CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

AGENDA

REGULAR JOINT MEETINGS

* * *

CLAYTON CITY COUNCIL

and

CLAYTON REDEVELOPMENT AGENCY

and

CLAYTON FINANCING AUTHORITY

***

TUESDAY, JANUARY 17, 2011

7:00 p.m.

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

Mayor: Howard Geller
Vice Mayor: Joseph A. Medrano

Council Members
Julie K. Pierce
David T. Shuey
Hank Stratford

- 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*
January 17, 2012

7:00 P.M.

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

2. **CLOSED SESSION** – None.

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

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) Approve the minutes of the special and regular meetings of December 6, 2011. (View Here)

(b) Approve Financial Demands and Obligations of the City. (View Here)

(c) Approve Clayton Community Library closures on certain Sundays in calendar year 2012. (View Here)

(d) Approve the 1st Quarterly Investment Reports for FY 2011-12 (July-Sept.). (View Here)

(e) Adopt a Resolution in compliance with AB 936 declaring no loans between the City of Clayton and the Clayton Redevelopment Agency were forgiven in whole or in part during calendar years 2010 and 2011. (View Here)

(f) Approve the appointment of Alyse Smith to the citizens advisory Trails and Landscaping Committee for the term of office from January 18, 2012 through December 31, 2013. (View Here)

5. **RECOGNITIONS AND PRESENTATIONS**

(a) Recognition of Virginia Siegel and Lorraine Mole for their leadership and service on the Clayton citizens advisory Trails and Landscaping Committee.

(b) Certificates of Recognition to “Do The Right Thing” students of the month for exemplifying “Kindness” during November and December 2011.

6. REPORTS

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

7. PUBLIC COMMENT ON NON - AGENDA ITEMS

Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker 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 at its discretion request Staff to report back at a future meeting concerning the matter.

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

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

(a) Consideration of a contract modification request by LSA Associates in the amount of $48,525.00 for extraordinary work beyond the scope of its original contract to prepare an Environmental Impact Report for the proposed Clayton Community Church mixed land use project on approximately 2.3 acres of private properties generally located at 6055 Main Street. (View Here)
(Community Development Director)

Staff recommendation: Following staff presentation and public comments, that Council by motion approve the requested contract modification of LSA Associates and direct the contract modification not be executed until sufficient monies are available in the Project processing account to fund the consultant work.

(b) Consider a series of actions to formally implement an "Exclusion" to the City of Clayton's existing contract with the California Public Employees Retirement System (CalPERS) to exclude all newly elected city council members from enrollment or participation in the CalPERS pension plan. (View Here)
(City Clerk)

Staff recommendations: Following staff report and public comments, that Council:

1) By motion adopt the Resolution of Intent.

2) By motion, approve the City Clerk to read Ordinance No. 438 by title and number only and waive further reading; and

3) By motion, approve for Introduction and First Reading Ordinance No. 438 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to provide for the exclusion of city council members hired on or after the effective date of this amendment to become members of CalPERS under the City's contract.

(c) Consideration of a Resolution expressing the City's intent to serve as the Successor Agency of the Clayton Redevelopment Agency pursuant to Health and Safety Code Section 34171(j) and Section 34173, and to elect to retain the Affordable Housing assets and function previously performed by the Clayton Redevelopment Agency pursuant to Health and Safety Code Section 3416.
(City Manager) (View Here)

Staff recommendation: Following staff presentation and public comments, that Council adopt the Resolution.

(d) Consideration of the award of contract to Scoreboards.com in the amount of $12,988.92 for the purchase of three (3) replacement scoreboards for installation at the three sports fields in Clayton Community Park.
(Maintenance Supervisor) (View Here)

Staff recommendation: Following staff presentation and public comments, that Council approve a motion awarding contract to Scoreboards.com for three replacement scoreboards at Clayton Community Park and appropriate the purchase monies from the City Deferred Maintenance Fund.

(e) Determination of the date, time and location for the City Council's annual Goals and Objectives Setting Session with its City Manager. (View Here)
(City Manager)

Staff recommendation: That Council determine a suitable date and time to hold its annual Goals Session, and then by motion approve the calling of a City Council special meeting for the purpose, date, time and location.

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

11. ADJOURNMENT– the next regularly scheduled City Council meeting is February 7, 2012.

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* CLAYTON REDEVELOPMENT AGENCY *

January 17, 2012

1. CALL TO ORDER AND ROLL CALL – Chairperson Pierce.

2. PUBLIC COMMENT ON NON - AGENDA ITEMS

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

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

3. CONSENT CALENDAR

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

(a) Approve the minutes of the regular meeting of December 6, 2011. (View Here)

(b) Adopt a Resolution in compliance with AB 936 declaring no loans between the City of Clayton and the Clayton Redevelopment Agency were forgiven in whole or in part during calendar years 2010 and 2011. (View Here)

(c) Adopt a Resolution amending and re-adopting the Agency's Enforceable Obligation Payments Schedule (EOPS) pursuant to Part 1.8 of the California Redevelopment Law. (View Here)

4. PUBLIC HEARINGS – None.

5. ACTION ITEMS – None.

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

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

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* CLAYTON FINANCING AUTHORITY *

January 17, 2012

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

2. **CLOSED SESSION** – None.

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

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

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

4. **CONSENT CALENDAR**

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

(a) Approve the minutes of the regular meeting of January 18, 2011. (View Here)

(b) Approve the Clayton Financing Authority's Annual Report for Calendar Year 2011. (View Here)

5. **ACTION ITEMS** - None.

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

7. **ADJOURNMENT** – the Clayton Financing Authority's next meeting will be scheduled when necessary.

# # # # # #

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 1-17-12

Agenda Item: 4a

TUESDAY, December 20, 2011

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 p.m. by Mayor Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Medrano, Councilmembers Pierce, Shuey and Stratford. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, and City Clerk Laci Jackson.

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

3. **CLOSED SESSION** – The City Attorney stated the City received a letter threatening litigation yesterday after the Agenda was posted, and recommended the Council add a closed session item at the end of the meeting pursuant to Government Code 54956.9(b), Threatened Litigation.

   It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to add the Closed Session item to the Agenda at the end of the meeting (Passed; 5-0 vote).

4. **CONSENT CALENDAR- It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to approve the Consent Calendar as submitted (Passed; 5-0 vote).**

(a) Approved the minutes of the special and regular meetings of December 6, 2011.

(b) Approved Financial Demands and Obligations of the City.

(c) Adopted Resolution 44-2011 supporting and urging the Contra Costa County Board of Education's approval of the Clayton Valley Charter High School's petition appeal to establish the Clayton Valley Charter High School commencing School Year 2012-13.

(d) Adopted Resolution 45-2011 authorizing and confirming the pre-existing City of Clayton employer payment of the employee portion of the CalPERS rate as tax-deferred employer pension system contributions (required for IRS purposes only).

(e) Authorized the cancellation of the January 3, 2012 City Council regular public meeting.

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

6. **REPORTS**

(a) Planning Commission – Commissioner Sandra Johnson reported on the Planning Commission meeting of December 13th. The Commission reviewed the Housing Element implementation plan for zoning changes regarding certain properties for multi-family high density, emergency and transitional housing, and single room occupancy units designations.

(b) Trails and Landscaping Committee – No meeting held.

(c) The City Manager reported Clayton Counts Down (New Year's Eve event) will be held December 31st from 5-8pm at the Clayton Community Gym on the Diablo View Middle School campus. He noted City Hall would be closed December 26, 2011 through January 2, 2012.

(d) City Council

Councilmember Shuey attended the meeting on the Clayton Valley Charter High School and stated the County Board of Education will make their decision on January 11th. He thanked Councilmembers for their continued presence at these meetings.

Councilmember Pierce attended an ABAG meeting, a TRANSPAC meeting, a joint meeting with the ABAG Administration Committee and the MTC planning committee, and attended the Clayton Historical Society's Home Tour fundraiser.

Councilmember Stratford reminded citizens to post their 1,000 acts of kindness at www.claytondtrt.com.

Mayor Geller attended the Clayton Valley Charter High School hearing at the County Board of Education. He invited all citizens to the Clayton Counts Down, and noted he just became a grandfather.

(e) Other – None.

7. **PUBLIC COMMENTS** – None.

8. **PUBLIC HEARINGS** – None.

9. **ACTION ITEMS**

(a) Consideration of recommended appointments of citizens to vacancies on the Clayton Trails and Landscaping Committee for a two-year term of public office expiring on December 31, 2013.
(Vice Mayor Medrano and Councilmember Stratford)

Councilmember Stratford stated there are four applicants for the Trails and Landscaping Committee. He spoke with Larry Casagrande (the only applicant he did not know) and was impressed with his willingness to serve. He stated the other three candidates all had a willingness to be more involved in the community and the Council sub-committeee recommends appointing all four applicants.

It was moved by Vice Mayor Medrano, seconded by Councilmember Stratford, to appoint Larry Casagrande, Anthony Chippero, Robert Erich, and Harun Simbirdi to the Trails and Landscaping committee for terms of office from January 1, 2012 through December 31, 2013 (Passed; 5-0 vote).

(b) Review and determination of City Council ad-hoc, committee, inter-governmental and regional board assignments for 2012.
(Mayor Geller)

Mayor Geller announced and outlined the proposed Council committee assignments for 2012. The Council discussed the recommendations and made several adjustments.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to approve the proposed Council Member assignments for calendar year 2012 (Passed; 5-0 vote).

10. **COUNCIL ITEMS**- None.

11. **CLOSED SESSION**– On call by Mayor Geller the Council adjourned into Closed session at 7:35 p.m. pursuant to Government Code section 54956.9 (b) Threatened Litigation.

8:27 p.m. Report out of Closed Session: Mayor Geller reported the City Council received and gave instructions to its City Attorney.

12. **ADJOURNMENT**– On call by Mayor Geller the meeting adjourned at 8:28 p.m.

