 2014 General Municipal election are canvassed and accepted:

David "Shoe" Shuey

Ross "Hank" Stratford

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 7th day of December 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Hank Stratford, Mayor

ATTEST:

Laci J. Jackson, City Clerk

CONTRA COSTA COUNTY
2010 GENERAL ELECTION
NOVEMBER 2, 2010

Official Results

PRINTED 11/30/10, 10:53 AM

PAGE 565

					City of Clayton Member, City Council 2 TO BE ELECTED				
		R V E O G T I E S R T S E R E D	B C A A L S L T O T S	T P U E R R N C O E U N T T A G E	R * S O H T S A R S N A K T " F O R D (NON)	D * S A S H V H U I O E D E Y " (NON)	T M E E D R I A M (NON)	J D I I M A Z (NON)	W R I T E - I N (NON)
7 PRECINCTS									
0000083 CLO 71	A	1593	643	40.36	359	400	192	160	3
0000083 CLO 71	V	1593	538	33.77	260	284	158	112	1
0000084 CLO 71	A	1570	647	41.21	393	420	192	131	3
0000084 CLO 71	V	1570	541	34.46	286	307	137	124	1
0000085 CLO 71	A	891	348	39.06	215	233	103	69	0
0000085 CLO 71	V	891	335	37.60	189	186	118	60	2
0000086 CLO 71	A	1627	634	38.97	390	366	190	133	0
0000086 CLO 71	V	1627	527	32.39	285	299	158	113	0
0000087 CLO 71	A	1653	653	39.50	369	422	211	132	1
0000087 CLO 71	V	1653	526	31.82	255	323	150	88	4
0009575 CLO 72 MB	A	72	0		0	0	0	0	0
0009575 CLO 72 MB	V	72	51	70.83	27	29	16	6	0
0009576 CLO 73 MB	A	0	0		0	0	0	0	0
0009576 CLO 73 MB	V	0	0		0	0	0	0	0
COUNTY TOTAL		7406	5443	73.49	3028	3269	1625	1128	15
ABSENTEES		7406	2925	39.50	1726	1841	888	625	7
VOTING PRECINCTS		7406	2518	34.00	1302	1428	737	503	8
7TH CONGRESSIONAL DST		7406	5443	73.49	3028	3269	1625	1128	15
CONGRESSIONAL TOTAL		7406	5443	73.49	3028	3269	1625	1128	15
7TH SENATORIAL		7406	5443	73.49	3028	3269	1625	1128	15
STATE SENATE TOTAL		7406	5443	73.49	3028	3269	1625	1128	15
11TH ASSEMBLY DST		7406	5443	73.49	3028	3269	1625	1128	15
STATE ASSEMBLY TOTAL		7406	5443	73.49	3028	3269	1625	1128	15
Bd Of Equalization		7406	5443	73.49	3028	3269	1625	1128	15
BD OF EQUALIZATION TOT		7406	5443	73.49	3028	3269	1625	1128	15
4TH SUPERVISORIAL		7406	5443	73.49	3028	3269	1625	1128	15
SUPERVISORIAL TOTAL		7406	5443	73.49	3028	3269	1625	1128	15
CITY OF CLAYTON		7406	5443	73.49	* 3028	* 3269	1625	1128	15
CITY TOTAL		7406	5443	73.49	3028	3269	1625	1128	15

CERTIFICATE OF COUNTY CLERK TO RESULTS OF THE CANVASS

CITY OF CLAYTON

NOVEMBER 2, 2010 GENERAL ELECTION

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

I, STEPHEN L. WEIR, County Clerk in and for the County of Contra Costa, State of California, do hereby certify that, pursuant to the provisions of the Elections Code, I did canvass the returns of the votes cast in the **CITY OF CLAYTON** in said county at the General Election held on November 2, 2010 for said city candidates submitted to the vote of the voters. 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 City and each respective precinct therein, and that the totals of the respective columns and the totals as shown for each candidate are full, true and correct.

WITNESS my hand and Official seal this 27 day of December, 2010.



STEPHEN L. WEIR, County Clerk

By: Sue Olvera
Sue Olvera, Deputy Clerk



Agenda Date: 12-7-10

Agenda Item: 7

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: CITY MANAGER

DATE: 07 DECEMBER 2010

SUBJECT: NOMINATION AND ELECTION OF MAYOR AND VICE MAYOR

RECOMMENDATION

It is recommended the City Council elect its Mayor and Vice Mayor for the ensuing twelve (12) month period.

BACKGROUND

According to Section F.4. – Mayor Selection, of the *Council Guidelines and Practices* (page 4, copy attached), the Mayorship [and Vice Mayorship] is a one-year term of office in the City of Clayton. The local electorate does not directly elect its mayor or vice mayor. The election of these officers from within the membership of the City Council commences each year at the first regularly-scheduled Council meeting in December.

Mayor Hank Stratford and Vice Mayor David Shuey were elected to their current Council offices at a regular City Council meeting held 01 December 2009. The following table lists those serving as mayor in the last decade:

2010	Hank Stratford
2009	Julie Pierce
2008	Gregory Manning
2007	William Walcutt
2006	David Shuey
2005	Gregory Manning
2004	Julie Pierce
2003	Pete Laurence
2002	Gregory Manning
2001	Julie Pierce

NOMINATION AND ELECTION PROCEDURES

Pursuant to Chapter 2.04 – Council Meetings of the *Clayton Municipal Code*, our City uses the most recent version of *Robert's Rules of Order* to govern the conduct of City business meetings. Therefore, to assist in the procedure of nominating and selecting the next mayor and vice mayor at this meeting, the following rules* have been extracted and outlined below:

1. The nomination/election of the next Mayor is to be conducted by the current outgoing Mayor. Once the next Mayor has been elected by the City Council, the newly-elected Mayor immediately presides over and conducts the remainder of the business items on the agenda, including the Council's election of its Vice Mayor.
2. The method of nomination in this respect is an "open nomination" solely by and from within the membership of the presently-seated Clayton City Council. Nominations cannot be accepted from members of the public.
3. No "second" is required for a nomination, although sometimes one or more members will "second" a nomination to indicate endorsement.
4. In no event may one member nominate more persons than there are positions to fill.
5. When it appears no one else wishes to make a nomination, the chair of the meeting asks one (1) final time if there are additional nominations. If there is no response, the chair then declares..." the nomination for [Mayor; Vice Mayor, as applicable] is closed."

It is unnecessary to have a motion to officially close the nominations; yet, if such a motion is made, that motion then requires an affirmative 2/3rds vote of the Council present [e.g. 4 out of 5]. After nominations are closed, a majority vote is required to re-open them.

6. Nominees are voted on in the order in which they are nominated. As soon as one of the nominees receives a majority vote [in this case, 3 or more votes], the chair then declares that person elected to that respective office, and no vote is taken on the remaining nominee(s).

MAYOR SELECTION

In accordance with the adopted *Council Guidelines and Procedures* [February 2007], the City Council has established six (6) guidelines pertaining to the annual selection of Mayor. Reference is made to the attachment to this Staff Report for the review of those guidelines.

FISCAL IMPACT

No financial impact. The offices of Mayor and Vice Mayor receive the same monthly stipend as other members of the City Council.

Attachment: Page 4 of *Council Guidelines and Procedures* [1 pg.]

*Reference: Chapter XIV – Nominations and Elections, *Robert's Rules of Order* [RONR, 10th Edition, pp. 418-430]

2. Staff in General.

- a. Council may make reasonable requests for information directly from Department Heads.
- b. An informal system of direct communication with staff is used but not abused by Council.
- c. Staff will inform Council immediately when an unusual event occurs that the public would be concerned about [e.g., major vehicular accidents; major police activities; areas cordoned off by police or fire, etc.].
- d. The Council and staff will not intentionally blind side each other in public; if there is an issue or a question a Council Member has regarding an agenda item, that Member will contact staff prior to the meeting.

E. COUNCIL RESPONSIBILITIES FOR KEEPING INFORMED

1. Read Commission minutes and staff reports to find out issues being addressed.
2. Read documents on planning items.
3. Read City Manager "goal updates" list for Council.
4. Do homework diligently and thoroughly.

F. MAYOR SELECTION

1. Election to Vice Mayor and Mayor requires supporting votes of three (3) Council Members, but in the interest of harmony unanimous consensus is to be sought and encouraged.
2. Any Council Member wanting or not wanting a role has a responsibility to tell all other Members.
3. As far as possible and until otherwise decided, Council Members will take turns as Mayor.
4. Mayorship will be a one-year term, commencing with the first meeting in December.
5. Selection of a Mayor is not a lock-step system. The Vice Mayor is generally expected to ascend to Mayor.
6. All Council Members are peers, and the Mayor and Vice Mayor serve at the pleasure of the Council.



Agenda Date: 12-7-10

Agenda Item: 11a

Approved: _____

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: December 7, 2010

SUBJECT: Second Reading and Adoption of Ordinance No. 430 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to Implement California Government Code Section 20475 (2.0% @ 60 for Misc. Employees, and 2.0% at 50 for the Local Public Safety employees) Providing a Second Tier of Different Level of Benefits for New Employees.

BACKGROUND

At its November 2, 2010 meeting the City Council adopted A Resolution of Intention to approve a contract amendment with CalPERS.

The attached Ordinance must be adopted to implement the contract amendment as required by PERS rules. Once the final Ordinance has been adopted and becomes effective, the contract amendment will go into effect the following payroll date. Based on the current schedule, the effective date of the contract will be January 10, 2011.

RECOMMENDATION

Second Reading and Adoption of Ordinance 430 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to Implement California Government Code Section 20475 (2.0% @ 60 for Misc. Employees, and 2.0% at 50 for Local Public Safety) Providing a Second Tier of Different Level of Benefits for New Employees.

Attachments: 1. Ordinance No. 430
2. Contract Amendment
3. November 2, 2010 Staff report

ORDINANCE NO. 430

**AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN
THE CITY COUNCIL OF THE CITY OF CLAYTON AND THE BOARD OF
ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT
SYSTEM**

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

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

SECTION 1. That an amendment to the contract between the City Council of the City of Clayton and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.

SECTION 2. The Mayor of the City of Clayton is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Clayton.

SECTION 3. This Ordinance shall take effect thirty (30) days after the date of its adoption, and within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinance and public notices.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on November 2, 2010.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on December 7, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Hank Stratford, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Dan Adams, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on November 2, 2010, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on December 7, 2010.

Laci J. Jackson, City Clerk

Attached: EXHIBIT



EXHIBIT

California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Clayton



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective July 1, 1975, and witnessed June 3, 1975, and as amended effective November 17, 1977, June 17, 1990, June 2, 1997, July 2, 1999, November 29, 1999, August 20, 2001 and January 29, 2007 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 12 are hereby stricken from said contract as executed effective January 29, 2007, and hereby replaced by the following paragraphs numbered 1 through 15 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract and age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract; age 55 for local safety members entering membership in the safety classification on or prior to the effective date of this amendment to contract and age 50 for local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

PLEASE DO NOT SIGN "EXHIBIT ONE"

2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1975 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Police Officers (herein referred to as local safety members);
 - b. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **FIREFIGHTERS.**
6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member entering membership in the miscellaneous classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
7. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
9. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after the effective date of this amendment to contract shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).
10. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21001 (Credit for War Relocation Leave) for local miscellaneous members only. Legislation repealed said Section effective January 1, 2002.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- b. Section 21037 (Cancellation of Payment for Optional Service Credit Upon Retirement for Industrial Disability) for local safety members only.
- c. Section 21024 (Military Service Credit as Public Service).
- d. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members only.
- e. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
- f. Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

Section 21362 (2% @ 50 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.

- 11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on November 17, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
- 12. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
- 13. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.
 - b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.

- c. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - d. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
14. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
15. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF CLAYTON

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Actuarial and Employer Services Branch
Public Agency Contract Services
(888) CalPERS (225-7377)

SUMMARY OF MAJOR PROVISIONS

2% @ 60 Formula (Section 21353)
Local Miscellaneous Members

SERVICE RETIREMENT

To be eligible for service retirement, a member must be at least age 50 and have five years of CalPERS credited service. There is no compulsory retirement age.

The monthly retirement allowance is determined by age at retirement, years of service credit and final compensation. The basic benefit is 2% of final compensation for each year of credited service upon retirement at age 60. If retirement is earlier than age 60, the percentage of final compensation decreases for each quarter year of attained age to 1.092% at age 50. If retirement is deferred beyond age 60, the percentage of final compensation increases for each quarter year of attained age to 2.418% at age 63.

Final compensation is the average monthly pay rate during the last consecutive 36 months of employment, or 12 months if provided by the employer's contract, unless the member designates a different period of 36 or 12 consecutive months when the average pay rate was higher.

DISABILITY RETIREMENT

Members substantially incapacitated from performing the usual duties for the position for his/her current employer, and from performing the usual duties of the position for other CalPERS covered employers (including State agencies, schools, and local public agencies), and where similar positions with these other employers with reasonably comparable in pay, benefits, and promotional opportunities are not available, would be eligible for disability retirement provided they have at least five years of service credit. The monthly retirement allowance is 1.8% of final compensation for each year of service. The maximum percentage for members who have between 10.000 and 18.518 years of service credit is one-third of their final compensation. If the member is eligible for service retirement the member will receive the highest allowance payable, service or disability. If provided by the employer's contract, the benefit would be a minimum of 30% of final compensation for the first five years of service credit, plus 1% for each additional year of service to a maximum benefit of 50% of final compensation.

INDUSTRIAL DISABILITY RETIREMENT

If provided by the employer's contract, members permanently incapacitated from performing their duties, as defined above under Disability Retirement, and the disability is a result of a job-related injury or illness may receive an Industrial Disability Retirement benefit equal to 50% of their final compensation. If provided in the employer's contract and the member is totally disabled, the disability retirement allowance would equal 75% of final compensation in lieu of the disability retirement allowance otherwise provided. If the member is eligible for service retirement, the service retirement allowance is payable. The total allowance cannot exceed 90% of final compensation.

PRE-RETIREMENT DEATH BENEFITS

Basic Death Benefit: This benefit is a refund of the member's contributions plus interest and up to six months' pay (one month's salary rate for each year of current service to a maximum of six months).

1957 Survivor Benefit: An eligible beneficiary may elect to receive either the Basic Death Benefit or the 1957 Survivor Benefit. The 1957 Survivor Benefit provides a monthly allowance equal to one-half of the highest service retirement allowance the member would have received had he/she retired on the date of death. The 1957 Survivor Benefit is payable to the surviving spouse or registered domestic partner until death or to eligible unmarried children until age 18.

1959 Survivor Benefit: (If provided by the employer's contract and the member is not covered under social security.) A surviving spouse or registered domestic partner and eligible children may receive a monthly allowance as determined by the level of coverage. This benefit is payable in addition to the Basic Death Benefit or 1957 Survivor Benefit. Children are eligible if under age 22 and unmarried.