Respectfully submitted,

____
Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

____
Howard Geller, Mayor

CITY OF CLAYTON

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Agenda Date: 1/17/12

Agenda Item: 4b

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: JANUARY 17, 2012

SUBJECT: INVOICE SUMMARY

RECOMMENDATION **Approve the following Invoices.**

12/23/11	Cash Requirements Report	$422.00
1/13/12	Invoice Expense Allocation Report	$3,600.00
1/13/12	Cash Requirements Report	$225,919.16

Attachments:
Cash Requirements Report dated 12/23/11 (1 page)
Invoice Expense Allocation Report dated 1/13/12 (1 page)
Cash Requirements Report dated 1/13/12 (7 pages)

City of Clayton
Cash Requirements Report
CC Meeting 1/~~3~~/12 17

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Chairs for Affairs								
Chairs for Affairs	1/6/2012	12/23/2011	PRI-122417-1	Clayton 1st Night Bar-B-Qs 12/11	$422.00	$0.00		$422.00
				Totals for Chairs for Affairs:	*$422.00*	*$0.00*		*$422.00*
				GRAND TOTALS:	**$422.00**	**$0.00**		**$422.00**

City of Clayton
Invoice Expense Allocation Report
CC Meeting 1/17/12

Vendor Name Tax Identification Number	Transaction Date Transaction Number	Description Transaction Type	Status	Account Number	Account Description	Amount
Undercover Computers						
Undercover Computers XXX-XX-3970	12/18/2011 213	Install & build new (24) comp Invoice	Paid	502-7485-00	Capital Equipment	$3,600.00
					Totals for Undercover Computers:	*$3,600.00*

City of Clayton
Cash Requirements Report
CC Meeting 1/17/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Access One								
Access One	1/13/2012	1/2/2012	1217794	Long Distance Phone Service 12/11	$50.38	$0.00		$50.38
				Totals for Access One:	*$50.38*	*$0.00*		*$50.38*
Alan Lee								
Alan Lee	1/12/2012	12/18/2011	EH 12/17/11	Refund EH 12/17/11 Deposit	$500.00	$0.00		$500.00
				Totals for Alan Lee:	*$500.00*	*$0.00*		*$500.00*
All City Management Services, Inc.								
All City Management Services, Inc.	1/12/2012	11/18/2011	25063	Crossing Guard WE 11/19/11	$418.50	$0.00		$418.50
All City Management Services, Inc.	1/12/2012	12/17/2011	25355	Crossing Guard WE 12/17/11	$465.00	$0.00		$465.00
				Totals for All City Management Services, Inc.:	*$883.50*	*$0.00*		*$883.50*
ANC								
ANC	1/13/2012	1/5/2012	12758	Hoyer Memorial at Grove Pk- Flag Pole 12/11	$4,021.66	$0.00		$4,021.66
				Totals for ANC:	*$4,021.66*	*$0.00*		*$4,021.66*
Arlene H. Kikkawa-Nielsen								
Arlene H. Kikkawa-Nielsen	1/13/2012	1/13/2012	1/12	Library Volunteer Coordinator 1/12	$820.00	$0.00		$820.00
				Totals for Arlene H. Kikkawa-Nielsen:	*$820.00*	*$0.00*		*$820.00*
ASCAP								
ASCAP	1/12/2012	12/20/2011	Dec. 2011	Grove Concerts License Fees 2012	$320.00	$0.00		$320.00
				Totals for ASCAP:	*$320.00*	*$0.00*		*$320.00*
AT&T/ CalNet 2								
AT&T/ CalNet 2	1/12/2012	12/2/2011	11/11B	Local Phone Service 11/11B	$113.81	$0.00		$113.81
AT&T/ CalNet 2	1/12/2012	12/22/2011	12/11A	Local Phone Service 12/11A	$1,678.50	$0.00		$1,678.50
				Totals for AT&T/ CalNet 2:	*$1,792.31*	*$0.00*		*$1,792.31*
BAE Urban Economics Inc								
BAE Urban Economics Inc	1/12/2012	12/22/2011	1712-2011	CC Church Impact Study 12/11	$2,916.31	$0.00		$2,916.31
				Totals for BAE Urban Economics Inc:	*$2,916.31*	*$0.00*		*$2,916.31*
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	1/12/2012	12/13/2011	0276771-IN	PW Signs 11/11	$866.00	$0.00		$866.00
Bay Area Barricade Serv.	1/12/2012	12/13/2011	0276772-IN	PW Signs 11/11	$918.94	$0.00		$918.94
				Totals for Bay Area Barricade Serv.:	*$1,784.94*	*$0.00*		*$1,784.94*
Bay Area News Group East Bay (CCT)								
Bay Area News Group East Bay (CCT)	1/12/2012	12/31/2011	DEC 2011	Legal Notice-Housing Element Implementatio	$190.60	$0.00		$190.60
				Totals for Bay Area News Group East Bay (CCT):	*$190.60*	*$0.00*		*$190.60*
CA Soc of Muni Finance Officers								
CA Soc of Muni Finance Officers	1/12/2012	12/19/2011	DEC 2011	CSMFO Membership Renewal 2012	$110.00	$0.00		$110.00

City of Clayton
Cash Requirements Report
CC Meeting 1/17/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
				Totals for CA Soc of Muni Finance Officers:	*$110.00*	*$0.00*		*$110.00*
CalPERS Health								
CalPERS Health	1/13/2012	12/14/2011	484	Health Premiums 1/12	$27,943.66	$0.00		$27,943.66
				Totals for CalPERS Health:	*$27,943.66*	*$0.00*		*$27,943.66*
CalPERS Retirement								
CalPERS Retirement	1/13/2012	1/13/2012	CC 1/12	Retirement Premiums CC 1/12	$426.72	$0.00		$426.72
CalPERS Retirement	1/13/2012	1/13/2012	PPE 1/8/12	Retirement Premiums PPE 1/8/12	$22,189.47	$0.00		$22,189.47
CalPERS Retirement	1/13/2012	12/25/2011	PPE 12/25/11	Retirement Premiums PPE 12/25/11	$24,411.62	$0.00		$24,411.62
				Totals for CalPERS Retirement:	*$47,027.81*	*$0.00*		*$47,027.81*
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	1/12/2012	12/14/2011	986852	Admin Copier Copies 12/11	$174.67	$0.00		$174.67
				Totals for Caltronics Business Systems, Inc:	*$174.67*	*$0.00*		*$174.67*
CCC Animal Svcs Dept								
CCC Animal Svcs Dept	1/12/2012	12/30/2011	ASD M5573	Animal Control Services 1/1/12-3/31/12	$14,552.00	$0.00		$14,552.00
				Totals for CCC Animal Svcs Dept:	*$14,552.00*	*$0.00*		*$14,552.00*
CCC General Services (Traffic)								
CCC General Services (Traffic)	1/12/2012	12/20/2011	4406	Traffic Signal Maintenance 11/11	$614.25	$0.00		$614.25
				Totals for CCC General Services (Traffic):	*$614.25*	*$0.00*		*$614.25*
CCC Sheriff - Forensic Svc Div (Lab)								
CCC Sheriff - Forensic Svc Div (Lab)	1/12/2012	12/20/2011	CLPD-1111	PD Crime Lab 11/11	$500.00	$0.00		$500.00
				Totals for CCC Sheriff - Forensic Svc Div (Lab):	*$500.00*	*$0.00*		*$500.00*
CCC Sheriff-Coroner (CLETS)								
CCC Sheriff-Coroner (CLETS)	1/12/2012	12/19/2011	10/11	PD CLETS 10/11 Annual Fee 1/12	$736.76	$0.00		$736.76
				Totals for CCC Sheriff-Coroner (CLETS):	*$736.76*	*$0.00*		*$736.76*
Chapman Land Surveying Inc								
Chapman Land Surveying Inc	1/12/2012	1/5/2012	122911	Field Surveying Services - MCR 12/115600.	$5,600.00	$0.00		$5,600.00
				Totals for Chapman Land Surveying Inc:	*$5,600.00*	*$0.00*		*$5,600.00*
City of Concord								
City of Concord	1/12/2012	12/16/2011	27054	PD Vehicle Maintenance 12/11	$2,034.15	$0.00		$2,034.15
City of Concord	1/12/2012	1/6/2012	27280	PD Dispatch Svs 1/12 & Computer Componen	$13,285.00	$0.00		$13,285.00
City of Concord	1/12/2012	1/6/2012	27291	PD Vehicle Maintenance 12/11	$50.66	$0.00		$50.66
				Totals for City of Concord:	*$15,369.81*	*$0.00*		*$15,369.81*
City of Walnut Creek								
City of Walnut Creek	1/12/2012	12/23/2011	12/238/11	City Manager's Association Dues 2012	$156.00	$0.00		$156.00
				Totals for City of Walnut Creek:	*$156.00*	*$0.00*		*$156.00*

City of Clayton
Cash Requirements Report
CC Meeting 1/17/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Clayton Pioneer								
Clayton Pioneer	1/13/2012	1/4/2012	11875	Diablo Estates LMI Newsppr Ad 1/13/12	$300.00	$0.00		$300.00
				Totals for Clayton Pioneer:	*$300.00*	*$0.00*		*$300.00*
Clayton Valley Little League								
Clayton Valley Little League	1/12/2012	12/14/2011	CCP 2011	CCP Rainout Refund 2011	$310.00	$0.00		$310.00
				Totals for Clayton Valley Little League:	*$310.00*	*$0.00*		*$310.00*
Clean Street								
Clean Street	1/12/2012	12/31/2011	66118	Street Sweeping 12/11	$3,500.00	$0.00		$3,500.00
				Totals for Clean Street:	*$3,500.00*	*$0.00*		*$3,500.00*
Concord Uniforms								
Concord Uniforms	1/12/2012	11/28/2011	5811	Armor - S. Dansie 11/11	$86.57	$0.00		$86.57
				Totals for Concord Uniforms:	*$86.57*	*$0.00*		*$86.57*
Contra Costa Tractor Mobile Svc								
Contra Costa Tractor Mobile Svc	1/12/2012	12/15/2011	015355	PW Tractor Repair 12/11	$294.00	$0.00		$294.00
				Totals for Contra Costa Tractor Mobile Svc:	*$294.00*	*$0.00*		*$294.00*
Contra Costa Water Dist.								
Contra Costa Water Dist.	1/12/2012	1/12/2012	G Series 11-12/11	Water Service 11-12/11	$4,592.15	$0.00		$4,592.15
				Totals for Contra Costa Water Dist.:	*$4,592.15*	*$0.00*		*$4,592.15*
Cropper Accountancy Corp								
Cropper Accountancy Corp	1/12/2012	11/30/2011	527	Audit-2nd Progress Billing Financial Stateme	$3,000.00	$0.00		$3,000.00
				Totals for Cropper Accountancy Corp:	*$3,000.00*	*$0.00*		*$3,000.00*
CSAC Excess Insurance Authority								
CSAC Excess Insurance Authority	1/12/2012	1/1/2012	1240711-IN	EAP Insurance Premiums 1-3/12	$304.98	$0.00		$304.98
				Totals for CSAC Excess Insurance Authority:	*$304.98*	*$0.00*		*$304.98*
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	1/12/2012	1/7/2012	12296132	Admin Copier Lease 1/12	$431.68	$0.00		$431.68
				Totals for De Lage Landen Financial Services, Inc.:	*$431.68*	*$0.00*		*$431.68*
Devils' Mountain Trophy								
Devils' Mountain Trophy	1/12/2012	12/5/2011	13541	PD Award	$267.28	$0.00		$267.28
				Totals for Devils' Mountain Trophy:	*$267.28*	*$0.00*		*$267.28*
Emergency Vehicle Solutions, Inc								
Emergency Vehicle Solutions, Inc	1/12/2012	11/9/2011	INV0002002	PD Vehicle Equip 12/11	$6,377.61	$0.00		$6,377.61
				Totals for Emergency Vehicle Solutions, Inc:	*$6,377.61*	*$0.00*		*$6,377.61*
Employee Benefit Specialists, Inc								

City of Clayton
Cash Requirements Report
CC Meeting 1/17/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Employee Benefit Specialists, Inc	1/12/2012	12/31/2011	0054998-IN	FSA Admin Fees 12/12	$100.00	$0.00		$100.00
				Totals for Employee Benefit Specialists, Inc:	*$100.00*	*$0.00*		*$100.00*
Globalstar LLC								
Globalstar LLC	1/12/2012	12/16/2011	3565136	PD Sat Phone 12/11	$27.04	$0.00		$27.04
				Totals for Globalstar LLC:	*$27.04*	*$0.00*		*$27.04*
Goldfarb & Lipman								
Goldfarb & Lipman	1/12/2012	12/14/2011	103541	RDA-LMI Legal Service 11/11	$441.00	$0.00		$441.00
Goldfarb & Lipman	1/13/2012	1/10/2012	103804	RDA Legal Services 12/11	$98.00	$0.00		$98.00
				Totals for Goldfarb & Lipman:	*$539.00*	*$0.00*		*$539.00*
Graybar Electric Co, Inc								
Graybar Electric Co, Inc	1/13/2012	12/27/2011	957956221	Hoyer Memorial at Grove Pk- Lighting 12/11	$2,203.99	$0.00		$2,203.99
Graybar Electric Co, Inc	1/12/2012	12/27/2011	957956222	PW Supplies 12/11	$4,407.98	$0.00		$4,407.98
				Totals for Graybar Electric Co, Inc:	*$6,611.97*	*$0.00*		*$6,611.97*
Hammons Supply Company								
Hammons Supply Company	1/12/2012	12/30/2011	69978	Janitorial Supplies 12/11	$415.20	$0.00		$415.20
				Totals for Hammons Supply Company:	*$415.20*	*$0.00*		*$415.20*
Health Care Dental Trust								
Health Care Dental Trust	1/12/2012	1/4/2012	135722	Dental Benefits 1/12	$2,628.90	$0.00		$2,628.90
Health Care Dental Trust	1/3/2012	12/23/2011	ccc		$10.00	$0.00		$10.00
				Totals for Health Care Dental Trust:	*$2,638.90*	*$0.00*		*$2,638.90*
Interstate All Battery Center - East Bay								
Interstate All Battery Center - East Bay	1/13/2012	12/21/2011	WEB000603	PW Battery 12/11	$257.74	$0.00		$257.74
				Totals for Interstate All Battery Center - East Bay:	*$257.74*	*$0.00*		*$257.74*
J & R Floor Services								
J & R Floor Services	1/12/2012	1/1/2012	DEC 2011	Janitorial Service 12/11	$4,910.00	$0.00		$4,910.00
				Totals for J & R Floor Services:	*$4,910.00*	*$0.00*		*$4,910.00*
Jarvis Fay Doporto & Gibson, LLP								
Jarvis Fay Doporto & Gibson, LLP	1/12/2012	12/13/2011	12/13/11	Chevron Prop Tax Share 11/11	$40.45	$0.00		$40.45
				Totals for Jarvis Fay Doporto & Gibson, LLP:	*$40.45*	*$0.00*		*$40.45*
Julie Pierce								
Julie Pierce	1/12/2012	1/3/2012	JAN 2012	Clayton Counts Down 2011 Expenses	$1,563.37	$0.00		$1,563.37
				Totals for Julie Pierce:	*$1,563.37*	*$0.00*		*$1,563.37*
LarryLogic Productions								
LarryLogic Productions	1/12/2012	12/21/2011	1209	CC Meeting Video 12/20/11	$275.00	$0.00		$275.00
				Totals for LarryLogic Productions:	*$275.00*	*$0.00*		*$275.00*

City of Clayton
Cash Requirements Report
CC Meeting 1/17/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Neopost Leasing (Mail Finance)	1/12/2012	12/25/2011	N2991097	Admin Postage Machine Lease 2/12	$222.02	$0.00		$222.02
				Totals for Neopost Leasing (Mail Finance):	*$222.02*	*$0.00*		*$222.02*
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	1/12/2012	12/21/2011	329856	Outside Phone Booth 1/12	$73.00	$0.00		$73.00
				Totals for Pacific Telemanagement Svc:	*$73.00*	*$0.00*		*$73.00*
Paramount Elevator Corp.								
Paramount Elevator Corp.	1/12/2012	12/19/2011	160157	CH Elevator Regular Maintenance 12/11	$220.00	$0.00		$220.00
				Totals for Paramount Elevator Corp.:	*$220.00*	*$0.00*		*$220.00*
Peace Officers Research Assoc of CA								
Peace Officers Research Assoc of CA	1/12/2012	12/19/2011	27751	PROAC PRA Dues 12/11	$10.00	$0.00		$10.00
				Totals for Peace Officers Research Assoc of CA:	*$10.00*	*$0.00*		*$10.00*
PERMCO, Inc.								
PERMCO, Inc.	1/13/2012	12/28/2011	9614	Engineer Retainer - General Svc 12/10-12/23/	$3,245.75	$0.00		$3,245.75
PERMCO, Inc.	1/13/2012	12/28/2011	9615	O'Meara SWP 01-10	$20.75	$0.00		$20.75
PERMCO, Inc.	1/13/2012	12/28/2011	9616	CCP Pkg Lot & Con Std - Insps & Meetings	$2,089.25	$0.00		$2,089.25
PERMCO, Inc.	1/13/2012	12/28/2011	9617	Diablo Estates SPR-Review plots plans	$3,359.50	$0.00		$3,359.50
PERMCO, Inc.	1/13/2012	12/28/2011	9618	Diablo Estates Review Plans Grading & SWPF	$825.00	$0.00		$825.00
PERMCO, Inc.	1/13/2012	12/28/2011	9619	Diablo Estates Construction Inspections	$394.25	$0.00		$394.25
PERMCO, Inc.	1/13/2012	12/28/2011	9620	Diablo Estates SW BMP Insp	$20.75	$0.00		$20.75
PERMCO, Inc.	1/13/2012	12/28/2011	9621	VanBrusselen 0010 SW	$20.75	$0.00		$20.75
PERMCO, Inc.	1/13/2012	12/28/2011	9621	Hosler 0014 SW	$41.50	$0.00		$41.50
PERMCO, Inc.	1/13/2012	12/28/2011	9621	Coakley 0015 SW	$41.50	$0.00		$41.50
PERMCO, Inc.	1/13/2012	12/28/2011	9621	Meeker 0019 SW	$41.50	$0.00		$41.50
PERMCO, Inc.	1/13/2012	12/28/2011	9622	MCR Upgrade-Bids for Mapping, Scan as-b	$1,179.00	$0.00		$1,179.00
				Totals for PERMCO, Inc.:	*$11,279.50*	*$0.00*		*$11,279.50*
PG&E								
PG&E	1/12/2012	12/21/2011	Indy 12/11	Svs. Individual 12/11	$702.95	$0.00		$702.95
PG&E	1/12/2012	12/21/2011	Mst #121...12/11	Service Master #121...12/11	$1,908.74	$0.00		$1,908.74
PG&E	1/12/2012	12/16/2011	Mst 119... 12/11	Service Master 119...12/11	$448.37	$0.00		$448.37
PG&E	1/13/2012	12/15/2011	Mst 729... 12/11	Service Mst 729... 12/11	$17,152.97	$0.00		$17,152.97
				Totals for PG&E:	*$20,213.03*	*$0.00*		*$20,213.03*
Rock & Waterfall Co								
Rock & Waterfall Co	1/12/2012	12/28/2011	104-17	OH Waterfall Maintenance 12/11	$650.00	$0.00		$650.00
				Totals for Rock & Waterfall Co:	*$650.00*	*$0.00*		*$650.00*
Sherrie Post								
Sherrie Post	1/13/2012	12/20/2011	EH 11/19/11	Refund EH Deposit for 11/19/11	$500.00	$0.00		$500.00
				Totals for Sherrie Post:	*$500.00*	*$0.00*		*$500.00*

City of Clayton
Cash Requirements Report
CC Meeting 1/17/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
SPRAYTEC (Sprayer Sales Co)								
SPRAYTEC (Sprayer Sales Co)	1/12/2012	12/15/2011	10988	PW Wash Rack Maintenance 12/11	$225.00	$0.00		$225.00
				Totals for SPRAYTEC (Sprayer Sales Co):	*$225.00*	*$0.00*		*$225.00*
Sprint Comm (PD)								
Sprint Comm (PD)	1/12/2012	12/29/2011	121	PD Cell Phone Service 12/11	$294.16	$0.00		$294.16
				Totals for Sprint Comm (PD):	*$294.16*	*$0.00*		*$294.16*
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	1/12/2012	12/29/2011	531409315	PW & Admin Cell Phone Service 12/11	$309.36	$0.00		$309.36
				Totals for Sprint Comm (PW & ADM):	*$309.36*	*$0.00*		*$309.36*
Treppa Law Group								
Treppa Law Group	1/12/2012	11/30/2011	568	Grove Park Litigation Service 11/11	$2,816.45	$0.00		$2,816.45
Treppa Law Group	1/13/2012	12/31/2011	580	JFC Litigation Legal Services 12/11	$33.00	$0.00		$33.00
				Totals for Treppa Law Group:	*$2,849.45*	*$0.00*		*$2,849.45*
Turf Star, Inc.								
Turf Star, Inc.	1/12/2012	12/13/2011	6737937-00	Maintenance Equip. Maintenance 12/11	$313.54	$0.00		$313.54
				Totals for Turf Star, Inc.:	*$313.54*	*$0.00*		*$313.54*
Undercover Computers								
Undercover Computers	1/12/2012	1/5/2012	214	Admin New Computer Svs. (build/connec	$4,177.46	$0.00		$4,177.46
				Totals for Undercover Computers:	*$4,177.46*	*$0.00*		*$4,177.46*
US Bank (CM 9690)								
US Bank (CM 9690)	1/12/2012	12/23/2011	3021005	RDA 1996 Fiscal Agent Fees 12/11-11/30/12	$2,740.00	$0.00		$2,740.00
				Totals for US Bank (CM 9690):	*$2,740.00*	*$0.00*		*$2,740.00*
Western Exterminator								
Western Exterminator	1/12/2012	12/31/2011	607650	Extermination Service 12/11	$334.50	$0.00		$334.50
				Totals for Western Exterminator:	*$334.50*	*$0.00*		*$334.50*
				GRAND TOTALS:	**$225,919.16**	**$0.00**		**$225,919.16**