Pre-Retirement Optional Settlement 2 Death Benefit: (If provided by the employer's contract.) The spouse or registered domestic partner of a deceased member, who was eligible to retire for service at the time of death, may elect to receive the Pre-Retirement Optional Settlement 2 Death Benefit in lieu of the lump sum Basic Death Benefit. The benefit is a monthly allowance equal to the amount the member would have received if he/she had retired for service on the date of death and elected Optional Settlement 2, the highest monthly allowance a member can leave a spouse or registered domestic partner.

COST-OF-LIVING ADJUSTMENTS

The cost of living allowance increases are limited to a maximum of 2% compounded annually unless the employer's contract provides a 3, 4, or 5% increase.

DEATH AFTER RETIREMENT

The lump sum death benefit is \$500 (or \$600, \$2,000, \$3,000, \$4,000 or \$5,000 if provided by the employer's contract) regardless of the retirement plan chosen by the member at the time of retirement.

TERMINATION OF EMPLOYMENT

Members who have separated from employment may elect to leave their contributions on deposit or request a refund of contributions and interest. Those who leave their contributions on deposit may apply at a later date for a monthly retirement allowance if the minimum service and age requirements are met. Members who request a refund of their contributions terminate their membership and are not eligible for any future benefits unless they return to CalPERS membership.

EMPLOYEE CONTRIBUTIONS

Miscellaneous members covered by the 2% @ 60 formula contribute 7% of reportable earnings. Those covered under a modified formula (coordinated with Social Security) do not contribute on the first \$133.33 earned.

The employer also contributes toward the cost of the benefits. The amount contributed by the employer for current service retirement benefits generally exceeds the cost to the employee. In addition, the employer bears the entire cost of prior service benefits (the period of time before the employer provided retirement coverage under CalPERS). All employer contribution rates are subject to adjustment by the CalPERS Board of Administration.

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Actuarial and Employer Services Branch
Public Agency Contract Services
(888) CalPERS (225-7377)

SUMMARY OF MAJOR PROVISIONS

2% @ 50 Formula (Section 21362)

Local Safety Members

SERVICE RETIREMENT

To be eligible for service retirement, a member must be at least age 50 and have five years of CalPERS credited service. If provided by the employer's contract, mandatory retirement age for local safety members is age 60.

The monthly retirement allowance is determined by age at retirement, years of service credit and final compensation. The basic benefit is 2% of final compensation for each year of credited service upon retirement at age 50. If retirement is deferred beyond age 50, the percentage of final compensation increases for each quarter year of attained age to 2.7% at age 55. The allowance is limited to 90% of final compensation.

Final compensation is the average monthly pay rate during the last consecutive 36 months of employment, or 12 months if provided by the employer's contract, unless the member designates a different period of 36 or 12 consecutive months when the average pay rate was higher. Certain items of special compensation earned during your final compensation period will be included in your final compensation, in accordance with Board regulations.

DISABILITY RETIREMENT

Members substantially incapacitated from performing the usual duties for the position for his/her current employer would be eligible for disability retirement provided they have at least five years of service credit. The monthly retirement allowance is 1.8% of final compensation for each year of service. The maximum percentage for members who have between 10.000 and 18.518 years of service credit is one-third of their final compensation. If the member is eligible for service retirement the member will receive the highest allowance payable, service or disability. If provided by the employer's contract, the benefit would be a minimum of 30% of final compensation for the first five years of service credit, plus 1% for each additional year of service to a maximum benefit of 50% of final compensation.

INDUSTRIAL DISABILITY RETIREMENT

Members permanently incapacitated from performing their duties, as defined above under Disability Retirement, and the disability is a result of a job-related injury or illness may receive an Industrial Disability Retirement benefit equal to 50% of their final compensation. If provided in the employer's contract and the member is totally disabled, the disability retirement allowance would equal 75% of final compensation in lieu of the disability retirement allowance otherwise provided. If the member is eligible for service retirement, the service retirement allowance is payable. The total allowance cannot exceed 90% of final compensation.

PRE-RETIREMENT DEATH BENEFITS

Basic Death Benefit: This benefit is a refund of the member's contributions plus interest and up to six months' pay (one month's salary rate for each year of current service to a maximum of six months).

1957 Survivor Benefit: An eligible beneficiary may elect to receive either the Basic Death Benefit or the 1957 Survivor Benefit. The 1957 Survivor Benefit provides a monthly allowance equal to one-half of the highest service retirement allowance the member would have received had he/she retired on the date of death. The 1957 Survivor Benefit is payable to the surviving spouse or registered domestic partner until death or to eligible unmarried children until age 18.

1959 Survivor Benefit: (If provided by the employer's contract and the member is not covered under social security.) A surviving spouse or registered domestic partner and eligible children may receive a monthly allowance as determined by the level of coverage. This benefit is payable in addition to the Basic Death Benefit or 1957 Survivor Benefit. Children are eligible if under age 22 and unmarried.

Pre-Retirement Option 2W Death Benefit: (If provided by the employer's contract.) The spouse or registered domestic partner of a deceased member, who was eligible to retire for service at the time of death, may elect to receive the Pre-Retirement Option 2W Death Benefit in lieu of the lump sum Basic Death Benefit. The benefit is a monthly allowance equal to the amount the member would have received if he/she had retired for service on the date of death and elected Option 2W, the highest monthly allowance a member can leave a spouse or registered domestic partner.

Special Death Benefit: A surviving spouse, registered domestic partner, or eligible children or step children may receive a monthly allowance equal to one-half of the final compensation. If the cause of death is due to external violence or physical force while on the job, and there are eligible surviving children in addition to a spouse or registered domestic partner, the allowance may be increased to a maximum of 75%.

COST-OF-LIVING ADJUSTMENTS

The cost of living allowance increases are limited to a maximum of 2% compounded annually unless the employer's contract provides a 3, 4, or 5% increase.

DEATH AFTER RETIREMENT

The lump sum death benefit is \$500 (or \$600, \$2,000, \$3,000, \$4,000 or \$5,000 if provided by the employer's contract) regardless of the retirement plan chosen by the member at the time of retirement.

TERMINATION OF EMPLOYMENT

Members who have separated from employment may elect to leave their contributions on deposit or request a refund of contributions and interest. Those who leave their contributions on deposit may apply at a later date for a monthly retirement allowance if the minimum service and age requirements are met. Members who request a refund of their contributions terminate their membership and are not eligible for any future benefits unless they return to CalPERS membership.

EMPLOYEE CONTRIBUTIONS

Local safety members covered by the 2% @ 50 formula contribute 9% of reportable earnings. Those covered under a modified formula (coordinated with Social Security) do not contribute on the first \$133.33 earned.

The employer also contributes toward the cost of the benefits. The amount contributed by the employer for current service retirement benefits generally exceeds the cost to the employee. In addition, the employer bears the entire cost of prior service benefits (the period of time before the employer provided retirement coverage under CalPERS). All employer contribution rates are subject to adjustment by the CalPERS Board of Administration.



Agenda Date: 11-2-10

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: November 2, 2010

SUBJECT: Adoption of 1) Resolution of Intent and 2) Introduce Ordinance No. 430 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to Implement California Government Code Section 20475 (2.0% @ 60 for Misc. Employees, and 2.0% at 50 for the Local Public Safety employees) Providing a Second Tier of Different Level of Benefits for New Employees.

BACKGROUND

On July 6, 2010 the City Council adopted Resolution 24-2010 and on July 20, 2010 the City Council adopted Resolution 34-2010, both of which amended the contracts for City employees (Misc. Unit and POA). The terms of that resolution included a change from the current CalPERS retirement plans as follows:

New Misc. Employees: from 2% @ 55 to 2% @ 60

New Sworn Officers: from 3% @ 55 to 2% @ 50

The attached Resolution is necessary to implement the contract amendment as required by PERS rules. The first step in the process is for the Council to adopt a Resolution of Intent and conduct a first reading of the Ordinance amending the contract. Once the final Ordinance has been adopted and becomes effective, the contract amendment will go into effect the following payroll date. Based on the current schedule, the effective date of the contract will be January 10, 2011.

This reduced benefit change only affects new hires, not current active employees.

FINANCIAL IMPACT

The cost analysis provided by CalPERS states there will be no immediate impact to the City's current employer contribution rate from this amendment since no "new hires" has yet occurred. Ultimately, the City's cost will decrease as it hires new employees subject to the lower pension plan to replace existing employees in the higher formula who retire or otherwise leave City employment.

The new employer contribution rate will be 6.755% of reportable earnings for local miscellaneous members entering membership for the first time in the Miscellaneous classification after the effective date of the amendment to contract.

The new employer contribution rate will be 13.436% of the reportable earnings for local sworn members entering membership for the first time in the Local Public Safety classification after the effective date of this amendment to contract.

The approximate difference in normal cost is expected to be as shown below.

POLICE	EXISTING PLAN	NEW TIER PLAN
	(3% at 55)	(2% at 50)
Employer Rate:	34.172%	13.436%
Employee Rate	9% (paid by City)	9% (paid by employee)
TOTAL PAID BY CITY:	40.172%	13.436%
MISC	EXISTING PLAN	NEW TIER PLAN
	(2% at 55)	(2% at 60)
Employer Rate:	14.178%	6.755%
Employee Rate	7% (paid by City)	7% (paid by employee)
TOTAL PAID BY CITY:	21.178%	6.755%

SAVINGS ANALYSIS

With the implementation of the 2% @ 60 retirement formula for Miscellaneous employees, the City will gradually realize pension contribution savings as new employees replace those now employed under the 2% @ 55 formula. Actuarial information provided by CalPERS indicates that after implementing this change, the City can expect \$8,093.53 in savings in FY 2011-2012 and \$16,187.06 in FY 2012-2013, with total savings over the first ten years adding to \$445,114.15. These estimates assume a 6% attrition or retirement rate (an average of 1 person leaving per year based on a Maintenance Worker's top salary step).

With the implementation of the 2% at 50 retirement formula for new Sworn Officers, the City will gradually realize pension contribution savings as new employees replace those now employed under the 3% @ 55 formula. Actuarial information provided by CalPERS indicates that after implementing this change, the City can expect \$18,546.26 in savings in FY 2011-2012 and \$37,092.53 in FY 2012-2013, with total savings over the first ten years adding to \$1,020,044.93. These estimates assume a 9% attrition or retirement rate (an average of 1 person leaving per year based on a Police Officer at top salary step).

These estimates are based on the assumptions at specific salary levels. Should an employee with a higher salary retire or leave the City, the savings will be even greater. Conversely, if the rate of attrition decreases the savings will not be realized as quickly. In any case, the City's movement to these lesser CalPERS pension plans will produce nothing but savings when new employees enter the City's service.

RECOMMENDATION

Adoption of 1) Resolution of Intent and 2) Introduction and First Reading of Ordinance 430 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to Implement California Government Code Section 20475 (2.0% @ 60 for Misc. Employees, and 2.0% at 50 for Local Public Safety) Providing a Second Tier of Different Level of Benefits for New Employees.

Attachments: 1. Resolution
 2. Ordinance No. 430
 3. Contract Amendment

RESOLUTION NO: 47-2010

**A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON
TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF
ADMINISTRATION OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM
AND THE CITY COUNCIL OF THE CITY OF CLAYTON**

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

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing board of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed changes:

To provide Section 20475 (Different Level of Benefits). Section 21353 (2% @ 60 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract; and

Section 20475 (Different Level of Benefits). Section 21362 (2% @ 50 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of the amendment.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Clayton, California does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California, at a regular public meeting thereof held on November 2, 2010 by the following vote:

AYES: Mayor Stratford, Vice Mayor Shuey, Councilmembers Geller, Medrano, and Pierce.

NOES: None.

ABSTAIN: None.

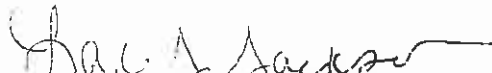
ABSENT: None.

THE CITY COUNCIL OF CLAYTON, CA



Hank Stratford, Mayor

ATTEST:


Laci J. Jackson, City Clerk



Agenda Date: 12-7-10

Agenda Item: 4b

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, AICP, COMMUNITY DEVELOPMENT DIRECTOR *DW*

DATE: DECEMBER 7, 2010

SUBJECT: CONSIDERATION OF ALLOWING A COMMERCIAL RECREATION USE (LONGEVITY FITNESS STUDIO) AS A GROUND FLOOR LEASE OCCUPANCY RATHER THAN A RETAIL COMMERCIAL USE PURSUANT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) AND SITE PLAN REVIEW (SPR 01-06) FOR THE FLORA SQUARE BUILDING AT 1026 OAK STREET

(CONTINUED FROM THE NOVEMBER 16, 2010 CITY COUNCIL MEETING)

RECOMMENDATION

It is recommend the City Council adopt the attached resolution allowing under specified circumstances for Longevity Fitness Studio as a ground floor lease occupancy in the Flora Square building at 1026 Oak Street.

PROJECT INFORMATION

Applicant / Location: New Urban Communities Partners, LLC
1026 Oak Street, Suite 102
APN 119-013-009

General Plan Designation: Town Center Commercial.

Town Center Specific
Plan Designation: Town Center Commercial.

Zoning: Limited Commercial (L-C) District.

Environmental Review: Categorically exempt per Section 15303 of the California Environmental Quality Act (CEQA) Guidelines.

REQUEST/DESCRIPTION

New Urban Communities Partners (NUCP), LLC, a partnership that has owned the Flora Square building at 1026 Oak Street since late March 2010, is proposing that Longevity Fitness Studio occupy Suite 102, which measures 2,657 square feet (approximately 47%) of the ground-floor space within this building. The total ground floor space of the Flora Square building is approximately 5,644 square feet in area. Longevity Fitness Studio space would have primary access from Oak Street and occupy the northern portion of the ground floor space within the building. The southern portion of the ground floor space has window frontage along Center Street and NUCP anticipates occupancy in this area by retail sales and restaurant uses.

Longevity Fitness Studio would operate from 6:00 a.m. to 9:00 p.m. seven days a week. This fitness center would offer various programs, including pilates, dance classes, kickboxing, cross training, weight training, and comparable health/fitness uses. Pilates balls, yoga mats, exercise manuals, exercise clothing, nutritional drinks and foods, nutritional workout programs, and other assorted appurtenant items are also proposed for retail sale at the site. A maximum of approximately 42 people (28 members and 14 employees/instructors) can occupy the tenant space, based on maximum occupancy requirements; however, the actual expected occupancy at any given time would be lower. The property owners indicate between 150-200 clients a day to visit the site. The conversion of this ground-floor tenant space will involve installation of standard fitness center items such as exercise equipment, dance studio mirrors, and changing rooms/bathrooms.