Agenda Date: 1-17-12

Agenda Item: 4c

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 17 JANUARY 2012

SUBJECT: CLOSURE OF COMMUNITY LIBRARY ON CERTAIN SUNDAYS - 2012

RECOMMENDATION

It is recommended the City Council authorize the closure of the Clayton Community Library on the following Sundays in 2012, due to historically-low patronage or recognized government holidays by the County of Contra Costa (which staffs our Library):

1.	Sunday	01 January 2012	New Year's Day weekend
2.	Sunday	08 April 2012	Easter Sunday
3.	Sunday	27 May 2012	Memorial Day weekend
4.	Sunday	02 September 2012	Labor Day weekend
5.	Sunday	11 November 2012	Veterans' Day
6.	Sunday	23 December 2012	Christmas Day weekend

BACKGROUND

In Fiscal Year 2002-2003, the City of Clayton began its partnership with the Contra Costa County Library System in offering the availability of the Clayton Community Library to patrons on Sunday afternoons. Sunday operations commenced on 14 April 2002 and ever since that time Sunday afternoons (1:00 p.m. – 5:00 p.m.) have resulted in the highest patrons-per-hour day at our Clayton Community Library.

In calendar year 2004, the City Council commenced approval for the closure of its Library on certain Sunday afternoons that constituted actual government holidays or holiday weekends, which typically produced low patron turnout based on previous years' experience. Since the City pays separately for the addition of Sunday operational hours the County defers to our authority on which Sundays to be closed during a calendar year, provided County employee paid holidays are observed per their collective bargaining agreements. Not all holiday-related weekends are closed since several holiday-weekend Sundays often generate patronage or student access needs arising from school homework assignments over that weekend.

For example:

Holiday	Date in 2011	Patrons Per Hour
Martin Luther King, Jr. weekend	Sunday, Jan. 16th	84 (in 2011)

Our Branch Librarian recommends the Library remain open on this holiday-weekend Sunday due to past experience of high-volume patronage days. During fiscal year 2010-2011, Sundays remained the highest patrons-per-hour day of the six (6) days our Library is open during the week. The average hourly count for a Sunday was 79 patrons per hour, a slight two-year decrease from a 2009 average of 82 (-3.7%). The next highest patron days are Wednesdays (63 per hour; drop from 68 in 2010) and a new tie for third of Tuesdays and Saturdays at 62 patrons per hour for each day. In previous years, Thursdays was the third highest patronage day at 66 per hour, which dropped to 59 patrons per hour last year.

In previous years, Mondays always experienced the lowest historical patronage count (59 per hour last year). However, for the first time last year Thursdays hit the cellar as the lowest patrons-per-hour day (59 per hour) while Mondays climbed to 60 patrons per hour. Our Library has always been closed on Fridays.

DISCUSSION

Our Branch Librarian, Karen Hansen-Smith, requested the City examine the above-noted Sundays as acceptable closure days in 2012. In 2003, the Library was kept open on several of these holiday weekends and the facility generated very little patron traffic. Since 2004 these types of holiday weekends have been closed and the Branch Librarian indicates no complaints have been received lamenting denial of Library access. The selected holiday weekends for 2012 now match public expectations and acceptance of certain holiday closures.

FISCAL IMPACT

Under the partnership with the County, the City of Clayton expects to pay approximately $115.00 per Sunday to match the County's contribution. The associated City expenses for utility costs and custodial services are further estimated at $206 per Sunday afternoon (4 hours; 1 p.m. to 5 p.m.). Therefore, the total savings in General Fund monies will be about $1,926 for the 6 proposed closures, or about $321 per Sunday. The County would expect to save approximately $1,715 over the same 7 days of closure.

Clearly this policy question is one of what makes sense for this public service to our community when addressing certain holiday weekend closures, in contrast to this action constituting a critical budget-cutting measure. Fortunately the City was able to retain Sunday operational hours in its tight budget for FY 2011-12 after negotiation once again with the new County Librarian.

CITY OF CLAYTON
Founded 1857 . Incorporated 1964

Agenda Date: 1-17-12

Agenda Item: 4d

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER

DATE: January 17, 2012

SUBJECT: INVESTMENT PORTFOLIO REPORT FIRST QUARTER FY 2011-2012

RECOMMENDATION:

Accept the Investment Portfolio Report for the First Quarter Fiscal Year 2011-12 ending September 30, 2011.

BACKGROUND

With adoption of the revised Investment Policy reviewed on July 18, 2006, the Finance Manager is required to submit a quarterly investment report to the City Council. The First Quarter 2011-12 Fiscal Year report is provided herein.

FISCAL IMPACT

With the first quarter of the fiscal year completed, interest earnings for the General Fund are now at 23.67% of the '11-12 Budget for a total of $24,564. Average annual interest yield for the past 3 months was 2.71% compared to 2.75% in the prior quarter. City interest earnings through the first quarter totaled $97,763. Only 19.92% of the current investment portfolio is invested in Local Agency Investment Funds (LAIF) a decrease of 7.5% compared to the prior quarter. The LAIF quarterly apportionment rate dropped to .38% a decline of 20% from the prior period. Our Certificates of Deposit total 79.7% of our portfolio an increase of 7.7% from the prior quarter. Only .001% of our portfolio is temporarily held in a cash money market fund. (These funds are due to maturing investments or interest allocations that have not been reinvested at this time). At this same time last year, 13.06% of our investments were in LAIF with a rate of .51% interest. The LAIF interest rate has declined over the past five years from 4.93% in September 2006 to our current .38% rate marking a devastating decline of 92%. The market value of the total investment portfolio as of September, 2011 was $15,458,969 compared to $14,253,914 in September 2010. The shift of our investments to Certificates of Deposit with higher interest yields have proven to be an effective hedge in keeping our investment values at an optimum level. Our investment portfolio carrying value of $15,211,149 is 247,820 less than current market value showing the strength of our investments in a declining economy. This is a decrease of $33,184 over the last quarter report.

CONCLUSION

As interest rates continue to decline our interest revenues have been negatively impacted. LAIF interest rates have remained at an all time low of .38% in September. This remains the lowest rate on record since 1977. Market yields for 3 year CD's have drastically decreased from a high of 5.7% in March 2008 to a low of 1.0% in January 2011. As interest rates have declined especially over the short term, we have seen rates increase slightly over the long term (60 months) however due to the lower rates staff has been investing in 3 year or less investments. We have been diligent to diversify our portfolio with investments immediately available in LAIF and cash (20%) and then staggered less than one year (20%), two years (23%) three years (20%) 4 years (8%) and less than 5 years (9%). By staggering our investment portfolio in this manner the impact of rate changes will be lessened.

Respectively submitted,

Merry Pelletier
Finance Manager

Attachments:
City of Clayton Investment Portfolio First Quarter Fiscal Year 2011-2012 Report
(July 1, 2011 – September 30, 2011)

City of Clayton Investment Portfolio
July 1, 2011 - September 30, 2011

Investment Description	Carrying Value	Rate	Current Yield to Maturity	Purchase Date	Maturity Date	Market Value
Local Agency Investment Fund						
Account # 98-07-162						
TOTAL LAIF:	$ 3,074,103.65	0.38%				**$ 3,079,783.34**
Financial North Eastern CD's						
1st Financial Bank USA (Dakota)	$ 98,000.00	1.40%	1.10%	12/17/10	12/17/13	$ 98,414.00
American Chartered Bank	$ 99,000.00	2.40%	2.35%	05/21/10	05/21/14	$ 101,398.00
Aurora Bank (Wilmington, DEL)	$ 100,000.00	1.20%	1.20%	01/26/11	01/27/14	$ 100,408.00
Banco Popular De P.R.Stn Bank	$ 99,000.00	1.25%	1.25%	07/28/11	07/28/14	$ 98,747.00
Bank West San Francisco, CA	$ 100,000.00	1.45%	1.46%	09/14/11	10/14/15	$ 99,304.00
Bank West San Francisco, CA	$ 49,000.00	1.75%	1.76%	09/28/11	09/28/16	$ 48,537.00
Banner Bank, Walla Walla, WA	$ 98,000.00	2.65%	2.64%	04/08/09	10/11/11	$ 98,036.00
Barclays Bank, Del	$ 99,000.00	3.15%	3.02%	09/23/09	03/23/14	$ 103,307.00
BB&T Finl FSB Columbus, GA	$ 100,000.00	3.00%	2.96%	03/18/09	03/19/12	$ 101,130.00
Beacon Federal (Syracuse, NY)	$ 99,000.00	3.20%	3.06%	04/15/09	04/15/14	$ 103,371.00
BMW BK North Amer (Salt Lake)	$ 99,000.00	4.00%	3.94%	03/19/08	03/19/12	$ 100,567.00
BMW BK North Amer (Salt Lake)	$ 50,000.00	2.00%	2.01%	11/12/10	11/12/15	$ 49,844.00
Carolina First Bank	$ 98,000.00	2.60%	2.59%	04/22/09	10/24/11	$ 98,112.00
Cenlar Bank FSB (Trenton, NJ)	$ 99,000.00	2.10%	2.31%	02/28/11	02/29/16	$ 98,364.00
Citizens Dep Bank (Arlington, KY)	$ 99,000.00	1.60%	1.60%	06/20/11	06/22/15	$ 98,891.00
Clayton Bank & Trust (TN)	$ 99,000.00	4.65%	4.51%	07/09/08	07/09/12	$ 102,082.00
Cole Taylor Bank (IL)	$ 99,000.00	5.00%	4.67%	07/11/08	07/11/13	$ 105,818.00
Community Bank Pickens County	$ 198,000.00	2.00%	1.96%	05/21/10	08/21/13	$ 202,071.00
Community First Bank (Corydon, IN)	$ 99,000.00	3.00%	2.94%	01/15/09	07/16/12	$ 100,867.00
Discover Bank (Greenwood, DE)	$ 100,000.00	4.16%	3.91%	12/18/08	12/18/13	$ 106,236.00
Discover Bank (Greenwood, DE)	$ 97,000.00	1.65%	1.64%	01/05/11	01/05/15	$ 97,524.00
Doral Bank (Catano, PR)	$ 99,000.00	3.05%	3.01%	4/8/2009	04/09/12	$ 100,288.00
Doral Bank (Catano, PR)	$ 100,000.00	2.75%	2.66%	02/03/10	02/03/14	$ 103,235.00
Fifth Third Bank (Cincinnati, OH)	$ 100,000.00	2.69%	2.31%	12/28/09	12/28/12	$ 101,900.00
Fifth Third Bank (Cincinnati, OH)	$ 99,000.00	3.30%	3.15%	12/28/09	12/28/14	$ 103,668.00
First Bank of Highland Park (IL)	$ 98,000.00	3.20%	3.05%	04/22/09	04/22/14	$ 102,624.00
First Guarantee Bank & Trust, Jacksonville	$ 99,000.00	5.00%	4.95%	12/15/06	12/15/11	$ 99,871.00
First Reliance Bank (Florence, SC)	$ 99,000.00	3.25%	3.11%	04/17/09	04/17/14	$ 103,497.00
First Republic Bank (SF, CA)	$ 250,000.00	2.90%	2.83%	11/17/09	11/19/12	$ 255,989.00
Flagstar Bank FSB Troy, MI	$ 99,000.00	5.00%	4.65%	09/19/08	09/19/13	$ 106,300.00
Franklin Templeton (SLC, Ut)	$ 99,000.00	4.00%	3.92%	04/18/08	04/18/12	$ 100,853.00
FSG Bank(Chattanooga, TN)	$ 99,000.00	3.00%	2.89%	12/11/09	06/11/14	$ 102,908.00
GE Capital Financial, Inc (Holladay, UT)	$ 99,000.00	4.15%	3.99%	12/18/08	12/18/12	$ 102,976.00
GE Capital Financial, Inc (Salt Lake City, UT)	$ 99,000.00	1.50%	1.48%	10/21/10	10/21/14	$ 99,903.00
GE Money Bank (SLC, UT)	$ 99,000.00	4.15%	3.99%	12/18/08	12/18/12	$ 102,976.00
GE Money Bank (Draper, UT)	$ 50,000.00	2.00%	2.02%	11/12/10	11/12/15	$ 49,825.00
Goldman Sachs Bank (New York)	$ 99,000.00	4.45%	4.21%	05/07/08	05/07/13	$ 104,454.00
Goldman Sachs Bank (New York)	$ 50,000.00	2.00%	2.01%	09/28/11	09/28/16	$ 49,533.00
Horry County State Bank (Loris,S. Carolina)	$ 99,000.00	2.50%	2.43%	05/28/10	01/28/15	$ 101,712.00
Integrity First Bank (Wausau, WI)	$ 99,000.00	4.10%	3.90%	04/25/08	04/25/13	$ 103,840.00
Investors Bank (Wisconsin-42 Mo)	$ 99,000.00	3.00%	2.93%	04/08/09	10/09/12	$ 101,282.00
Investors Community Bank (WI)	$ 99,000.00	3.90%	3.89%	04/18/08	10/18/11	$ 99,123.00
Investors Savings Bank (Short Hills)	$ 99,000.00	2.20%	2.20%	05/05/11	05/05/16	$ 99,003.00
Israel Disc Bank (New York, NY)	$ 196,000.00	2.10%	2.11%	02/28/11	02/29/16	$ 194,863.00
Jackson Cnty Bank (Seymour, IN)	$ 100,000.00	1.55%	1.54%	01/12/11	01/12/15	$ 100,411.00
Lehman Commercial Bank (UT)	$ 100,000.00	5.00%	4.75%	06/30/08	07/01/13	$ 105,183.00
Midfirst Bank (Oklahoma City)	$ 99,000.00	2.75%	2.67%	10/14/09	10/15/13	$ 102,030.00
Minnwest Bank Metro (Rochester, MN)	$ 98,000.00	2.85%	2.81%	04/29/09	04/30/12	$ 99,305.00
Monona State Bank	$ 99,000.00	3.80%	3.74%	03/28/08	03/28/12	$ 100,574.00
National City Bank (Cleveland, OH)	$ 99,000.00	4.00%	3.93%	03/31/08	04/02/12	$ 100,705.00
Onewest Bank (Covina, CA)	$ 100,000.00	1.45%	1.15%	01/05/11	01/06/14	$ 100,383.00
Onewest Bank (Covina, CA)	$ 100,000.00	1.35%	1.35%	05/09/11	11/10/14	$ 99,765.00
Pacific Cap Bank (Santa Barbara)	$ 99,000.00	2.50%	2.45%	10/15/09	10/15/12	$ 100,804.00
Paragon Commercial Bank, Raleigh NC	$ 100,000.00	2.30%	2.25%	05/05/10	05/05/14	$ 102,443.00
Parkway Bank & Trust (Harwood, ILL)	$ 99,000.00	1.25%	1.24%	10/13/10	10/15/13	$ 99,800.00
Primesouth Bank (Alabama)	$ 99,000.00	4.05%	3.86%	04/18/08	04/18/13	$ 103,708.00
Private Bank of Buckhead (Atlanta, Georgia)	$ 100,000.00	3.00%	3.00%	02/27/09	02/27/13	$ 103,109.00
Pyramaxx BK FSB Milwaukee,WIS	$ 99,000.00	1.40%	1.41%	08/17/11	08/17/15	$ 98,658.00
Republic Bank (Bountiful, UT)	$ 99,000.00	3.15%	3.04%	05/11/09	05/13/13	$ 102,435.00
Republic Bank (Bountiful, UT)	$ 146,000.00	2.00%	2.00%	03/30/11	01/29/16	$ 146,044.00
Rockland Tr Co (MASS)	$ 250,000.00	2.05%	2.05%	03/28/11	03/28/16	$ 250,288.00
Sallie Mae Bank, Murray, UT	$ 100,000.00	5.00%	4.63%	12/05/08	12/05/13	$ 107,967.00
Signature Bank, Chicago, IL	$ 98,000.00	3.00%	2.90%	04/23/09	04/23/13	$ 101,101.00
Southside BK, Tyler, TX	$ 99,000.00	1.50%	1.01%	09/21/11	09/21/16	$ 98,174.00
State Bk India Chicago, IL	$ 99,000.00	3.00%	2.89%	02/26/10	12/26/14	$ 102,731.00
Sterling Svgs Bank (Spokane, Wash)	$ 99,000.00	1.25%	1.25%	05/04/11	05/02/14	$ 99,065.00
Summit Community Bank (Moorefield, WV)	$ 100,000.00	3.20%	3.06%	08/19/09	08/19/14	$ 104,508.00
Tennessee Commerce Bank (Franklin, TN)	$ 99,000.00	2.30%	2.24%	05/10/10	05/12/14	$ 101,334.00
Tennessee Commerce Bank (Franklin, TN)	$ 99,000.00	2.00%	1.66%	01/21/11	01/21/15	$ 98,475.00
Toyota Financial Savings Bank (Henderson, NV)	$ 98,000.00	3.45%	3.28%	04/17/09	04/16/14	$ 102,923.00
VIST Bank, Wyomissing, PA	$ 99,000.00	3.40%	3.37%	12/29/08	12/29/11	$ 99,681.00
Wachovia Bank, Houston TX	$ 97,000.00	4.50%	4.46%	01/16/08	01/17/12	$ 97,858.00
Wachovia Bank, Las Vegas NV	$ 97,000.00	4.60%	4.44%	01/16/08	01/16/13	$ 100,602.00
Wilmington Trust NA, Oakfield	$ 99,000.00	4.75%	4.17%	05/27/08	05/27/13	$ 104,514.00
Worlds Foremost Bank, Sidney	$ 100,000.00	5.06%	4.68%	11/10/08	11/12/13	$ 107,908.00
Worlds Foremost Bank, Lincoln,NE	$ 100,000.00	1.53%	1.45%	01/21/11	07/21/14	$ 99,745.00
Net cash balance	$ 15,436.00					$ 15,436.00
TOTAL Financial North Eastern	**$ 7,890,436.00**					**$ 8,061,318.00**