The DDA that governs the use of the Flora Square building was approved on December 6, 2005. This Agreement stipulates that affirmative action of the City Council is required to allow a non-retail commercial use on the ground floor space within this building. Subsequent to the execution of the DDA, the prior property owner, who was also a party to the DDA, sought and received a Site Plan Review approval on November 15, 2006 (please see **Attachment 2**). This approval allowed lot line to lot line development of the property with a 100% waiver of a City on-site parking requirement. This approval required amendments to the Town Center Specific Plan and Zoning Code to allow the parking waiver and the expanded development opportunity. These amendments are reflected in Schedule 17.37.030.D of the City's Zoning Ordinance (please see **Attachment 3**). The Site Plan Review Permit and Ordinance amendment approvals granted to the property owner of the subject site specifically narrowed the allowed land uses from the broader range of retail commercial land uses referenced in the 2005 DDA to allowing only retail sales and restaurant land uses on the ground floor. The site was then developed under those conditions and covenants not available in 2005 when the DDA was signed.

Section 9.2 Continuing Covenants of the DDA (please see **Attachment 4**) specifically states that "[t]he Developer agrees to use the property for the specific purpose of developing and operating the Improvements as set forth in this Agreement and the City Approvals, provided nothing herein shall preclude the developer and/or tenants from using the property for any other lawful retail use...." This Section obligates the developer to use the property in accordance with the DDA and any City approvals, concurrent or subsequent. Consequently, the Site Plan Review Permit and amendment approvals described above limited the use of the ground floor space of 1026 Oak Street to retail and/or restaurant uses only, unless the City Council would expand the range of allowed uses by an affirmative vote.

ANALYSIS

NUCP initially submitted a letter, dated November 4, 2010, to the City's Community Development Director describing and requesting that the Longevity Fitness Studio be allowed to occupy ground floor space within the Flora Square building (please see **Attachment 5**). At that time, NUCP did not have commercial leases for the remainder of the ground floor space.

The proposed fitness studio, Longevity Fitness Studio, does not meet the definition of "Retail Commercial", based on the understanding of permitted retail sales uses at this location since the approval of SPR 01-06. The City's Zoning Ordinance defines "Retail Business" as "...the sale, barter, and exchange of retail goods, wares, merchandise, or other personal property or any interest in them for profit or livelihood." (CMC Section 17.04.180 "Retail Business", Ordinance 414, 2008) (please see **Attachment 6**). An exchange of goods, wares, merchandise, etc. is not the primary use associated with the proposed Longevity Fitness Studio.

Staff shared its concerns about the NUCP November 4, 2010 letter proposal. Although the proposed Longevity Fitness Studio use would not occupy the immediate storefront area on Center Street, this use would occupy approximately 47% of the leaseable ground floor space. Given that the SPR approval only allowed retail sales and restaurant uses for this ground floor space, staff was concerned that the relative large amount of space proposed to be occupied by Longevity Fitness Studio (a non-retail commercial use) could limit the options and space flexibility for filling the remainder of the space with viable retail or restaurant commercial uses (as clearly desired in the governing DDA, and narrowed by the subsequent SPR approval). In its report in response to this proposal, staff suggested that viable retail or restaurant commercial uses should lead in determining how to program ground space in the Flora Square building. And, at a minimum, the property owner should continue to market the property and return with a complete proposal for programming the entire ground floor space with uses (i.e., tenants).

In light of the staff recommendation on the proposal, the property owner asked at the November 16, 2010 City Council meeting that the request described in the November 4, 2010 letter be continued to a date unspecified. The City Council granted this request. Subsequently, the property owner has continued to market the property and work with prospective tenants. NUCP has been successful in reaching lease or tentative lease agreements for the remaining ground floor space. Subway, a deli, has signed a lease for Suite 103, which measures 904 square feet, and the representatives of the Farmer's Market produce market have indicated their willingness to sign the lease for Suite 101, which comprises the remaining 2,083 square of the proposed floor plan (please see **Attachment 7**).

The revised submittal provides greater certainty about the overall use of the entire ground floor area at 1026 Oak Street. The produce market and Subway are consistent with the currently allowed retail and restaurant uses on ground floor, as described previously, and are allowed as a matter of right per the DDA and the SPR. The City has no authority to deny those uses and they are not the subject of this agenda item. These two uses appropriately occupy the prime storefront locations within this building, given the mix of uses being proposed. As understood by staff, the opportunity to have the entire ground floor pre-leased will give the property owner the ability to obtain financing for tenant improvements. Staff suggests that this additional work on the part of

the property owner to secure full leasing of the ground floor, and allowing retail sales and restaurant uses to occupy the more highly visible tenant spaces, warrants City support in this troubled economy for allowing the Longevity Fitness Studio occupancy. It should be noted that none of the lease occupancies involved in this proposal involve City of Clayton or Clayton Redevelopment Agency financial assistance or subsidy.

Although the previous actions of the City and the property owner have narrowed the allowed uses to retail and restaurant on ground floor within the subject building, the City Council may allow other uses by an affirmative vote as provided for in Section 2.3 of the DDA (please see **Attachment 8**). Longevity Fitness Studio is within the range of commercial uses that could be allowed based on the range of uses allowed at the time of the execution of the DDA in 2005.

Should the City Council decide to grant NUCP's request to allow Longevity Fitness Studio to occupy ground floor space within the Flora Square project, staff has prepared a resolution (please see **Attachment 1**) to support that action. The resolution includes a number of recitals, including that the property owner could only have a fitness studio or retail sales or restaurant use within the described space to be occupied by Longevity Fitness Studio; the property owner would have one year from the date of the approval of the resolution to complete tenant improvements and receive a final inspection/certificate of occupancy for Longevity Fitness Studio; and, in the event of the abandonment of the fitness studio use for a continuous period of six months or more, the right to the fitness studio use would be given up, and subsequent use of the space would be limited to retail and restaurant uses only (per the original SPR).

Staff does not recommend placing a specific time limitation on the duration of the Longevity Fitness Studio use because case law suggests the investment in tenant improvements gives property owners/users some level of vested rights to a use which would need to be evaluated on a case-by-case basis. Determining this level of vested right is often very complicated and can lead to litigation concerning a taking of property.

ATTACHMENTS

1. Resolution
2. Site Plan Review Approval (SPR 01-06)
3. Zoning Ordinance Schedule 17.37.030.D
4. DDA Section 9.2
5. NUCP Submittal, dated November 4, 2010
6. "Retail Business" Definition
7. Revised Floor Plan and Leases
8. DDA Section 2.3

RESOLUTION NO. ____

**A RESOLUTION ALLOWING A COMMERCIAL RECREATION USE
(LONGEVITY FITNESS STUDIO) AS A GROUND FLOOR LEASE
OCCUPANCY RATHER THAN A RETAIL COMMERCIAL USE
PURSUANT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT
(DDA) AND SITE PLAN REVIEW (SPR 01-06) FOR THE FLORA SQUARE BUILDING AT
1026 OAK STREET**

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

WHEREAS, a Disposition and Development Agreement (DDA) was prepared and then executed between KOMGOLD, INC., a California Corporation (Developer), and the Clayton Redevelopment Agency (Agency) on December 6, 2005 regarding certain real property located at the northeast corner of Oak Street and Center Street in the City of Clayton, California; and

WHEREAS, at the time of the execution of the DDA the referenced real property was identified as Lots 8 and 9, Block 5, as shown on the Memorandum Map of the Town of Clayton, filed in Book E of Maps, Page 101-1/2 (no date) in the office of the County Recorder of Contra Costa County and, subsequently, identified as 1026 Oak Street; and

WHEREAS, the referenced DDA describes the roles, responsibilities, and terms for the development and use of the subject property; and

WHEREAS, the DDA states on page six "...[a]ll ground floor uses on the entire site shall only be 'Retail Commercial' as defined in the General Plan, unless specifically allowed otherwise by an affirmative vote of the Clayton Council"; and

WHEREAS, the Developer sought and received approval of Site Plan Review Permit SPR 01-06 on November 15, 2006 from the City of Clayton to develop the subject property with a two story, mixed-use commercial building that measured approximately 15,000 sq. ft. in area; and

WHEREAS, the Developer requested and was granted with the SPR 01-06 application a waiver of the City's standard on-site parking requirement to be able to construct a larger building, effectively developing the property lot line to lot line; and

WHEREAS, the approval of the SPR 01-06 application by the City of Clayton was subject to approval of needed amendment(s) to applicable Town Center Specific Plan and Zoning Code provisions to allow the parking waiver and the extent of development area being proposed; and

WHEREAS, the enabling authority to implement the parking waiver was included in Ordinance No. 408 which was adopted by the Clayton City Council on June 26, 2007; and

WHEREAS, Ordinance No. 408 stipulates in Schedule 17.37.030.D that, in exchange for a 100% parking waiver on ground floor for a property equal to or less than 10,000 sq. ft. (applicable to the subject property), the only land uses permitted on the ground floor are retail sales and/or restaurant, effectively narrowing the range of Retail Commercial uses referenced in the DDA allowed on ground floor; and

WHEREAS, in the DDA, under Continuing Covenants, Section 9.2, it states “[t]he Developer agrees to use the property for the specific purpose of developing and operating the improvements as set forth in this Agreement and the City Approvals, provided nothing herein shall preclude the developer and/or its tenants from using the property for any other lawful retail use....”, with the intent of this section being the Developer shall use the property in accordance with the DDA and any City approvals, concurrent or subsequent; and

WHEREAS, the original DDA executed on December 6, 2005 was then assigned and assumed on October 1, 2007 by and between KOMGOLD, INC., a California corporation (“Assignor”), and KOMGOLD OAK CENTER, LLC, a California limited liability company (“Assignee”), and consented to by the CLAYTON REDEVELOPMENT AGENCY, a public body corporate (“Agency”); and

WHEREAS, the subject property was developed by Komgold Oak Center, LLC, in accordance with the stipulations, conditions, and understandings of the SPR 01-06 approval, including use restrictions on the ground floor; and

WHEREAS, the DDA was assigned to and assumed by NEW URBAN COMMUNITIES PARTNERS, LLC and consented to by the CLAYTON REDEVELOPMENT AGENCY, a public body corporate (“Agency”), on August 4, 2010; and

WHEREAS, New Urban Communities Partners, LLC, (NUCP), the current owner of the subject property, has submitted a request to the Clayton City Council to allow a commercial recreation use (Longevity Fitness Studio) as a ground floor lease occupancy rather than a retail sales or restaurant use as required by the DDA and subsequent SPR 01-06 approvals; and

WHEREAS, City staff has requested that NUCP provide a complete programming proposal for leasing the entire ground floor area of the subject building, demonstrating a commitment in the form of leases for the remaining ground floor space for retail sales or restaurant uses; and

WHEREAS, NUCP has provided an updated floor plan and leases, demonstrating that it has commitments for all of the ground floor space within the existing building at 1026 Oak Street; this information indicates a total of three tenants – Longevity Fitness Studio (2,657 sq. ft.), Subway (904 sq. ft.), and a Produce Market (2,083 sq. ft.); and

WHEREAS, both Subway, a deli restaurant, and the Farmer’s Market produce market, offering retail sales of produce and related items, represent uses that are permitted currently by right at this location; and

Resolution No. _____

Page 3

WHEREAS, the subject property represents a unique circumstance in Clayton's Town Center area with an executed DDA governing the various terms, including allowed uses of this private real property; and

WHEREAS, a gym (fitness studio) use was within the range of originally allowed uses on ground floor in the 2005 DDA prior to the City approval of SPR 01-06; and

WHEREAS, the City's parking standard for a fitness studio and retail sales are the same at one space for each 250 square feet of floor area; and

WHEREAS, the Longevity Fitness Studio will occupy a more interior location within the ground floor of the building and the other identified restaurant and retail sales uses will occupy the more visible storefront locations along the Center Street frontage of the building.

NOW, THEREFORE, BE IT RESOLVED THAT:

SECTION 1. The City Council of the City of Clayton approves allowing a commercial recreation use (Longevity Fitness Studio) as a ground floor lease occupancy rather than a retail commercial use pursuant to the DDA for the Flora Square Building at 1026 Oak Street, subject to the following:

- A. The uses shall be programmed in terms of square footage and configuration in general compliance with the submitted floor plan to the satisfaction of the Community Development Director.
- B. The Longevity Fitness Studio use shall receive a final inspection/certificate of occupancy within one year of the approval of this Resolution.
- C. The fitness studio use shall be forfeited in the circumstance that a final inspection/certificate of occupancy is not obtained within the specified one year period or if the use is abandoned for a period of six (6) months or more after initial occupancy. If the fitness studio use is forfeited, then allowed use of the subject space shall be either restaurant or retail sales, per SPR 01-06.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a regular public meeting thereof held on _____, 2010 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Resolution No. _____

Page 4

Hank Stratford, Mayor

ATTEST:

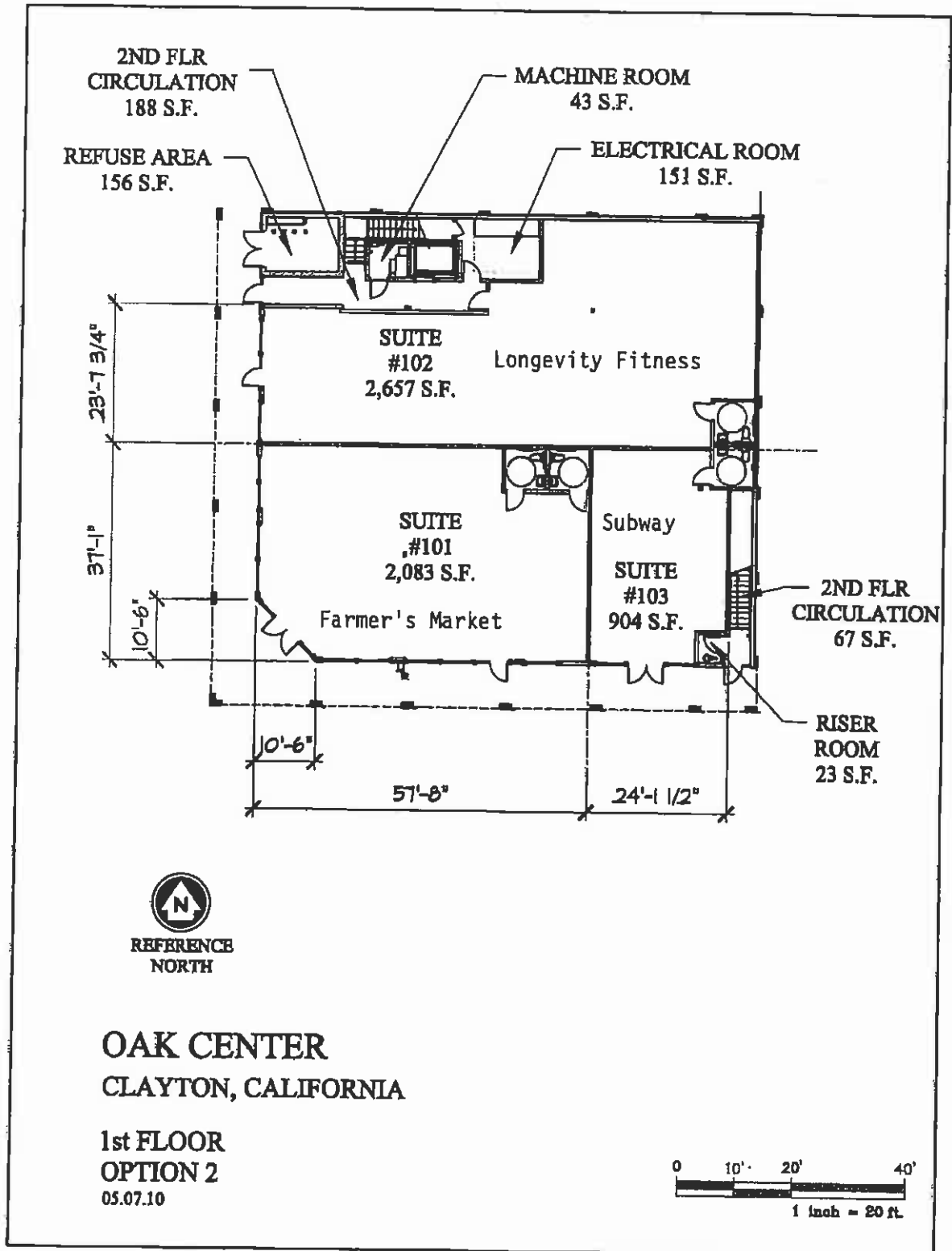
Laci J. Jackson, City Clerk

Attachment: Floor Plan

I certify that the foregoing resolution was duly and regularly passed by the City Council of the City Clayton at a regular meeting held on _____.

Laci J. Jackson, City Clerk

Exhibit A
Space Plan





**PLANNING COMMISSION
NOTICE OF DECISION**

RECEIVED

NOV 20 2006

CLAYTON COMMUNITY
DEVELOPMENT DEPT.

DATE: November 15, 2006

TO: Uzoma Nwakuche
1042 Pebble Beach Drive
Clayton, CA 94517
APN 119-013-009

RE: Oak Center Site Plan Review (SPR 01-06)

Following a public hearing, the Clayton Planning Commission approved the following project on November 15, 2006. The project was approved based on the findings and conditions listed below.

Project Description

Approval of a site plan permit to allow the construction of a two-story commercial building measuring approximately 15,000 square feet in area and 32 feet in height.

Project Location

The project site is located at the northeast corner of Oak Street and Center Street (APN 119-013-009).

Findings

Based on the evidence in the staff report and project file, as well as testimony at the hearing, the Planning Commission finds the site plan, as conditioned:

1. Is exempt from environmental review in accordance with Section 15332 of the CEQA Guidelines.
2. Is consistent with the respective designations and policies of the *General Plan* and *Town Center Specific Plan* since amendments of these respective plans will:
 - a. Exempt the project from the provision of on-site parking.
 - b. Allow 100 percent coverage of the subject parcel.
 - c. Allow for a building height of 35 feet or more.
3. Meets the standards and requirements of the *Zoning Ordinance* since amendment of the *Zoning Ordinance* will eliminate the building setbacks applicable to the project.
4. Is consistent with the architectural guidelines of the *Town Center Specific Plan*.
5. Preserves general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards since flood proofing will be provided for those portions of the building below one-foot above the 100-year flood surface elevation.
6. Maintains solar rights of adjacent properties.
7. Reasonably maintains the privacy of adjacent property owners and/or occupants.

8. Reasonably maintains the existing views of adjacent property owners and/or occupants since the project incorporates appropriate visual screening structures to ensure rooftop equipment does not detract from off-site viewpoints.
9. Is complementary, although not identical with adjacent existing structures in terms of materials, colors, size, and bulk.
10. Is compatible with the neighborhood and surrounding land uses.
11. Is consistent with the intent of the *Town Center Specific Plan* landscape guidelines regarding landscaped open space on project sites. This finding is based upon consideration of the following:
 - a. The relatively small size of the parcel and building, as well as the proposed 100 percent lot coverage.
 - b. A total of 15 percent of the project site will be landscaped open space, which will be visible to the public from Oak Street and Center Street.
 - c. The project includes open balcony areas on the second floor, which indirectly provide open space amenities, consistent with the definitions in the *Town Center Specific Plan*.

Conditions of Approval

These conditions of approval apply to the proposed site plan, floor plan, roof plan, architectural elevations, and colors and materials prepared by Johnson Lyman Architects, date stamped March 15, 2006.

Site Plan Conditions

1. This site plan permit is not effective until the following amendments have been approved by the City:
 - a. The parking standards have been amended to exempt the project from the provision of on-site parking.
 - b. The General Plan lot coverage standards have been amended to allow 100 percent lot coverage of the subject parcel.
 - c. The *Town Center Specific Plan* has been amended to allow for a building height of 35 feet or more.
 - d. The Limited Commercial District setback standards have been amended to eliminate the building setbacks applicable to the project.
2. Outdoor vending machines (except newspaper vending machines) are prohibited.
3. The electrical transformer for the project shall be installed in an underground vault. The covers of all new vaults shall consist of concrete paving which matches the existing sidewalk pattern in texture and color.
4. If necessary, the existing bench at the corner of Oak Street and Center Street shall be relocated within the public right of way adjoining the project frontage to a location approved by the City Engineer.
5. The Property Owner shall be responsible for placing the refuse and recycling containers in a location accessible to the refuse/recycling service provider on pick-up days. Once the service provider empties the refuse and recycling containers, the Property Owner shall promptly return the refuse and recycling containers to the designated enclosure.

6. All tenant leases and rental agreements shall stipulate that delivery truck unloading/loading activities from the travel lanes on High Street and Oak Street are prohibited during the time periods listed below. Delivery truck unloading/loading activities during the time periods listed below may take place from marked parking spaces. The restricted time periods are the thirty minutes prior to and following the normal start and end of classes on days when Mt. Diablo Elementary School is in session. This stipulation does not apply to common carriers such as United Parcel Service, Federal Express, etc.
7. The two accessible spaces and associated accessible aisle and ramp shall be deleted from the Site Plan, and the existing parking on-street spaces retained.

Architectural Conditions

8. All windows shall not be greater than twenty-five (25) square feet in area.
9. The faux windows on the north and east elevations shall use dark glass.
10. All windows, including the faux windows on the north and east elevations, shall be recessed a minimum of three (3) inches.
11. The recessed elements on the first story of the north and east elevations shall be recessed a minimum of six (6) inches.
12. The aluminum-sided sections of the storefronts shall have a satin or low-gloss surface finish.
13. All roof-mounted equipment shall be visually screened to ensure the equipment does not detract from roads, public trails, adjacent properties, pedestrian areas, and off-site viewpoints.
14. Down-facing gooseneck lighting shall be used for illumination of all wall signs.
15. The fire sprinkler riser and backflow preventer shall be inset into the face of the building and architecturally integrated with the design of the building.
16. The green trim used on the south and west elevations shall be extended around to and used as an accent on the north and east elevations.

Landscaping Conditions

17. The landscape plans shall have overall dimensions of 24" x 36"; shall be approved by the Community Development Director and Maintenance Department; shall include the following:
 - a. Three trees with grates shall be provided along the project's Center Street frontage.

- b. All landscaped areas shall be planted at the following planting densities: five-gallon shrubs shall be at an average density of 1 shrub/5 feet; and one-gallon groundcover plantings shall be at an average density of 1 shrub/3 feet.
 - c. All trees shall be 24-inch box containers.
 - d. All trees shall be planted at least ten feet away from any public water, sewer, or storm drain lines. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight feet of a sidewalk or driveway shall be installed with root guards.
 - e. All anti-siphon water valves and ground-mounted utility equipment shall be screened with landscaping.
 - f. All on-site walkway hardscape areas shall be paved with a colored and wood-stamped paving surface which matches the color and texture of the sidewalks in the Town Center.
 - g. A layer of mulch two to four inches shall be applied and maintained in all landscape areas until groundcover plantings are fully established so as to cover exposed soils.
 - h. Show all existing and proposed public utilities within the project limits, including adjacent public right-of-way affected by the project.
18. Three sets of the Landscape and Irrigation Plans shall be submitted with the building plans for review and approval by the Community Development Department, Engineering Department, and the Maintenance Department. These plans shall be approved prior to issuance of building, grading, or encroachment permits.
19. Landscaping shall be installed in conformance with approved plans prior to approval for occupancy.
20. The Developer shall enter into an agreement with the City which ensures the Developer permanently maintains the on-site landscaping as well as the trees installed in the public right-of-way on Oak Street and Center Street.

Grading Conditions

21. If construction is proposed during the breeding season (April-July), a pre-construction survey shall be conducted in order to identify migratory and resident bird nests in the project site. The surveys shall be conducted by a qualified biologist (approved by the Community Development Director) no more than 30 days prior to initiation of grading or tree removal. If active nests are not found during the pre-construction survey, no further action will be required and trees can be removed from the project site within the proceeding 30 day period. If any migratory or raptor bird nests are found within the construction area during the survey or after April of the construction year, grading and construction in the area shall either stop or continue only after the nests are protected by an adequate setback approved by a qualified biologist. If permanent avoidance of the nests is not feasible, impacts on nests shall be minimized by avoiding disturbances to the nest location during the nesting season unless a qualified biologist verifies that the birds have either a) not begun egg-laying and incubation, or b) that the juveniles from those nests are foraging independently and capable of independent survival at an earlier date.

22. The Developer shall identify the Best Management Practices for protection of air quality to minimize the generation of dust during construction. Such measures shall be included within the project grading plan and shall be approved prior to issuance of project grading permits.
- a. Earthmoving or other dust-producing activities shall be suspended during periods of high winds, (i.e., instantaneous wind gusts of 25 mph or greater);
 - b. All exposed or disturbed soil surfaces shall be watered with a soil stabilizer at least twice daily on any day of high winds or when construction activities occur, including weekends and holidays;
 - c. Stockpiles of debris, soil, sand, or other materials that can be blown by the wind, shall be watered with a soil stabilizer or covered;
 - d. Construction areas, adjacent streets, and routes for construction traffic shall be swept of all mud and debris. Failure to comply may result in the City performing street cleaning at the Developer's expense;
 - e. All trucks hauling soil, sand, or other loose materials shall be covered or maintain at least two feet of freeboard;
 - f. A compliance officer, responsible for implementation and monitoring, shall be identified as part of the grading permit process.
23. Should archaeological, historical, or Native American artifacts or remains be discovered during construction of the Project, work in the vicinity of the find shall stop immediately until a qualified archaeologist or paleontologist, as appropriate, can evaluate the site and determine the significance of the find. Project personnel shall not collect or alter cultural resources. Identified cultural resources shall be recorded on forms DPR 422 (archaeological sites) and/or DPR 523 (historic resources). If human remains are found, the County Coroner shall be contacted immediately.

Drainage Conditions

24. The developer shall install a stormwater treatment and/or infiltration facility which complies with the stormwater post-construction control Best Management Practices to the maximum extent practicable. The facility shall be located either in the adjacent public right of way or at an off-site location and shall discharge to the City storm drainage system. The design and location of the facility shall be subject to the review and approval of the City Engineer.
25. Any exterior building washing/cleaning, exterior window washing/cleaning or sidewalk washing/cleaning shall comply with Best Management Practices (inlets protected and water vacuumed) and be done only by a certified surface cleaner. Such certification shall be recognized by the Contra Costa Clean Water Program. In addition any contracts for such cleaning by the property owner or tenants shall also include language requiring the compliance with Best Management Practices and certification.
26. All pest management practices for the site and building by the property owner and or tenants shall also and done by company that is Integrated Pest Management (IPM) Certified. Such certification shall be recognized by the Contra Costa Clean Water

Program. In addition any contracts for such cleaning by the property owner or tenants shall also include language requiring the compliance with Best Management Practices and certification.

27. The Property Owner shall be responsible for the perpetual maintenance of the site's storm drain system, including the monitoring of the storm drain facilities. In addition, the Property Owner shall be responsible for any future stormwater quality and quantity reporting requirements by the Regional Water Quality Control Board.
28. All drain inlets (on- and off-site) immediately adjacent to the site shall be labeled "No Dumping – Drains to Creek" using thermoplastic stenciling or equivalent permanent method, subject to City approval.
29. The Mosquito and Vector Control District and its contractors shall have the right of access to conduct inspections and maintenance of all on-site drainage devices. Such rights shall be conveyed in the property owner documents and any property rental or lease documents.

Engineering Conditions

30. The developer shall remove the existing curb cut and driveway apron across the sidewalk on the Oak Street frontage of the project site and shall restripe the pavement as required by the City Engineer. The replacement sidewalk shall be paved with a colored and wood-stamped paving surface which matches the color and texture of the sidewalks in the Town Center.
31. All work shall be designed and constructed in accordance with the *Municipal Code*, as well as the City's Standard Plans and Specifications.
32. The improvements to be installed by the Developer shall generally conform to those shown on the site plan, as said improvements may be modified by these conditions of approval and/or the City Engineer.
33. The Developer shall be solely responsible for obtaining any right of way and/or easements necessary to permit the construction of the proposed improvements.
34. The ramp across the sidewalk at the northwestern corner of the site, which is for refuse and recycling pickup purposes, shall meet ADA requirements as the ramp will cross the public sidewalk.
35. The Developer shall provide for flood proofing of those portions of the building below one-foot above the 100-year flood surface elevation. The method of flood proofing shall include operating procedures (e.g., location of storage of necessary materials, monitoring of possible flooding, timing of installation, etc.) and be subject to the approval of the City's Floodplain Administrator.

Agency Conditions

36. The Developer shall connect to the sewer system and obtain applicable permits required by the City of Concord Public Works Department.
37. Prior to construction, the Developer shall submit two complete sets of plans and specifications, including built-in fire protection systems, to the Contra Costa County Fire Protection District for review and approval.
38. The Developer shall provide an adequate number of hydrants of the "East Bay" type at locations determined by the Fire Protection District.
39. Prior to approval of building permit, the Developer shall obtain written approval from Allied Waste Services that the facility can be serviced and submit such documentation to the Community Development Department.
40. The property owner is responsible for ensuring refuse and recycling pickup services are provided as often as necessary in order to ensure refuse and recycling receptacles do not overflow.
41. Prior to building permit approval applicant/developer shall provide documentation that the waste/recycling area can meet state regulations regarding mandatory space for recycling.

Standard Condition

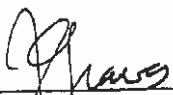
42. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

Advisory Notes

Advisory notes are provided to inform the applicant of: (a) *Clayton Municipal Code* requirements; or (b) requirements imposed by other agencies. The advisory notes are not part of the conditions of approval.