City of Clayton Investment Portfolio
July 1, 2011 - September 30, 2011

Investment Description		Carrying Value	Rate	Current Yield to Maturity	Purchase Date	Maturity Date		Market Value
Multi-Bank Securities, Inc. CD's								
Wachovia Bk FSB, Houston, TX	$	98,000.00	4.30%	4.13%	02/29/08	03/07/13	$	101,811.22
TOTAL Multi-Bank Securities:	**$**	**98,000.00**					**$**	**101,811.22**
Morgan Stanley								
Cash Account	$	11,318.31					$	11,318.31
Alliance Bank, Syracuse, NY	$	98,000.00	4.05%	3.98%	03/24/08	03/21/12	$	99,602.30
Ally Bank, Midvale Utah	$	98,000.00	3.20%	3.09%	04/03/09	04/03/13	$	101,333.96
Ally Bank, Midvale Utah	$	148,000.00	2.04%	2.01%	05/07/10	05/07/13	$	150,702.48
American Cmnty BK, Woodstock	$	99,000.00	4.10%	3.90%	04/25/08	04/25/13	$	103,840.11
American Express Bank, SLC, UT	$	97,000.00	4.75%	4.41%	12/24/08	12/24/13	$	104,308.95
American Express Centurion, SLC, UT	$	98,000.00	3.75%	3.72%	12/17/08	12/27/11	$	98,735.98
American Express Centurion, SLC, UT	$	49,000.00	1.45%	1.45%	05/17/11	05/27/14	$	48,989.71
American Express Centurion, SLC, UT	$	100,000.00	1.45%	1.44%	05/10/11	05/19/14	$	100,007.00
Aquesta Bank (Cornelius, NC)	$	97,000.00	2.10%	2.10%	06/13/11	06/22/16	$	96,859.35
Atlanta Business BK, GA	$	99,000.00	4.03%	4.10%	05/28/08	05/29/12	$	101,385.90
Aurora Bank (Wilmington, DE)	$	99,000.00	1.05%	1.04%	1/12/2011	7/12/2013	$	99,365.31
Aurora Bank (Wilmington, DEL)	$	49,000.00	1.50%	1.49%	05/17/11	05/23/14	$	49,034.79
Bank Little Rock, ARK	$	99,000.00	3.20%	3.06%	04/08/09	04/08/14	$	103,362.93
BMW Bank of NA, SLC, UT	$	99,000.00	2.20%	2.18%	09/16/09	03/16/12	$	99,745.47
Byron Bank, Michigan	$	98,000.00	3.90%	3.84%	03/14/08	03/14/12	$	99,462.16
Capital One Bank, Glen Allen, VA	$	98,000.00	4.00%	3.94%	03/12/08	03/12/12	$	99,485.68
Capmark Bank, Midvale, UT	$	98,000.00	3.00%	2.97%	01/28/09	01/30/12	$	98,786.94
Capmark Bank, Midvale, UT	$	147,000.00	3.35%	3.22%	7/1/2009	7/1/2013	$	152,812.38
Centennial BK, Fountain Vy, CA	$	99,000.00	4.25%	4.14%	05/30/08	05/30/12	$	101,421.54
CIT Bank, Salt Lake City, UT	$	147,000.00	2.95%	2.95%	07/01/09	07/02/12	$	147,000.00
CIT Bank, Salt Lake City, UT	$	98,000.00	3.40%	3.23%	4/1/2009	4/1/2014	$	103,147.94
Discover Bank, Greenwood, DE	$	48,000.00	1.20%	1.20%	7/20/2011	7/21/2014	$	47,890.56
Enterprise Bk & TR, Clayton, MO	$	150,000.00	3.00%	2.91%	07/08/09	01/08/13	$	154,100.00
First Bank, Puerto Rico	$	99,000.00	2.10%	2.22%	08/25/09	08/29/11	$	100,273.14
First Business BK, Madison, WI	$	98,000.00	4.10%	4.08%	05/16/08	11/16/11	$	98,415.52
First Business BK, Madison, WI	$	99,000.00	2.05%	2.03%	08/17/09	02/17/12	$	99,569.25
Firstbank Puerto Rico Santurce PR	$	50,000.00	2.10%	2.06%	05/07/10	05/07/13	$	50,921.50
Foster Bank (Chicago, IL)	$	100,000.00	1.00%	1.00%	1/28/2011	7/26/2013	$	100,319.00
GE Money Bank (Draper, UT)	$	98,000.00	2.30%	2.26%	08/13/10	08/13/15	$	99,716.96
GE Capital Financial, Holladay, UT	$	49,000.00	1.25%	1.25%	07/13/11	07/15/14	$	48,913.27
Goldman Sachs Bank, New York, NY	$	99,000.00	1.85%	1.85%	08/15/11	08/24/16	$	98,653.50
Investors Savings Bank (Short Hills)	$	98,000.00	1.30%	1.29%	04/19/11	05/05/14	$	98,079.38
Mercantile Bank Mich Grand Rapids	$	99,000.00	2.00%	1.96%	02/17/10	02/19/13	$	100,817.64
Mercantile Bank of Grand Rapids, MI	$	148,000.00	2.00%	1.97%	5/7/2010	8/7/2013	$	149,739.00
Morgan Stanley Bank, SLC, UT	$	97,000.00	4.45%	4.42%	11/28/08	11/28/11	$	97,573.27
Queensborough Nat'l Bk, Louisville, GA	$	99,000.00	4.65%	4.50%	07/16/08	07/16/12	$	102,138.30
Safra National Bank (NY, New York)	$	99,000.00	1.30%	1.29%	04/12/11	04/21/14	$	99,101.97
Scotiabank (Puerto Rico, San Juan)	$	99,000.00	2.00%	1.96%	7/2/2010	7/2/2013	$	100,615.68
State Bank of India (New York City, NY)	$	98,000.00	2.00%	1.99%	03/24/11	03/24/15	$	98,072.52
Waccamaw Bank Whiteville NC	$	98,000.00	1.85%	1.81%	03/17/10	03/18/13	$	99,719.90
World Financial Network (Columbus, OH)	$	100,000.00	2.60%	2.55%	10/28/09	10/29/12	$	101,778.00
TOTAL Morgan Stanley	**$**	**4,050,318.31**					**$**	**4,117,117.55**

City of Clayton Investment Portfolio
July 1, 2011 - September 30, 2011

Investment Description	Carrying Value	Rate	Current Yield to Maturity	Purchase Date	Maturity Date	Market Value
RBC Wealth Management						
Cash Account	$ 291.31					$ 291.31
North Milwaukee St. Bank, WI	$ 98,000.00	3.50%	3.50%	12/18/08	12/23/11	$ 98,647.78
Total RBC Wealth Management	**$ 98,291.31**					**$ 98,939.09**

Investment Description	Carrying Value	Percentage of Portfolio	Average Yield to Maturity	Market Value
Local Agency Investment Funds	$ 3,074,103.65	19.92%	0.380%	$ 3,079,783.34
Financial Northeastern	$ 7,890,436.00	52.15%	2.844%	$ 8,061,318.00
Multi-Bank Securities	$ 98,000.00	0.66%	4.130%	$ 101,811.22
Morgan Stanley	$ 4,050,318.31	26.63%	2.672%	$ 4,117,117.55
RBC Dain Rauscher	$ 98,291.31	0.64%	3.500%	$ 98,939.09
Grand Total Investment Portfolio:	**$ 15,211,149.27**	**100%**		**$ 15,458,969.20**

2011-12 Budgeted Interest-General Fund	$ 103,764	
2011-12 Budgeted interest Received-General Fund	$ 24,564	
Percent of General Fund Budget Received	23.67%	
2011-12 Average Annual Yield		**2.71%**
2011-12 Total Interest Income to date	97,763	

Finance Manager Merry Pelletier Date: 1/13/12

City Treasurer [signature] Date: 1/13/12

I verify that this investment portfolio is in conformity with State laws and the City of Clayton's investment policy. The City's cash management program provides sufficient liquidity to meet the next six month's expenditures.

Agenda Date: 1-17-12

Agenda Item: 4e

CITY OF CLAYTON
Founded 1857 . Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 17 JANUARY 2012

SUBJECT: RESOLUTION CERTIFYING NO CITY LOANS OR INDEBTEDNESS OWED IT BY THE CLAYTON REDEVELOPMENT AGENCY WERE FORGIVEN IN CALENDAR YEARS 2010 AND 2011

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution for compliance with state legislation AB 936 enacted in 2011.

BACKGROUND

Among the host of quirky and provocative bills enacted by the state of California last year impacting and jeopardizing the fiscal operations of local governments was Assembly Bill 936 (Hueso). Regardless of the now-defunct status of redevelopment agencies in California due to the Supreme Court's recent decision ruling AB 1X 26 (the "Dissolution Act") is constitutional, AB 936 requires that by 01 February 2012 redevelopment agencies and their legislative bodies (i.e., city council or county board of supervisors) must adopt a resolution declaring whether or not it forgave a loan, advance or indebtedness owed to the other entity, in whole or in part, during calendar years 2010 or 2011.

To comply with AB 936, City staff researched its financial records and reviewed its previously-adopted "Enforceable Obligations Payment Schedule" (EOPS) also required by state legislation aimed at dissolving redevelopment agencies. There are two (2) unsecured debts owed the City by the Clayton Redevelopment Agency and neither one was forgiven in any amount during calendar years 2010 or 2011. The attached Resolution stipulates these facts and recites the current obligations still due the City of Clayton.

FISCAL IMPACT

There is no financial impact to the City by adoption of this Resolution reciting facts of indebtedness owed to the City by the Clayton Redevelopment Agency.

Attachments: A. Resolution [2 pp.]
B. Clayton RDA Resolution No. 99-66 [5 pp.]
C. Clayton RDA Resolution No. 02-2010 [3 pp.]

ATTACHMENT A

RESOLUTION NO. – 2012

A RESOLUTION IN COMPLIANCE WITH CALIFORNIA ASSEMBLY BILL NO. 936 (2011 STATUTUE) DECLARING NO LOANS BETWEEN THE CITY OF CLAYTON AND THE CLAYTON REDEVELOPMENT AGENCY WERE FORGIVEN IN WHOLE OR IN PART DURING CALENDAR YEARS 2010 AND 2011

THE CITY COUNCIL
City of Clayton, California

WHEREAS, pursuant to authority granted to local public agencies by the California Community Redevelopment Law (CRL), the City of Clayton duly formed and established the Clayton Redevelopment Agency in July 1987 and in November 1987 formed the Agency's 852-acre Project Area; and

WHEREAS, during its course of continuous existence and operation since said formation date the Clayton Redevelopment Agency did on two (2) occasions execute unsecured promissory notes payable to the City of Clayton for public purposes consistent with the overall mission and implementation plan of the Agency; and

WHEREAS, in 2011 the California State Legislature did enact, and the Governor did sign, state legislation in the form of Assembly Bill 936 (Hueso) that specifies procedures that must now be implemented by the City of Clayton and the Clayton Redevelopment Agency concerning the status of any loan, advance or indebtedness between each public entity during the calendar years of 2010 and 2011; and

WHEREAS, AB 936 requires that by 01 February 2012, irrespective of the California Supreme Court's recent decision on 29 December 2011 that effectively dissolves all California redevelopment agencies on 01 February 2012 by ruling Assembly Bill 1X 26 (the "Dissolution Act") was constitutional, each redevelopment agency and its respective public body (i.e., city or county that formed the agency) must adopt a Resolution declaring whether or not it forgave any such loan in whole or in part during calendar years 2010 and 2011; and

WHEREAS, as of the date of this Resolution the Clayton Redevelopment Agency still owes the City of Clayton the following monetary amounts for the purposes noted below:

Amount Owed	Purpose	Date of Obligation
$475,000.00	Purchase of 1.18 acres of land for a Fire Station.	Reso. No. 99-6 15 June 1999
$439,162.00	Unpaid 2% Election Payments since July 1988.	Reso. No. 02-2010 16 Feb. 2010; and

WHEREAS, as of the date of this Resolution the amounts noted above and owed to the City of Clayton have not been paid in full, remain outstanding, and no action was taken in calendar years 2010 or 2011 by the City or the Redevelopment Agency to forgive either of the loans or the indebtedness in whole or in part.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Clayton, California that:

1. The above Recitals are true and correct facts pertaining to the current status of unsecured promissory loans, notes or indebtedness owed the City of Clayton by its Clayton Redevelopment Agency that remain outstanding as of the date of this Resolution.

2. The City Council does hereby acknowledge and attest herein that no portion, whole or in part, of the loan amounts specified in the Recitals above were forgiven, whole or in part, during calendar years 2010 and 2011, and that the dollar amounts stated herein remain outstanding and unpaid by the Clayton Redevelopment Agency to the City of Clayton.