1. Prior to obtaining a building permit, the applicant shall prepare an erosion and stormwater control plan for review and approval by the City Engineer (CMC § 13.12.050).
2. Prior to commencement of grading, demolition or construction activities the applicant shall obtain City approval of a construction and demolition recycling plan (CMC § 15.80.040).
3. Prior to performing any work in the public right of way, the applicant shall obtain an encroachment permit from the City Engineer.

4. Prior to any grading or construction, the applicant shall obtain a Stormwater Permit from the City Engineer.
5. An administrative use permit from the Community Development Director is required for any outdoor seating.
6. A master sign plan must be approved by the Planning Commission prior to installation of any signage.
7. A tree removal permit is required prior to removing any trees with a single or multiple trunk diameter of six inches or greater (CMC §15.70.020).
8. All grading, construction, and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless previously authorized in writing by the City Engineer (CMC §15.01.010) located at 1005 Oak Street, 925-672-9700.
9. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
10. The applicant shall comply with all applicable state, county, and city codes, regulations, and adopted standards.
11. The site plan permit, use permit, and sign permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be void (CMC §17.64.010-030).
12. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.



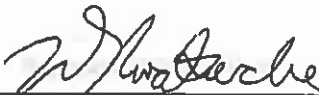
Jeremy Graves, AICP
Community Development Director

11/15/06

Date

INSTRUCTIONS TO APPLICANT: Please sign and return one copy of this Notice of Decision to the Community Development Department, 6000 Heritage Trail, Clayton, 94517; and retain the other copy for your files. If you have any questions, please call 925/673-7340.

I (We) agree to comply with the above conditions.

 , this 20 day of November, 2006
Applicant's Signature

All actions of the Planning Commission are subject to appeal to the City Council as provided in Chapter 17.68 of the *Clayton Municipal Code*. Any appeal must be made in writing to the City Clerk within 10 days from the date of this Notice of Decision and must be accompanied by an appeal fee. An appeal form is available at the Community Development Department.

cc: Debbie Pryor, 1655 Garnet Lane, Concord
City Engineer
City Stormwater Manager
Contra Costa County Building Inspection Department
Contra Costa County Fire Protection District
Contra Costa Water District
Contra Costa Mosquito and Vector Control
Contra Costa Health Services
Allied Waste Services
Dave Johnson, Johnson Lyman Architects
Nick Pappani, Raney Planning & Management

SPR\2006\01-06.nod1

SCHEDULE 17.37.030B OFF-STREET LOADING SPACES REQUIRED	
Gross Floor Area (Sq. Ft.)	Off-Street Loading Spaces / Size (Width x Length x Vertical Clearance)
Less than 10,000	0
10,000 to 50,000	1 Space (10 ft. x 35 ft. x 14 ft.)
Over 50,000	2 Spaces (12 ft. x 45 ft. x 14 ft.)

SCHEDULE 17.37.030C OFF-STREET PARKING SPACES REQUIRED WITH PUBLIC PARKING EASEMENT	
Use Classification	Required Off-Street Parking Spaces
Retail Sales – 1 st and/or 2 nd Floor	1 per 400 sq. ft.
Restaurant and/or Bar – 1 st and/or 2 nd Floor On-Site Eating and/or Drinking Entertainment or Dancing	Greater of 1 per 125 sq. ft. or 1 per 5 seats. 1 per 75 sq. ft. of public assembly area.
Office – 2 nd Floor	1 per 350 sq. ft.
Commercial Services– 2 nd Floor	1 per 350 sq. ft.

SCHEDULE 17.37.030D REDUCTION OF REQUIRED PARKING AND LOADING SPACES DURING WAIVER PERIOD		
Parcel Area*	Use Classification	Reduction
≤10,000 sq ft	Retail Sales / Restaurant – 1 st and/or 2 nd Floor	100%
	Office or Personal Services – 2 nd Floor	100%
> 10,000 sq ft	Retail Sales / Restaurant – 1 st and/or 2 nd Floor	75%
	Office or Personal Services – 2 nd Floor	25%

* Parcel Area is that shown on the Assessor's Maps of the Contra Costa County Assessor's Office as of January 1, 2007 (termed "Original Parcels"). Development projects located on parcels created by any subsequent division of the Original Parcels must comply with the requirements applicable to the parcel areas of the Original Parcels.

Section 9.2 Use and Maintenance.

The Developer agrees to use the Property for the specific purpose of developing and operating the Improvements as set forth in this Agreement and the City Approvals, provided nothing herein shall preclude Developer and/or its tenant from using the Property for any other lawful retail use not precluded by Section 9.3 or Section 9.4 below, subject to the receipt of any required discretionary permits or other approvals from the City. All the Improvements on the Property shall be maintained in good condition.

In the event that there arises at any time prior to the expiration of the Redevelopment Plan a condition in contravention of these maintenance and use standards, then the Agency shall give written notice to the Developer of the deficiency. If the Developer fails to cure the deficiency within thirty (30) days of the Agency's notice (or, if the deficiency is not susceptible of cure within such thirty (30) day period, the Developer fails to commence the cure and thereafter to diligently pursue the cure to completion), then the Agency shall have the right to perform all acts necessary to cure the deficiency or to take other recourse at law or in equity the Agency may then have and to receive from Developer the Agency's cost in taking such action. The Parties further mutually agree that the rights conferred upon the Agency expressly include the right to enforce or establish a lien or other such encumbrance against the Property. The foregoing provisions shall be covenants running with the land until expiration of the Redevelopment Plan, enforceable by the Agency and shall be included in the Grant Deed.

Section 9.3 Prohibition of Offensive Uses.

The Developer agrees to comply with the following restrictions on use of the Property and Improvements such that no portion of the Property or Improvements shall be used for a business or activity that:

- (a) Creates strong, unusual or offensive odors or fumes, dust or vapors that are objectionable to adjacent property owners.
- (b) Is a public or private nuisance (provided no use of the Property as a lawful retail use shall be deemed to constitute any such nuisance unless such use of otherwise prohibited pursuant to this Section 9.3 or Section 9.4).
- (c) Emits sounds that are reasonably objectionable to any adjacent property owner due to frequency, high pitch or loudness (provided in no event shall any permitted drive-thru lane (or related improvements) constitute a violation of this Section).
- (d) Creates unusual fire, explosive or other similar hazards.
- (e) Sells or displays pornographic or sexually explicit and offensive materials, or unlawful drug-related paraphernalia.



NUCP, LLC

NEW URBAN COMMUNITIES PARTNERS

1500 WILLOW PASS COURT - CONCORD, CA 94520
Phone: 925.852.0549 - Fax: 925.852.0546

Received

NOV 08 2010

City of Clayton

November 4, 2010

David Woltering
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

RE: 1026 Oak St., Clayton

Dear Mr. Woltering,

NUCP LLC has been in control of the 1026 Oak Street building for approximately one year. In this time we have had three possible tenants interested in leasing the ground floor space in the building and two of the three did not pan out. We feel that Levity, Longevity Fitness Studio, with their combination of retail sales and fitness studio, will be a strong attractant to the Town Center area as well as to our building.

Goal III of the Town Center Specific Plan is to "*Establish the Town Center as the City's focus for economic development in the community.*" Policy III.1 is to "*Nurture and support established, expanded and new businesses which are permitted uses (including uses permitted with a use permit) in the Town Center.*" And Policy III.3 is to "*Encourage and support the operation of small, independent businesses and growing businesses.*" We feel Levity meets this goal. Levity is a small, independent and growing business and they need to grow and expand and have chosen 1026 Oak Street in the Clayton Town Center to do this.

The down town will benefit from them by bringing in an estimated 150-200 clients throughout the day from Clayton and the surrounding communities. It is for this reason we are willing to make a substantial investment into our building to bring them into the down town. Our belief is that Levity is consistent with the other tenants we are currently in final lease negotiations with, which will create a vibrant and health oriented anchor to this end of the Town Center.

The Town Center Specific Plan "*Land Use Designations*" list as permitted uses "*Dance, music, exercise, and martial arts studios**" as approved uses in the Town Center provided they obtain a use permit if they are located on the ground floor. We therefore ask that the council approve the use of the ground floor at 1026 Oak Street for these uses.

Sincerely,

Steve Thomas
Member, NUCP LLC

1026 Oak St., Suite 102

Clayton, CA

Building Owner: NUCP, LLC

Name of Business: **LEVITY**, Longevity Fitness Studio

Statement of Operations

Physical Fitness Classes

LevityCamp – Cross training

Body Blast – All Calisthenic Workout

“Hoops” – Hoop and Pilates Ring Class

“Pilates is a Blast” Pilates Mat Class – Beginners/Intermediate-Advanced

Pilates Reformer Classes – Endurance, Super Stretch, Muscle Work, Rehabilitation

Aerobic Bar Class

Swiss Ball Classes – Core, Legs, Back

Kickboxing – Muay Thai Style

Belly Dance Class

Hula Dance Class

Tap Dance Class

Exotic Dance Class

Zumba/Brazilian Moves Combo Class

Salsa

Pilates Ball Class

Aero Training – summer 2011

Summer Boot Camp – Clayton Outdoor/Trail Camp – summer 2011

Core Training Class

Just Balls Class – Medicine Balls/Pilates Balls/Swiss Balls

Types of Training

Weight Lifting/Weight Training

Endurance Training

Athletic Training

Pilates Training

Flex Training

Balance Training

Plyometric Training

Body Rehabilitation

Body Callisthenic Training

TRX Suspension Training

Aero Training/Trapeze – summer 2011

Merchandise for Sale

Equipment – Swiss Balls, Yoga Mats, Pilates Equipment (resistance bands, Pilate's balls, rings)

Exercise manuals/books and videos– Levity Training Guides – Cliff Notes for Exercise

Clothing – Logo Wear (workout clothing – pants, shirts, hats, gloves), Logo Yoga/Sport Bags

Beauty/Body Wellness – Arbonne Swiss Skincare, Organic Skin Care Line
Innersense Organic Hair Care

Superfoods Supplements, Water

Days and Hours of Operation:

Monday – Sunday

5am-10pm

Space Occupancy:

20 plus 1 min 2 max instructors for Dance/Pilates Room

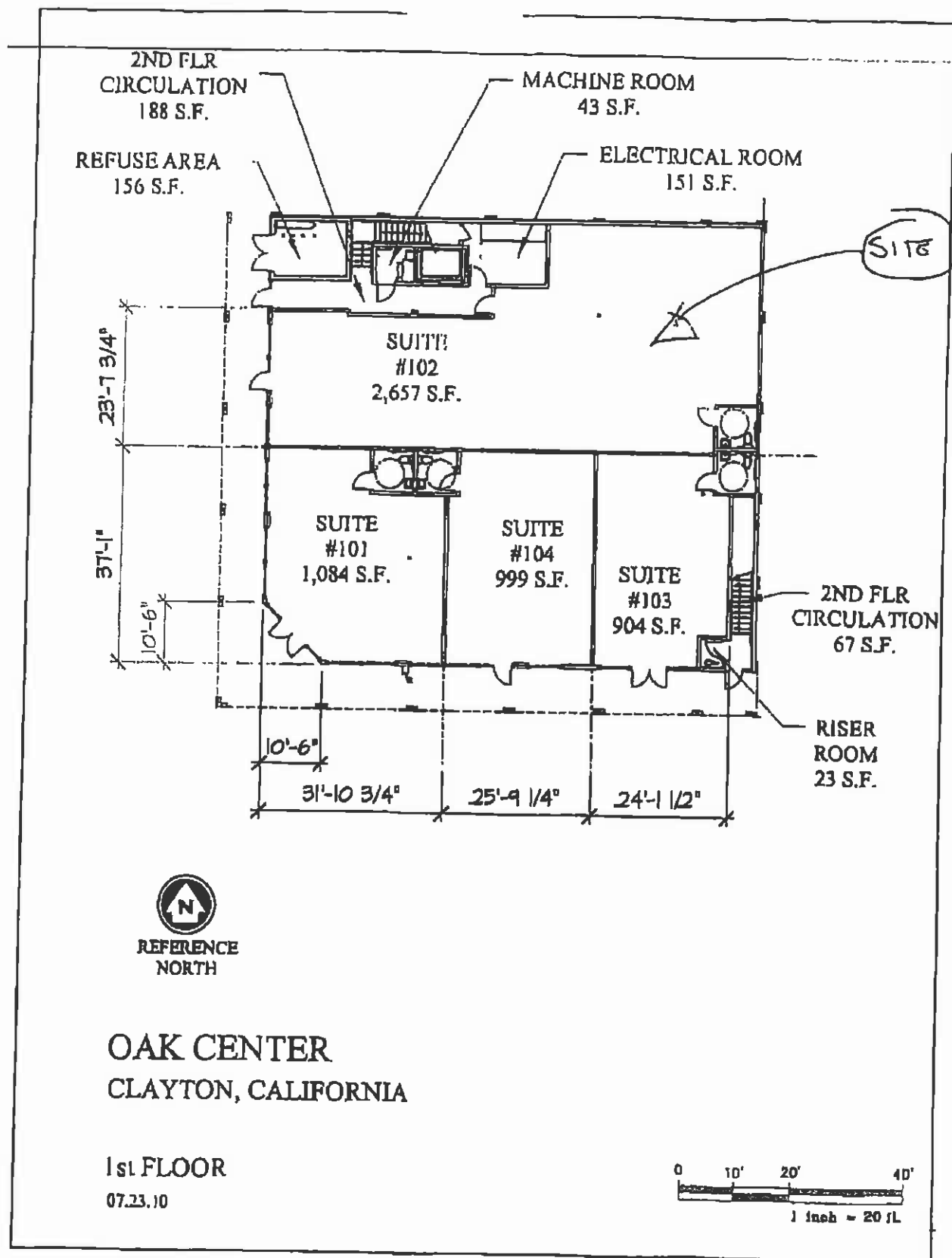
8 participants plus 2 max. Instructors for Personal Training Room

5 max. employees at one time

8 Classes per day plus Personal Training and Drop ins

Parking :

On-Street Parking in the Down Town Area



17.04.150 Open Space.

- A. "Active open space" means an outdoor area on the ground, roof, balcony, deck, or porch which is designed and used for outdoor living, recreation, pedestrian access, or landscaping. The area shall not be for the use of parking, vehicular movements, or storage.
- B. "Passive open space" means an area which provides visual relief to developed areas, exclusive of any area devoted to parking, vehicular movements, storage, private use (unless subject to development restrictions by a conservation easement), or any other area which does not significantly lend itself to the overall benefit of either the particular development or surrounding lands. (Ord 402, 2007)

17.04.160 Permanently Uninhabited Land. "Permanently uninhabited land" is any uninhabited parcel of land dedicated for public use, whether publicly or privately owned, i.e., parks, recreational areas and golf courses. (Ord. 83, 1970; Ord. 52, 1968)

17.04.170 Qualified Applicant. "Qualified applicant" is any person or firm, or authorized agent having written authority to act, having a freehold interest in the subject land; or having a possessory interest entitling him to exclusive possession; or having a contractual interest which may become a freehold or exclusive possessory interest and is specifically enforceable. (Ord. 52, 1968)

17.04.180 Retail Business. "Retail business" means the sale, barter, and exchange of retail goods, wares, merchandise, or other personal property or any interest in them for profit or livelihood. (Ord. 414, 2008)

17.04.185 Setback. "Setback" means a required open space on a lot which is unoccupied by buildings and unobstructed by structures from the ground upward, except for uses and structures allowed by the provisions of this Title. Setbacks shall be measured as the shortest distance between a property line and the nearest vertical support or wall of the building or other structure.

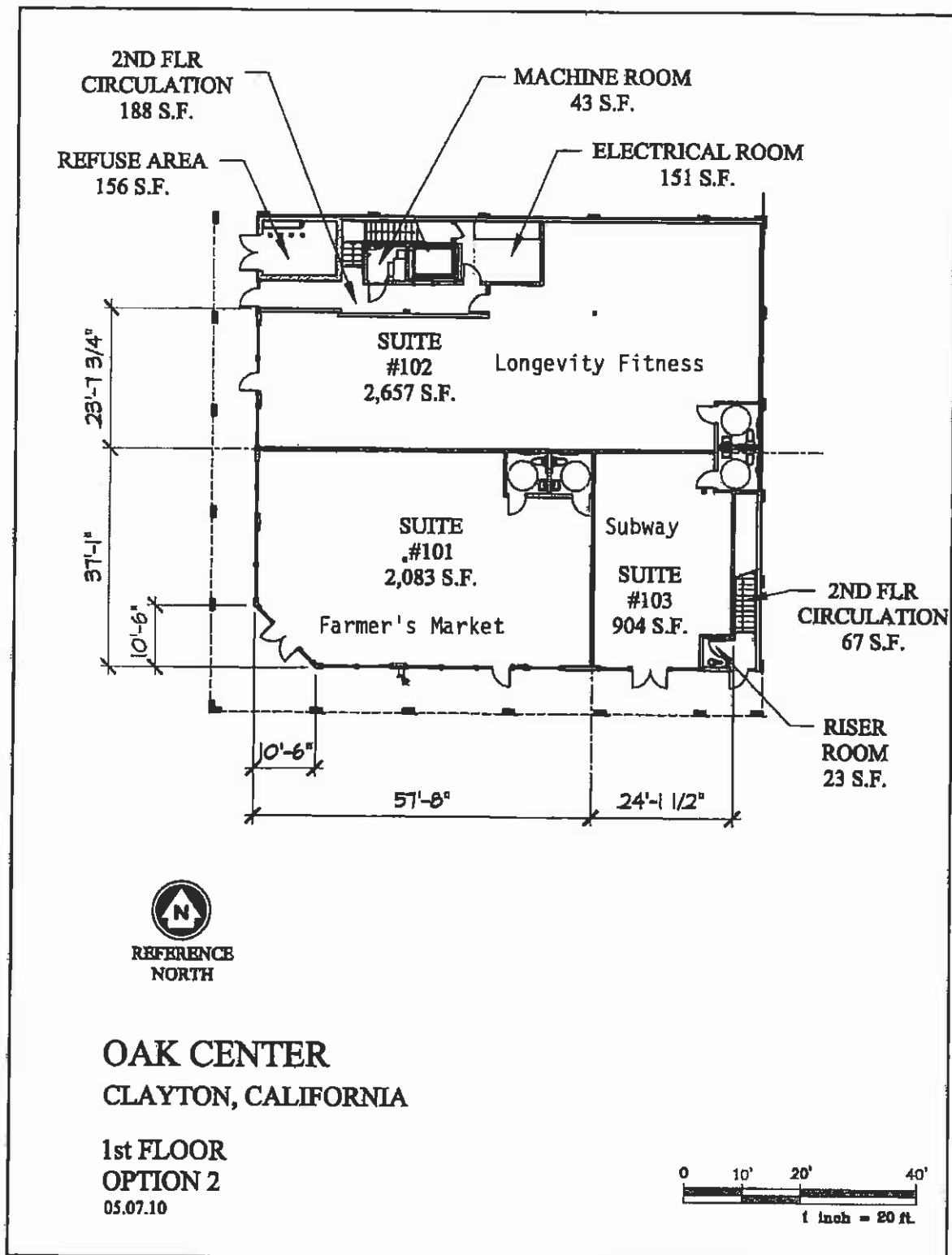
- A. "Front setback" means a setback measured into a lot from the front lot line, extending the full width of the lot between the side lot lines intersecting the front lot line.
- B. "Rear setback" means a setback measured into a lot from the rear lot line, extending the full width of the lot between the side lot lines intersecting the rear lot line.
- C. "Side setback" means a setback measured into a lot from a side lot line, extending between the front setback (or front lot line where no front setback is required) and the rear setback (or rear lot line where no rear setback is required). An exterior side setback is a side setback measured from an exterior side lot line; an interior side setback is a side setback measured from an interior side lot line. (Ord 375, 2004)

17.04.190 Story. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above the basement or cellar is more than six feet above grade at any point, such basement or cellar shall be considered a story. (Ord. 52, 1968).

17.04.200 Structure. "Structure" means anything constructed or erected and permanently attached to land, other than a building as defined in this chapter, except sidewalks, pipes, meters, meter boxes, manholes, mailboxes, poles and wires and appurtenant parts of all devices for the transmission and transportation of electricity and gas for light, heat or power, devices for the transmission of telephone and telegraphic messages, and devices for the transportation of water. (Ord. 52, 1968)

17.04.210 Used. "Used" includes arranged, designed, constructed, altered, converted, rented, leased, or intended to be used. (Ord. 52, 1968)

Exhibit A
Space Plan



LEASE

THIS LEASE is made as of 9/21/10, by and between NUCP/Clayton, LLC ("Landlord"), and Traveling Trainer For Life, LLC, dba Levity ("Tenant").

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord Suite 102 (the "Premises") outlined on the floor plan attached hereto and marked EXHIBIT A, the Premises being agreed, for the purposes of this Lease, to have an area of approximately 2,657 rentable square feet in Suite 102. The Premises are located within the building located at 1026 Oak Street, Clayton, California (the "Building") consisting of approximately 14,004 square feet. The legal description for the Building is set forth on EXHIBIT A-1.

Landlord and Tenant agree that said letting and hiring is upon and subject to the terms, covenants and conditions herein set forth. Tenant covenants, as a material part of the consideration for this Lease, to keep and perform each and all of said terms, covenants and conditions for which Tenant is liable and that this Lease is made upon the condition of such performance.

Prior to the commencing of the term of this Lease, Landlord shall cause the Premises shall to be improved by the Tenant Improvements described in the Work Letter marked EXHIBIT B attached hereto. Except as expressly provided to the contrary in this Lease, Landlord shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with the Lease or the ownership, construction, maintenance, operation or repair of the Premises or the Building.

ARTICLE 1 TERM

1.1 Commencement Date. The term of this Lease shall be for eighty-four (84) months unless sooner terminated as hereinafter provided, commencing on the date which is the earlier of:

- (a) the date on which the Premises are Substantially Complete (as hereinafter defined); or
- (b) the date that Tenant opens for business in the Premises no later than March 1, 2011.

The Premises shall be deemed to be "Substantially Complete" when Tenant receives a certificate of occupancy (or a reasonably substantial equivalent such as a sign-off from a building inspector or a temporary certificate of occupancy) is issued for the Premises.

1.1.1 The date that the Lease commences in accordance with this Article 1 shall be referred to herein as the "Commencement Date".

1.1.2 On and after the Commencement Date, the Lease shall continue in full force and effect for the period of time specified as the Term or until this Lease is terminated as otherwise provided herein. As soon as the Commencement Date is determined, Tenant shall execute a Commencement Date Memorandum in the form attached hereto as Exhibit E acknowledging, among other things, the (a) Commencement Date, (b) scheduled termination date of this Lease and (c) Tenant's acceptance of the Premises. The Tenant's failure to execute the Commencement Date Memorandum shall not affect Tenant's liability hereunder.

1.1.3 Reference in this Lease to a "Lease Year" shall mean each successive twelve month period commencing with the Commencement Date.

ARTICLE 2 POSSESSION

2.1 Lease in Full Force and Effect. Tenant agrees that, if Landlord is unable to deliver possession of the Premises to Tenant on the scheduled Commencement Date, estimated to be sixty (60) days from receipt of Building Permit or no later than March 1, 2011, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, but in such event the Term of this Lease shall not commence until Landlord tenders possession of the Premises to Tenant with the Tenant Improvements substantially completed or Tenant opens for business in the Premises.

2.2. Acceptance by Tenant. Tenant has determined that the Premises are acceptable for Tenant's use and Tenant acknowledges that neither Landlord nor any broker or agent has made any representations or warranties in connection with the physical condition of the Premises or their fitness for Tenant's use upon which Tenant has relied directly or indirectly for any purpose. Landlord's contractor shall warrant his construction. Except as expressly provided to the contrary in this Lease, Landlord shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with this Lease or the ownership, construction, maintenance, operation or repair of the Premises or the Building. Tenant's possession of the Premises during the period of time, if any, prior to the Commencement Date, shall be subject to all the provisions of this Lease and shall not advance the expiration date. Rent shall be paid for such period at the rate stated in Article 3, prorated on the basis of a thirty (30) day month, and shall be due and payable to Landlord on or before the Commencement Date.

ARTICLE 3 RENT

3.1 Rent. Tenant shall pay to Landlord, in lawful money of the United States of America, at the address of Landlord designated on the signature page of this Lease or to such other person or at such other place as Landlord may from time to time designate in writing, the monthly base rent for the Premises (the "Base Rent") in advance, without notice, demand, offset or deduction, on the first day of each calendar month. Tenant shall pay the first month's Base Rent on the date Tenant executes this Lease, and shall continue to pay the Base Rent on the first day of each month thereafter (subject to adjustment as hereinafter provided) as follows:

<u>Months of Term</u>	<u>Base Rent Per Sq Ft., Per Mo.</u>	<u>Monthly Rent, NNN</u>	<u>Total Monthly Rent</u>
01 – 04			
05 – 09		+	
10 – 12		+	
13 – 36		+	
37 – 48		+	
49 – 60		+	
61 – 72		+	
73 – 84		+	

* As per "Addendum One", Paragraph 54.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

LANDLORD:

NUCP/Clayton LLC

By: 

Name: Stan P. Thross

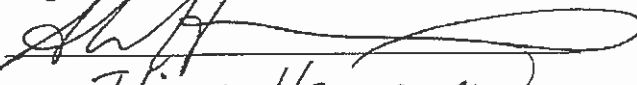
Its: manager

ADDRESS

Thomas Property
3100 Oak Road, Suite 140
Walnut Creek, CA 94596

TENANT:

Traveling Trainers For Life LLC, dba Levity

By: 

Name: Ilina Hershman

Its: owner

ADDRESS

LEASE

THIS LEASE is made as of 8/1/10, by and between NUCP/Clayton, LLC ("Landlord"), and Subway Real Estate, LLC ("Tenant").

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord Suite 103 (the "Premises") outlined on the floor plan attached hereto and marked EXHIBIT A, the Premises being agreed, for the purposes of this Lease, to have an area of approximately 904 rentable square feet in Suite 103. The Premises are located within the building located at 1026 Oak Street, Clayton, California (the "Building") consisting of approximately 14,004 square feet. The legal description for the Building is set forth on EXHIBIT A-1.

Landlord and Tenant agree that said letting and hiring is upon and subject to the terms, covenants and conditions herein set forth. Tenant covenants, as a material part of the consideration for this Lease, to keep and perform each and all of said terms, covenants and conditions for which Tenant is liable and that this Lease is made upon the condition of such performance.

Prior to the commencing of the term of this Lease, Landlord shall cause the Premises shall to be improved by the Tenant Improvements described in the Work Letter marked EXHIBIT B attached hereto. Except as expressly provided to the contrary in this Lease, Landlord shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with the Lease or the ownership, construction, maintenance, operation or repair of the Premises or the Building.

ARTICLE 1 TERM

1.1 Commencement Date. The term of this Lease shall be for one hundred twenty (120) months unless sooner terminated as hereinafter provided, commencing sixty (60) days after (i) delivery of the premises by the Landlord to the Tenant; (ii) acceptance of premises by Tenant by executing the attached lease commencement agreement. Upon execution of this lease, Tenant shall be entitled to the use and possession of the Premises for the purposes of renovation and remodeling. Tenant shall not be responsible for paying base rent, common area maintenance, taxes or insurance until Landlord and Tenant have agreed, in writing, that the Landlord has constructed the premises in accordance with the Landlord's obligations hereunder.

The Premises shall be deemed to be "Substantially Complete" on the earliest of the date on which: (1) Landlord files or causes to be filed with the City of Clayton (the "City"), if required, and delivers to Tenant an architect's notice of substantial completion, or similar written notice that the Premises are substantially complete, (2) Tenant first occupies all or any portion of the Premises, or (3) a certificate of occupancy (or a reasonably substantial equivalent such as a sign-off from a building inspector or a temporary certificate of occupancy) is issued for the Premises.

1.1.1 The date that the Lease commences in accordance with this Article 1 shall be referred to herein as the "Commencement Date".

1.1.2 On and after the Commencement Date, the Lease shall continue in full force and effect for the period of time specified as the Term or until this Lease is terminated as otherwise provided herein. As soon as the Commencement Date is determined, Tenant shall execute a Commencement Date Memorandum in the form attached hereto as Exhibit E acknowledging, among other things, the (a) Commencement Date, (b) scheduled termination date of this Lease and (c) Tenant's acceptance of the Premises. The Tenant's failure to execute the Commencement Date Memorandum shall not affect Tenant's liability hereunder.

1.1.3 Reference in this Lease to a "Lease Year" shall mean each successive twelve month period commencing with the Commencement Date.

ARTICLE 2 POSSESSION

2.1 Lease in Full Force and Effect. Tenant agrees that, if Landlord is unable to deliver possession of the Premises to Tenant on the scheduled Commencement Date, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, but in such event the Term of this Lease shall not commence until Landlord tenders possession of the Premises to Tenant with the Tenant Improvements substantially completed or Tenant opens for business in the Premises.

2.2. Acceptance by Tenant. Tenant has determined that the Premises are acceptable for Tenant's use and Tenant acknowledges that neither Landlord nor any broker or agent has made any representations or warranties in connection with the physical condition of the Premises or their fitness for Tenant's use upon which Tenant has relied directly or indirectly for any purpose. Except as expressly provided to the contrary in this Lease, Landlord shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with this Lease or the ownership, construction, maintenance, operation or repair of the Premises or the Building. Tenant's possession of the Premises during the period of time, if any, prior to the Commencement Date, shall be subject to all the provisions of this Lease and shall not advance the expiration date. Rent shall be paid for such period at the rate stated in Article 3, prorated on the basis of a thirty (30) day month, and shall be due and payable to Landlord on or before the Commencement Date.