3. The City Council does hereby instruct its City Manager, within ten (10) days after its adoption of this Resolution, to transmit a copy of said Resolution to the California State Controller in compliance with AB 936.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 17th day of January 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

ATTACHMENT B

RESOLUTION NO. 99-6

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON AUTHORIZING EXECUTION OF AGREEMENT WITH THE CITY OF CLAYTON FOR PURCHASE OF FUTURE FIRE STATION SITE

WHEREAS, the Redevelopment Agency of the City of Clayton proposes to purchase from the City of Clayton approximately 1.18 acres of unimproved land at the southeast corner of Clayton Road and the future extension of Oakhurst Drive in Clayton (herein the "Property"); and

WHEREAS, the Property is proposed as a site for the construction of a new fire station of the Central Contra Costa Consolidated Fire District (herein "Fire District"); and

WHEREAS, the City has been in negotiations with the Fire District concerning the construction and funding of a new fire station on such site; and

WHEREAS, as part of the plan for achieving the new fire station, the City shall sell the Property to the Agency who shall ultimately convey the same to the Fire District pursuant to an Agreement to be reached with the Fire District; and

WHEREAS, based upon information set forth in the staff report presented to the Agency in connection with its consideration of this Resolution, the Agency finds:

(a) The proposed buildings, facilities, structures and other improvements are of benefit to the Project Area or its immediate neighborhood; and

(b) No other reasonable means of financing the buildings, facilities, structures and other improvements are available to the community; and

(c) The payment of funds for the acquisition of land or the cost of improvements will assist in the elimination of one or more blighting conditions inside the Project Area is consistent with the Agency's implementation plan adopted pursuant to Section 33490 of the California Health and Safety Code; and

(d) The sale will assist in the elimination of blight; and

(e) The consideration to be paid for the Property is not less than the fair market value at its highest and best use in accordance with the Redevelopment Plan.

WHEREAS, an Agreement setting forth the terms for the purchase by the Agency from the City has been prepared by the City Attorney, and recommended for approval by the Executive Director, a true and correct copy of which is attached hereto.

WHEREAS, notice of a public hearing on the proposed expenditure of Agency funds as aforesaid and the ultimate conveyance of the Property to the Fire District for a new fire station site has been given in accordance with Sections 33679 and 33433 of the California Health and Safety Code and a public hearing held before the Redevelopment Agency at its regular meeting of June 15, 1999.

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Clayton that the Chairperson and Executive Director are hereby authorized to execute for and on behalf of the Agency, the Purchase and Sale Agreement for Future Fire Station Site in the form as set forth in Exhibit "A" and the Chairperson and Executive Director are authorized to take all appropriate steps to conclude the purchase of the Property from the City by the Agency as required by the Purchase and Sale Agreement.

Adopted by the Redevelopment Agency Board of Directors of the City of Clayton at a regular meeting of said Agency held on June 15, 1999, by the following vote:

AYES: Agency Members Laurence, Littorno, Pierce, Vice Chair Manning, Chair Peterson

NOES: None

ABSENT: None

Phillip Peterson
Chairperson

ATTEST:

Frances Douglas
Agency Secretary

APPROVED BY ADMINISTRATION:

Rich Hall
Executive Director

I hereby certify that the foregoing resolution was duly and regularly passed by the Redevelopment Agency of the City of Clayton at a duly noticed regular meeting held on June 15, 1999.

Frances Douglas
Agency Secretary

S:MehRedevAgencyRes99-3

PURCHASE AND SALE AGREEMENT

FUTURE FIRE STATION SITE
SOUTHEAST CORNER OF CLAYTON ROAD AND
FUTURE EXTENSION OF OAKHURST DRIVE

1. PARTIES.

This Agreement is made on June 17, 1999, between the CITY OF CLAYTON, a municipal corporation (herein referred to as "CITY") and the REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON (herein referred to as "AGENCY").

2. AGREEMENT TO SELL AND TO PURCHASE: DESCRIPTION OF PROPERTY.

CITY agrees to sell, and AGENCY agrees to purchase, the 1.1 acre parcel more or less situated at the southeast corner of Clayton Road and the future extension of Oakhurst Drive in the City of Clayton, County of Contra Costa, California, more particularly described in Exhibit "A-1" attached hereto and made a part hereof including any subsequent adjustments to said parcel by lot line adjustment between the CITY and Presley Homes.

3. PURCHASE PRICE.

The purchase price for the property is FOUR HUNDRED SEVENTY FIVE THOUSAND DOLLARS ($475,000.00), payable as follows:

By promissory note from AGENCY to CITY in the amount of the full purchase price, bearing interest at the rate of six and one half percent (61/2%) per annum, interest payable quarterly, the principal balance payable in full on or before January 1, 2023. Said note to be an obligation of the AGENCY and its assets but otherwise unsecured by the property.

4. CLOSE OF TRANSACTION.

The subject transaction shall close by recording of a Grant Deed from CITY to AGENCY in exchange for receipt of the aforementioned promissory note from AGENCY to CITY, all to be handled by CITY staff. AGENCY may elect to require title insurance in the amount of the purchase price at AGENCY'S cost, in which event AGENCY shall make the appropriate arrangements to obtain such insurance. Both CITY and AGENCY shall adopt resolutions approving this Agreement. Each parties obligation thereunder is subject to compliance with all applicable laws, rules or regulations covering sale by CITY and purchase by AGENCY of the property. Recordation shall occur when

EXHIBIT A-1

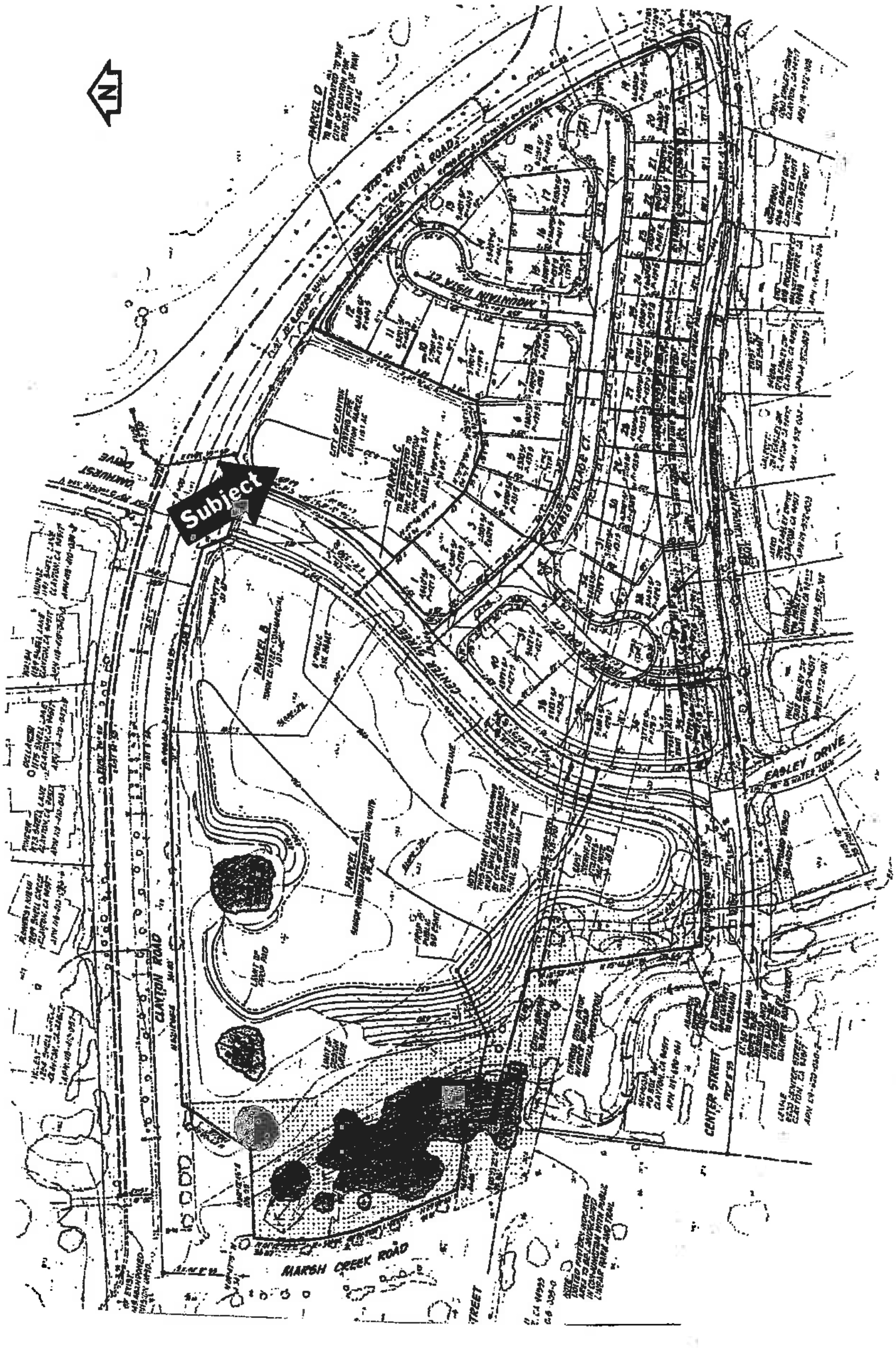
All that certain real property situated in the City of Clayton, Contra Costa County, California, being a portion of Parcel 1 as said parcel is shown on that certain Parcel Map entitled Parcel Map "MS 419-90" recorded August 19, 1993 in Book 163 of Parcel Maps at Page 1, Official Contra Costa County Records, more particularly described as follows:

Beginning at the most easterly terminus of that certain line annotated "T-7" on sheet 4 of 4 of said Parcel Map (163 PM 1); thence south 14° 06' 43" west 64.65 feet to a point on a tangent curve, concave to the northwest having a radius of 417.36 feet; thence southerly along the arc of said curve, an arc distance of 138.14 feet, through a central angle of 18° 57' 51" to a point from which the center bears north 56° 55' 25" west; thence south 49° 58' 59" east 84.94; thence south 55° 49' 19" east 34.65 feet; thence south 75° 18' 58" east 54.71 feet; thence north 73° 57' 13" east 58.91 feet; thence north 17° 26' 09" east 223.00 feet to the northerly line of said Parcel 1, said point being on a curve concave to the south, having a radius of 950.00 feet, whose center bears south 26° 48' 27" west; thence westerly along the arc of said curve as arc distance of 186.30 feet, through a central angle of 11° 14' 09" to a point from which the center bears south 15° 34' 17" west; thence continuing along the boundary of said parcel 1 south 52° 48' 31" west 32.43 feet to the point of beginning.