ARTICLE 3 RENT

3.1 Rent. Tenant shall pay to Landlord, in lawful money of the United States of America, at the address of Landlord designated on the signature page of this Lease or to such other person or at such other place as Landlord may from time to time designate in writing, the monthly base rent for the Premises (the "Base Rent") in advance, without notice, demand, offset or deduction, on the first day of each calendar month. Tenant shall pay the first month's Base Rent on the date Tenant executes this Lease, and shall continue to pay the Base Rent on the first day of each month thereafter beginning on the Commencement Date (subject to adjustment as hereinafter provided) as follows:

<u>Months of Term</u>	<u>Base Rent/Per Month</u>	<u>Monthly Rent</u>
01 - 12		
13 - 24		
25 - 36		
37 - 48		
49 - 60		
61 - 72		
73 - 84		
85 - 96		
97 - 108		
109 - 120		



CONTAINED HEREIN. ANY PARTY TO THIS LEASE MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY AND THE AGREEMENTS CONTAINED HEREIN REGARDING THE APPLICATION OF JUDICIAL REFERENCE IN THE EVENT OF THE INVALIDITY OF SUCH JURY TRIAL WAIVER.

ARTICLE 53 CONFIDENTIALITY

The terms of this Lease (collectively, the "Confidential Information") are confidential and proprietary information, the disclosure of which may cause irreparable harm to the Landlord. Accordingly, Tenant represents that it has not and covenants that it will not and will direct its shareholders, partners, directors, officers, agents, advisors, brokers, attorneys, consultants, affiliates, sublessees and assignees (collectively, "Tenant Party") not to disclose any Confidential Information except to a Tenant Party that has been advised of the terms of this Article and which agrees to be bound by the terms of this Article or as is required by law. Tenant covenants that any assignment of this Lease, any sublease for all or any portion of the Premises and/or any agreement with Tenant's brokers shall provide for a confidentiality covenant substantially similar to the terms of this Article 55 and that such assignee, sublessee and broker, as applicable, shall preserve the confidential nature of the Confidential Information. Any breach by Tenant or any Tenant Party shall be an Event of Default hereunder. The covenants contained in this Article 55 will survive the assignment of this Lease by Tenant and/or any termination of this Lease for any reason.

ARTICLE 54 CONSTRUCTION

Tenant agrees and acknowledges that Landlord is in the process of constructing the Building. In that regard, Landlord shall have the right, prior to the Commencement Date, to remeasured the square footage of the Premises and/or Building and to the extent the same differ from what is set forth above, then Landlord and Tenant shall enter into an amendment hereto evidencing such square footage as well as modifying any amounts, percentages and figures appearing or referred to in this Lease based upon such square footages.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

LANDLORD:

NUCP/Clayton LLC

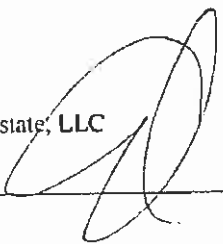
By: 

Name: Steven Thomas

Its: manager

TENANT:

Subway Real Estate, LLC

By:  SLW

Name: _____

Its: _____



From: Steve Thomas [mailto:sthomas@tiogaconstruction.com]
Sent: Friday, December 03, 2010 4:13 PM
To: gnapper@ci.clayton.ca.us
Subject: Re: Scan from Copier

Dear Mr. Napper the Market Produce lease has been fully negotiated with all points agreed we will have the signed lease for you by the seventh of December, 2010

Thanks
Steve thomas
NUCP, Llc

Sent from my iPhone

On Dec 3, 2010, at 4:01 PM, "Gary Napper" <gnapper@ci.clayton.ca.us> wrote:

Can you send me something from you that says the Produce Market lease deal points are all set and signature will be obtained and provided to the City prior to the Dec. 7th City Council meeting?

Gary A. Napper
City Manager
6000 Heritage Trail
Clayton, CA 94517
925.673-7300
gnapper@ci.clayton.ca.us

LEASE

THIS LEASE is made as of December 6, 2012, by and between NUCP/Clayton, LLC ("Landlord"), and Farmer's Market, LLC ("Tenant").

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord Suite 101 (the "Premises") outlined on the floor plan attached hereto and marked EXHIBIT A, the Premises being agreed, for the purposes of this Lease, to have an area of approximately 2,083 rentable square feet in Suite 101. The Premises are located within the building located at 1026 Oak Street, Clayton, California (the "Building") consisting of approximately 14,004 square feet. The legal description for the Building is set forth on EXHIBIT A-1.

Landlord and Tenant agree that said letting and hiring is upon and subject to the terms, covenants and conditions herein set forth. Tenant covenants, as a material part of the consideration for this Lease, to keep and perform each and all of said terms, covenants and conditions for which Tenant is liable and that this Lease is made upon the condition of such performance.

Prior to the commencing of the term of this Lease, Landlord shall cause the Premises to be improved by the Tenant Improvements described in the Work Letter marked EXHIBIT B attached hereto. Except as expressly provided to the contrary in this Lease, Landlord shall not be required to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with the Lease or the ownership, construction, maintenance, operation or repair of the Premises or the Building.

ARTICLE 1 TERM

1.1 Commencement Date. The term of this Lease shall be for one hundred twenty (120) months unless sooner terminated as hereinafter provided, commencing on the date which is the earlier of:

- (a) sixty (60) days after the date on which the Premises are Substantially Complete (as hereinafter defined); or
- (b) the date that Tenant opens for business in the Premises.

The Premises shall be deemed to be "Substantially Complete" when Tenant receives a certificate of occupancy (or a reasonably substantial equivalent such as a sign-off from a building inspector or a temporary certificate of occupancy) is issued for the Premises.

1.1.1 The date that the Lease commences in accordance with this Article 1 shall be referred to herein as the "Commencement Date".

1.1.2 On and after the Commencement Date, the Lease shall continue in full force and effect for the period of time specified as the Term or until this Lease is terminated as otherwise provided herein. As soon as the Commencement Date is determined, Tenant shall execute a Commencement Date Memorandum in the form attached hereto as Exhibit E acknowledging, among other things, the (a) Commencement Date, (b) scheduled termination date of this Lease and (c) Tenant's acceptance of the Premises. The Tenant's failure to execute the Commencement Date Memorandum shall not affect Tenant's liability hereunder.

1.1.3 Reference in this Lease to a "Lease Year" shall mean each successive twelve month period commencing with the Commencement Date.

ARTICLE 2 POSSESSION

2.1 Lease in Full Force and Effect. Tenant agrees that, if Landlord is unable to deliver possession of the Premises to Tenant on the scheduled Commencement Date, estimated to be sixty (60) days from receipt of

LEASE
BETWEEN
NUCP/Clayton, LLC

("LANDLORD")

AND

FARMER'S MARKET, LLC
("TENANT")

HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY. NOTWITHSTANDING THE FOREGOING TO THE CONTRARY, IN THE EVENT THAT THE JURY TRIAL WAIVER CONTAINED HEREIN SHALL BE HELD OR DEEMED TO BE UNENFORCEABLE, EACH PARTY HERETO HEREBY EXPRESSLY AGREES TO SUBMIT TO JUDICIAL REFERENCE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1 ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING HEREUNDER FOR WHICH A JURY TRIAL WOULD OTHERWISE BE APPLICABLE OR AVAILABLE. PURSUANT TO SUCH JUDICIAL REFERENCE, THE PARTIES AGREE TO THE APPOINTMENT OF A SINGLE REFEREE AND SHALL USE THEIR BEST EFFORTS TO AGREE ON THE SELECTION OF A REFEREE. IF THE PARTIES ARE UNABLE TO AGREE ON A SINGLE A REFEREE, A REFEREE SHALL BE APPOINTED BY THE COURT UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 AND 640 TO HEAR ANY DISPUTES HEREUNDER IN LIEU OF ANY SUCH JURY TRIAL. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE APPOINTED REFEREE SHALL HAVE THE POWER TO DECIDE ALL ISSUES IN THE APPLICABLE ACTION OR PROCEEDING, WHETHER OF FACT OR LAW, AND SHALL REPORT A STATEMENT OF DECISION THEREON; PROVIDED, HOWEVER, THAT ANY MATTERS WHICH WOULD NOT OTHERWISE BE THE SUBJECT OF A JURY TRIAL WILL BE UNAFFECTED BY THIS WAIVER AND THE AGREEMENTS CONTAINED HEREIN. THE PARTIES HERETO HEREBY AGREE THAT THE PROVISIONS CONTAINED HEREIN HAVE BEEN FAIRLY NEGOTIATED ON AN ARMS-LENGTH BASIS, WITH BOTH SIDES AGREEING TO THE SAME KNOWINGLY AND BEING AFFORDED THE OPPORTUNITY TO HAVE THEIR RESPECTIVE LEGAL COUNSEL CONSENT TO THE MATTERS CONTAINED HEREIN. ANY PARTY TO THIS LEASE MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY AND THE AGREEMENTS CONTAINED HEREIN REGARDING THE APPLICATION OF JUDICIAL REFERENCE IN THE EVENT OF THE INVALIDITY OF SUCH JURY TRIAL WAIVER.

ARTICLE 53 CONFIDENTIALITY

The terms of this Lease (collectively, the "Confidential Information") are confidential and proprietary information, the disclosure of which may cause irreparable harm to the Landlord. Accordingly, Tenant represents that it has not and covenants that it will not and will direct its shareholders, partners, directors, officers, agents, advisors, brokers, attorneys, consultants, affiliates, sublessees and assignees (collectively, "Tenant Party"), except requests by Tenant's CPA or attorney for a bona fide business purposes, not to disclose any Confidential Information except to a Tenant Party that has been advised of the terms of this Article and which agrees to be bound by the terms of this Article or as is required by law. Tenant covenants that any assignment of this Lease, any sublease for all or any portion of the Premises and/or any agreement with Tenant's brokers shall provide for a confidentiality covenant substantially similar to the terms of this Article 53 and that such assignee, sublessee and broker, as applicable, shall preserve the confidential nature of the Confidential Information. Any breach by Tenant or any Tenant Party shall be an Event of Default hereunder. The covenants contained in this Article 53 will survive the assignment of this Lease by Tenant and/or any termination of this Lease for any reason.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

LANDLORD:

NUCP/Clayton LLC

By: 

Name: STEVEN P. THOMAS

Its: Manager

ADDRESS

Thomas Property
3100 Oak Road, Suite 140
Walnut Creek, CA 94596

TENANT:

Farmer's Market, LLC

ADDRESS

By: _____

Name: _____

Its: _____

P.O. Box 721
Clayton, CA 94517

By: _____

Name: _____

Its: _____

ARTICLE 2
DEVELOPER PRE-DISPOSITION REQUIREMENTS

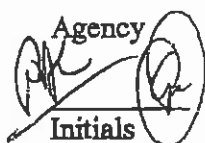
Section 2.1 Conditions Precedent.

As conditions precedent to the Closing, the conditions set forth in this Article 2 must first be met by the times specified for such conditions. However, notwithstanding the specific times set forth in Section 2.2 through 2.8 below for satisfaction of the particular tasks described in those sections, the Developer must satisfy every condition in this Article 2 by a date that will allow the Closing to occur by December 31, 2006, or this Agreement may be terminated pursuant to Article 6.

Section 2.2 Developer Deposit.

(a) Prior to or concurrently with the execution of this Agreement, the Developer has delivered to the Escrow Holder the Developer Deposit in the amount of \$20,000. The Escrow Holder shall promptly deposit the Developer Deposit in an interest-bearing account.

(b) Upon a Developer Event of Default, as defined in this Agreement, prior to the Closing, the Escrow Holder shall pay to the Agency the Developer Deposit as liquidated damages, it being the understanding and agreement of the Agency and Developer, as signified by their initials below, that the Agency's damages upon a Developer Event of Default prior to the Closing would be extremely difficult to determine and calculate, and as a result the Agency and Developer have agreed to this liquidated damages provision.

Agency

Initials

Developer

Initials

(c) Upon termination of this Agreement after an Agency Event of Default prior to the Closing, or upon a no-fault termination under Section 6.2, the Escrow Holder shall return the Developer Deposit to the Developer together with all accrued interest thereof.

(d) At the Closing, the Developer Deposit and its accrued interest shall be applied to the purchase price of the Property.

Section 2.3 Agency Approval of Preliminary Design.

Within 90 days of the execution of this Agreement, the Developer shall cause to be submitted to the Agency the Developer's conceptual plans for the Improvements for Agency approval. The Agency shall have thirty (30) days from the receipt of Developer's conceptual plans to review such plans for completeness. The Agency shall either approve or disapprove, in the Agency's reasonable discretion, the Developer's preliminary conceptual plans for completeness. In the event that the Agency disapproves of the Developer's conceptual plans, then the Agency shall provide the Developer written detailed comments explaining the deficiencies to the conceptual plans and the necessary steps for the preliminary conceptual plans to be acceptable to the Agency (the "Agency Comments").

Within 90 days after the Agency approves the preliminary conceptual plans for the Improvements, Developer shall cause to be submitted to the Agency its preliminary design for the Improvements which design shall comply with the Agency's comments, if any, and the Town Center Specific Plan guidelines, and shall utilize high quality building materials. The preliminary design for the Improvements shall include the following specifications:

(a) All ground floor uses on the entire site shall only be "Retail Commercial" as those uses are defined in the General Plan of the City, unless specifically allowed otherwise by affirmative vote of the Clayton City Council.

The Agency shall within thirty days of receipt review the preliminary design and either approve it or indicate in writing the changes in the design necessary to obtain Agency approval. If the Agency reasonably requires changes to the design, Developer shall promptly make those changes and submit the revised plans to the Agency for approval. The Developer acknowledges that the Agency approval of the preliminary design does not constitute City approval of the design for the Improvements and in no way limits the City's discretion in considering any necessary land use approvals, or any other necessary approvals, for the Improvements. The Developer acknowledges that the approval of the final design and site plan shall be subject to Planning Commission and City Council approval. Agency shall have no right to approve of any plans for the interior of any building to be constructed on the Property, except to the extent that same would otherwise require approval of the City pursuant to its zoning or building code.

Section 2.4 Application for City Permits and Other Approvals.

At the same time it submits the design to the Agency pursuant to Section 2.3 above, the Developer shall apply to the City for various City permits and approvals (including design review, grading, and encroachment permits) necessary for construction of the Improvements based on that design (excluding a building permit), and shall diligently pursue and obtain such City permits and approvals no later than 90 days following application therefor. If the Agency reasonably requires changes to the design pursuant to Section 2.3 above, the Developer shall incorporate those changes into the City applications. Developer shall have no obligation to close escrow on the Property hereunder until such time as it has obtained all necessary discretionary permits or other governmental approvals and building permits necessary for the construction of the Improvements and the operation of the contemplated business thereon.

Section 2.5 Final Construction Plans; Building Permit.

(a) The Final Construction Plans for the Improvements shall consist of all construction documentation upon which the Developer and its contractors shall rely in building the Improvements. The Final Construction Plans shall include (without limitation) final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings"). The Final Construction Plans shall be based upon the Agency approved design and City Approvals and shall not materially deviate therefrom without the written consent of the Agency.



Agenda Date: 12-7-10

Agenda Item: 11c

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: December 7, 2010

SUBJECT: Continued consideration of the status of holding the 8th annual "Clayton Counts Down" New Year's Eve event being at risk due to the amount of community and business donations and event volunteers.

BACKGROUND

At its November 16, 2010 meeting the City Council deferred taking action on this item until the meeting of December 7th in an effort to recruit more volunteers and sponsor donations.

CONCERNS

Budget

So far the committee has collected \$2,800, though the anticipated cost of the event is approximately \$6,800 (cost was reduced because of a discount on equipment from Backyard Carnivals and the decision not to distribute flyers to the schools). A donation from Allied Waste Services of \$1,000 is pending and the committee asked for a donation of \$4,000 from CBCA. If all of the pledged donations come in the event will be fully financed once again without use of City money. (Note: the CBCA request would not be decided until their January or February meeting.

Volunteers

In past years City Maintenance and office staff have been able to help set-up and take-down event tents and move all of the decorations, tables, and chairs to and from the event location. This year the event falls on a City Holiday therefore staff is not available to help with normal set-up and clean up. Also, school begins on Monday, January 3rd so all tables, chairs, decorations, and leftover food and drinks will need to be stored in the gymnasium classroom after the event and picked up by City Maintenance staff on Tuesday, January 4th (Monday, January 3rd is a unpaid furlough day).

Although we have received more commitments for volunteering including Councilmembers, the event is still need of sufficient volunteers: 12 volunteers for set-up on the day of the event between Noon-5p.m.; 22 volunteers to help with the carnival games and the craft area during the event from 5-8; and 20 volunteers to help cleanup at then end of the event from 8p.m.-9p.m.

RECOMMENDATION

Provide direction to staff as to the holding of this year's Clayton Counts Down.

Attachments: Budget (1 page)
Event Task Sheet (1 page)

Clayton Counts Down event Budget and Donations				
expenses	year			
item	2008 actual	2009 budget actual	2010 expected	2010 budget actual
food/chips/cookies/condiments	\$ 2,438.37	\$ 1,439.87	\$ 1,500.00	
buns		incl in food		
ice	safeaway donat	(safeaway donation)		
coffee/tea/apple cider	incl in food	incl in food		
soda	incl in food	incl in food		
water	incl in food	incl in food		
inflatables	\$ 395.00	\$ 650.00	\$ 1,596.00	\$ 1,596.00
karaoke	\$ 450.00			
carnival games			\$ -	included with inflatables
raffle prizes/ gift certificates	\$ 53.95	used from last year	\$ 100.00	
school flyers	\$ 182.97	\$ 40.00	\$ -	\$ -
poster paper	\$ 27.31	\$ 28.00	\$ 28.00	
prizes	\$ 40.00	\$ 60.00	\$ 60.00	
duct tape/bungee cords/zip ties	\$ 1,701.66	\$ 98.91	\$ 100.00	
patio heaters/bbq rental (2010- Projector Screen)	\$ 565.00	\$ 590.00	\$ 590.00	
banner time change	\$ 64.95	\$ 87.40	\$ 120.00	
rock band electronic		\$ 50.00		
decorations/craft supplies		\$ 290.36	\$ 260.00	
hula hoops		\$ 48.57		
Tickets			\$ 25.00	
Masks			\$ 91.00	\$ 91.32
larps		\$ 112.64	\$ 115.00	
MDUSD room use	YMCA paid	\$ 355.00	\$ 355.00	
MDUSD janitorial	\$ 584.00	\$ 360.00	\$ 360.00	
Don Stone/sound tech	\$ 250.00	\$ 250.00	\$ -	
City Maint	\$ 1,497.56	\$ 1,500.00	\$ 1,500.00	
Total	\$ 8,248.77	\$ 5,960.75	\$ 6,800.00	
donations recvd				
Comcast	\$ 1,000.00			
Longs	\$ 1,000.00			
AD Seeno	\$ 1,000.00			
Jim Webb	\$ 500.00			
Clayton Pioneer	\$ 250.00			
Flora Sq/Komgold	\$ 250.00			
Kim and Gary Napper	\$ 250.00			
Skip and Lind Ipsen	\$ 25.00			
	\$ 4,250.00			
Travis Credit Union		\$ 1,000.00	\$ 500.00	
CBCA		\$ 2,500.00		
Jim Webb		\$ 750.00	\$ 1,000.00	
Allied		\$ 1,000.00		
Clayton Club		\$ 250.00	\$ 100.00	
Julle Pierce		\$ 250.00		
Gary Napper		\$ 150.00		
Gary Napper		\$ 25.00		
Hugert Turner and Adams		\$ 100.00	\$ 100.00	
Mike Rose Autobody		\$ -	\$ 1,000.00	
Doug Van Wyck			\$ 100.00	
total donations received		\$ 6,025.00		
donations at event		\$ 468.00		
\$ from soda sales		\$ 275.00		
total funds received		\$ 6,768.00	\$ 2,800.00	
tshirt only				
	pledge	tshirt cost		
		\$ 2,337.95		
hank stratford	\$150	(\$150)		
Gary Napper	\$150	(\$150)		
Lynn French	\$150	(\$150)		
David Shuey	\$150	(\$150)		
La Veranda		\$0		
Royal Rooster	\$150	(\$150)		
Canessa's	\$150	(\$150)		
Doug Van Wyck	\$150	(\$150)		
Diablo Ford	\$150	(\$150)		
Johnny's International Deli	\$150	(\$150)		
Cathie's Custom Creations		\$0		
IMC		(\$967.95)		
		\$0.00		
in kind				
	Safeway	ice		
	Bills Ace	tarps/water		
	Clayton Pioneer	advertizings		
	Allied Waste	t-shirts		
	Carl's Jr	cups		

Work Area's for Volunteers

Set-up

Tents	8 (Diablo Valley Ranch with supervision)
Craft Area	4-6
Signage & Toters	1
Tables	2 (Liza Alsbury)
Lighting	2 (adults)
Other	4 (AOSL, AOSL)
Total:	23 (12 needed)

Event Staffing

BBQ	4 (David, Marc, Howard, and Dan Richardson/Craig)
Staffing food area	4 (Sandy Johnson, Sandra Bohn, Dan/Craig,)
Parking	2 (Dan Sullivan, Clayton Hertz)
Popcorn	2 (Julie and Steve)
Crafts	4-6 (High School ok)
Carnival Games	16 (High School ok)
Sports	4 (AOSL)
Movie room	1 (High School ok)
Soda sales	2 (Joe Medrano, Ted Meriam)
Raffle person	1-2 (Hank, Lynn Hadley)
Check-in	2 (AOSL)
Total:	44 (remaining need 22)

Clean-up

Take tents down	8 (adults and supervision)
Carry tables & chairs	4 (adults or strong bodied high schoolers)
Move soda and food	3 (Herb and Kathy Yonge)
Toters	1
Litter Pick-up	1
Sweep lobby	1
Craft Area	4
Total:	22 (20 needed)

MINUTES
OF THE
REGULAR MEETING
CLAYTON REDEVELOPMENT AGENCY

Agenda Date: 12-7-10

Agenda Item: 3a RDA

November 2, 2010

1. **CALL TO ORDER & ROLL CALL** - the meeting was called to order at 6:30 p.m. by Chairman Medrano in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Boardmembers present: Chairman Medrano, Vice Chairperson Pierce, Boardmembers Geller, Shuey and Stratford. Staff present: Executive Director Napper, Secretary Jackson, and General Counsel Adams

2. **PUBLIC COMMENTS** – None.

3. **CLOSED SESSION** – Chairman Medrano announced the following purpose for Closed Session and then adjourned into Closed Session at 6:30 p.m.

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator
Real Property: 268 Stranahan Circle, Clayton, CA (APN 119-620-035-4).
Instructions to Agency negotiator (Executive Director) concerning terms and conditions.
Negotiating Party: Ryan and Jennifer Ruff

7:00 p.m. Report Out From Closed Session: Chairman Medrano reported the Board gave staff direction.

4. **ADJOURN** – on call by Chairman Medrano the meeting adjourned at 7:00 p.m.

Respectfully submitted,

Laci J. Jackson, Secretary

Clayton Redevelopment Agency Board

Joseph A. Medrano, Chairman



Agenda Date: 12-7-10

Agenda Item: 4

Approved: _____

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE CHAIRMAN AND BOARDMEMBERS

FROM: EXECUTIVE DIRECTOR

DATE: 07 DECEMBER 2010

SUBJECT: NOMINATION AND ELECTION OF CHAIRMAN AND VICE CHAIRMAN

RECOMMENDATION

It is recommended the Board of Directors elect its Chairman and Vice Chairman for the ensuing twelve (12) month period.

BACKGROUND

The election of these officers from within the membership of the Board commences each year at the first regularly-scheduled Board meeting in December.

Chairman Joe Medrano and Vice Chair Julie Pierce were elected to their current offices on 01 December 2009. The following table lists the officers of the Agency in recent years:

<u>Year</u>	<u>Chair</u>	<u>Vice Chair</u>
2010	Joe Medrano	Julie Pierce
2009	David Shuey	Joe Medrano
2008	Hank Stratford	David Shuey
2007	David Shuey	Hank Stratford
2006	Julie Pierce	Pete Laurence
2005	Pete Laurence	Julie Pierce
2004	David Shuey	Pete Laurence
2003	Gregg Manning	David Shuey
2002	Rich Littorno	Gregg Manning

NOMINATION AND ELECTION PROCEDURES

Pursuant to Chapter 2.04 – Council Meetings of the *Clayton Municipal Code*, the City of Clayton uses the most recent version of *Robert's Rules of Order* to govern the conduct of City business meetings. As a legally separate public entity, the Clayton Redevelopment Agency may use its own procedures for this matter but has typically mirrored the process used by the Clayton City Council. Therefore, to assist in the procedure of nominating and selecting a chairman and vice chairman at this meeting, the following rules* have been extracted and outlined below:

1. The nomination/election of the next Chairman is to be conducted by Chairman Medrano. Once the next Chairman has been elected by the Board of Directors, the new Chairman then presides over and conducts the remainder of the business items on the agenda, including the election of the Vice Chairman.
2. The method of nomination in this respect is an "open nomination" solely by and from within the membership of the presently-seated Board of Directors. Nominations cannot be accepted from members of the public.
3. No "second" is required for a nomination, although sometimes one or more members will "second" a nomination to indicate endorsement.
4. In no event may a member nominate more persons than there are positions to fill.
5. When it appears no one else wishes to make a nomination, the chair of the meeting asks one (1) final time if there are additional nominations. If there is no response, the chair then declares..." the nomination for [Chairman or Vice Chairman, as applicable] is closed."

It is unnecessary to have a motion to officially close the nominations; yet, if such a motion is made, that motion then requires an affirmative 2/3rds vote of the Board present [4 of 5]. After nominations are closed, a majority vote is required to re-open them.

6. Nominees are voted on in the order in which they are nominated. As soon as one of the nominees receives a majority vote [in this case, 3 or more votes], the chair then declares that person elected to that respective office, and no vote is taken on the remaining nominee(s).

FISCAL IMPACT

No financial impact. The offices of Chairman and Vice Chairman do not receive a monthly stipend, nor does any member of the Board of Directors for the Clayton Redevelopment Agency.

*Reference: Chapter XIV - Nominations and Elections, *Robert's Rules of Order* [RONR, 10th Edition, pp. 418-430]

MINUTES
REGULAR MEETING
OAKHURST GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)
September 7, 2010

Agenda Date: 12-7-10

Agenda Item: 4a

1. **CALL TO ORDER AND ROLL CALL** – the meeting was called to order by Chairman Geller at 10:20 p.m. Boardmembers present: Chairman Geller, Vice Chairman Shuey, Medrano, Boardmembers Pierce and Stratford. Staff present: City Manager Napper, General Counsel Adams, District Manager Rick Angrisani, and Secretary Jackson.
2. **PUBLIC COMMENTS** - None.
3. **CONSENT CALENDAR** – It was moved by Chairman Geller, seconded by Boardmember Pierce to approve the Consent Calendar as submitted (Passed; 5-0 vote).
 - (a) Approved the Oakhurst Geologic Hazard Abatement District Board minutes for the regular meeting of July 20, 2010.
 - (b) Authorized the allocation of \$110,000 from the Presley lawsuit settlement proceeds to CIP No. 10409 for the repaving of designated residential streets in the Oakhurst Subdivisions as part of the City's 2010 Neighborhood Street Repavement Project.
4. **PUBLIC HEARINGS** – None.
5. **ACTION ITEMS** – None.
6. **BOARD ITEMS** – None.
7. **ADJOURN**- on call by Chairman Geller the meeting adjourned at 10:21 p.m.

Respectfully submitted,

Laci J. Jackson, Secretary

Approved by Board of Directors
Geologic Hazard Abatement District

Howard Geller, Chairman



Agenda Date: 12-7-10

Agenda Item: 5a

GHAD REPORT

TO: HONORABLE CHAIRMAN AND BOARDMEMBERS

FROM: GENERAL MANAGER

DATE: DECEMBER 7, 2010

SUBJECT: SELECTION OF CHAIR AND VICE CHAIR

RECOMMENDATION

It is recommended the Board of Directors select a new Chairman and Vice Chairman for the next year.

BACKGROUND

Similar to the Clayton City Council's annual reorganization, the Board of Directors of the Oakhurst Geologic Hazard Abatement District (GHAD) also annually changes its chairman and vice chairman.

Since the December 1, 2009 Board meeting, Boardmember Howard Geller has served as Chairman of GHAD with Boardmember David Shuey serving as Vice Chair. At this time, the Board should conduct the nomination and selection of its chair and vice chair to serve for the next twelve months. In recent years the following have served as officers of GHAD:

2010	Chair Howard Geller	Vice Chair David Shuey
2009	Chair Hank Stratford	Vice Chair Howard Geller
2008	Chair Bill Walcutt	Vice Chair Julie Pierce
2007	Chair Julie Pierce	Vice Chair Gregg Manning
2006	Chair Bill Walcutt	Vice Chair Gregg Manning
2005	Chair David Shuey	Vice Chair Bill Walcutt
2004	Chair Bill Walcutt	Vice Chair Gregg Manning
2003	Chair Bill Walcutt	Vice Chair Julie Pierce

FISCAL IMPACT

None. Boardmembers do not receive any stipend for their time and effort expended in these offices.

Respectfully submitted,

Rick Angrisani
General Manager