Containing 1.18 acres, more or less.

S:MehClaytonFireStationDx

Plat Map


Subject
CLAYTON ROAD
MARSH CREEK ROAD
CENTER STREET
EASLEY DRIVE
PARCEL A
PARCEL B
PARCEL C
PARCEL D

RDA RESOLUTION NO. 02– 2010

A RESOLUTION ACKNOWLEDGING AN UNPAID 2% ELECTION PAYMENT DUE THE CITY OF CLAYTON SINCE INCEPTION OF THE CLAYTON REDEVELOPMENT AGENCY AND ESTABLISHING A 4-YEAR PLAN FOR PAYMENT OF SAID DEBIT OBLIGATION

THE BOARD OF DIRECTORS
Clayton Redevelopment Agency

WHEREAS, the Clayton Redevelopment Agency ("Agency") was formed in July 1987 in accordance with *California Redevelopment Law* for a 50-year life to expire in July 2037; and

WHEREAS, during its formation the City Council of the City of Clayton, California did adopt Resolution No. 31-87 on 01 July 1987 ordering "2% election" payments to the City each year by the Agency, as authorized by Section 33676 of the *California Health and Safety Code*, in connection with the Clayton Redevelopment Project; and

WHEREAS, said 2% election payments to the City were to commence after the tax year in which the ordinance adopting the Clayton Redevelopment Plan became effective, namely Fiscal Year 1988-89; and

WHEREAS, during examination of the Agency's remaining fiscal status and condition during calendar year 2009, it was discovered by Agency staff and its consultant, Seifel Consulting, Inc., that these 2% election payments had never been made to the City of Clayton; and

WHEREAS, subsequent verification by Contra Costa County's Auditor-Controller of this payment omission resulted in the County's calculation that the Agency owes the City of Clayton a total of $501,898.64 in unpaid 2% election payments from Fiscal Year 1988-89 through Fiscal Year 2008-09; and

WHEREAS, 2% election payments originate from the gross tax increment revenue collected each year for the Agency prior to the extraction of other public taxing entities' pass-through payments and Agency debt service; and

WHEREAS, due to the failure in allocating the 2% election payments to the City of Clayton during the last twenty one (21) fiscal years, the Agency now incurs a debit obligation to the City for the principal amount owed of $501,898.64; and

WHEREAS, lump sum payment of the Agency's debit obligation could negatively impact the financial status of the Agency to perform its 5-Year Implementation Plan, achieve its mission to cure blight, and seriously disable the reserves of the Agency in the wake of a $1.966 million illegal SERAF shift by the State of California this fiscal year.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Clayton Redevelopment Agency that:

1. The above Recitals are true and correct facts pertaining to the omission of the Agency making 2% election payments to the City of Clayton, California since Fiscal Year 1988-89 through Fiscal Year 2008-09, in accord with Section 33676 of the *California Health and Safety Code.*

2. The Board of Directors herein acknowledges and accepts the fact the Agency does owe the City of Clayton its past 2% election payments in the principal amount of $501,898.64, and hereby wishes to correct this oversight and fulfill its monetary obligation in this regard.

3. In order to pay the debit obligation of $501,898.64 without decimation of the Agency's existing reserves and future tax increment revenue allocations, the Board of Directors does herewith adopt and order the following 4-year payment plan to satisfy its fiscal obligation:

Fiscal Year	Non-Housing	Affordable Housing	Total Funds
2010-11	$ 100,379.73	$ 25,094.93	$ 125,474.66
2011-12	$ 100,379.73	$ 25,094.93	$ 125,474.66
2012-13	$ 100,379.73	$ 25,094.93	$ 125,474.66
2013-14	$ 100,379.73	$ 25,094.93	$ 125,474.66
Totals:	**$ 401,518.92**	**$ 100,379.72**	**$ 501,898.64**

4. The Board of Directors does hereby instruct its Executive Director to notify and provide a copy of this Resolution signed by its Chairman to the City of Clayton, California as good faith evidence of action taken to fully satisfy the 2% election debit obligation of the Agency over the next four (4) fiscal years, and to transmit to the Board for consideration any future action by the City Council of Clayton to call for acceleration of this payment plan due to the City's finding of fiscal plight.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Clayton Redevelopment Agency at a regular public meeting thereof held on the 16th day of February 2010 by the following vote:

AYES: Chairman Medrano, Vice Chairperson Pierce, Boardmembers Geller, Shuey and Stratford.

NOES: None.

ABSTAIN: None.

ABSENT: None.

THE BOARD OF DIRECTORS
CLAYTON REDEVELOPMENT AGENCY

Joseph A. Medrano, Chairman

ATTEST:

Laci J. Jackson, Secretary

Agenda Date: 1-17-12

Agenda Item: 4f

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: January 17, 2012

SUBJECT: Appointment of One (1) Citizen Applicant for the Trails and Landscaping Committee for term of office January 1, 2012- December 31, 2014.

BACKGROUND

On January 6, 2012, Alyse Smith submitted an application for the Trails and Landscaping Committee. There are currently seven (7) members serving on the Trails and Landscaping Committee, and the City Council can appoint up to eleven (11) members. Since this committee has not reached its membership capacity; applications for appointment are considered open and continuous.

The Trails and Landscaping Interview sub-committee (Vice Mayor Medrano and Councilmember Stratford) reviewed the application and are recommending appointment.

RECOMMENDATION

By motion, approve the recommendation from the Council Interview Sub-Committee regarding one (1) citizen for appointment to the up to 11-member Trails and Landscaping Committee.

FISCAL IMPACT

None.

Attachments: Application- 1 page

Received
JAN 06 2012
City of Clayton

CITY OF CLAYTON
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APPLICATION FOR
TRAILS AND LANDSCAPING COMMITTEE

Name Alyse M. Smith Address 601 Condor Place, Clayton, CA 94517

Home Phone (925) 693-0040 Business Phone —

E-mail address: alysej@comcast.net Length of residency in Clayton 9 years

Occupation personal trainer / executive assistant Present employer Innovations

Why are you interested in serving on this Committee? To help improve and maintain the aesthetic in landscape, trails, median sections/spaces, and general enhancements to the overal public spaces within our community.

What is your vision for the trails and public landscaped areas of our City? Safety, accessibility, maintenance, aesthetic enhancements, and long-term sustainability planning within the budget guidelines.

Please share your interests and hobbies, special training or education: Passionate in public planning, volunteerism, Community awareness, fundraising, public speaking, teaching, athletics & competitions. Certified personal trainer, body builder, and sports nutrition specialist.

List 3 references with phone numbers: 1. Julliette Scott-O'Keefe

(1&2 same #) 2. Shawn O'Keefe (925) 673-0165

3. Corrie Evans-Singleton (925) 625-0995

Signature: Alyse M. Smith Date: 01/03/12

CITY OF CLAYTON
Founded 1857 Incorporated 1964

Agenda Date: 1-17-12

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR DW

DATE: JANUARY 17, 2012

SUBJECT: CONSIDERATION OF A CONTRACT MODIFICATION REQUEST BY LSA ASSOCIATES IN THE AMOUNT OF $48,525.00 FOR EXTRAORDINARY WORK BEYOND THE SCOPE OF ITS ORIGINAL CONTRACT TO PREPARE AN ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED CLAYTON COMMUNITY CHURCH MIXED LAND USE PROJECT ON APPROXIMATELY 2.3 ACRES OF PRIVATE PROPERTIES GENERALLY LOCATED AT 6055 MAIN STREET (ENV 02-09)

RECOMMENDATION

It is recommended the City Council approve the contract modification of LSA Associates (LSA) and direct that the contract modification not be executed until sufficient monies are available in the Project (Clayton Community Church Mixed Use Project) processing account to fund the consultant work.

BACKGROUND

The Project application was submitted to the City of Clayton on December 9, 2009 and deemed complete on March 26, 2010, after the applicant submitted required supplementary information and materials. On April 23, 2010, staff determined based on its preliminary environmental review of the application that an environmental impact report (EIR) must be prepared for the proposed Project. A contract for preparation of the EIR by LSA was approved by the City Council on July 6, 2010. Subsequently, staff executed a contract with LSA on July 15, 2010 to complete this work, based on the scope of work presented to the City Council. The initial determination to prepare the EIR was based on finding that the proposed Project could result in potentially significant adverse impacts in the following impact categories:

1. Cultural Resources;
2. Land Use and Planning;
3. Transportation/Traffic related to a potential lack of adequate parking capacity; and
4. Cumulative impacts in the areas of Land Use and Planning and Transportation/Traffic related to lack of adequate parking capacity.

Subsequently, the Draft EIR prepared by LSA for this proposed Project confirmed the above-listed areas of potential significant adverse impact, should the proposed Project be implemented, and added other areas of potentially significant impact in the following categories:

5. Air Quality;
6. Noise;
7. Visual Resources; and
8. Hydrology and Water Quality.

The determination to prepare an EIR for this proposed Project was appropriate, given the identified potentially significant impacts.

Project Description

This description of the proposed Project has been inserted to provide a base understanding of the Project being considered in the EIR that LSA is preparing. The proposed Project is not the subject of this matter before the City Council at this meeting.

The Project involves a proposal from the Clayton Community Church to develop/redevelop its 2.3-acre, two-parcel property in Clayton's Town Center area. Development in this area is guided by the Clayton Town Center Specific Plan, which was adopted in 1990, and most recently revised in February of 2008. The subject property is presently improved with the former and potentially historic Pioneer Inn building which measures approximately 6,800 square feet in size and a paved parking area to support that building. The remainder of the property is unimproved. The Clayton Community Church remodeled and is allowed to use the former Pioneer Inn building for its church office and associated office activities. The develop/redevelop proposal involves the construction of four buildings, including a 22,244 square-foot sanctuary building with an approximately 500-seat main sanctuary area and three other buildings that combined would provide approximately another 20,000 square feet of space. An applicant proposed Phase 1 would involve the construction of the sanctuary building and an 8,516 square-foot building that would have retail uses and youth ministry on the ground floor and church administration on the second floor. A third building, which measures approximately 10,204 square feet in area, is proposed to have retail uses on the ground floor and commercial office uses on the second floor. The existing building on the property would be removed to accommodate this third building as part of the applicant's Phase 2. The fourth building measures approximately 1,200 square feet in area and could be built in either the first or second Phase. On-site parking requirements for the project as proposed would be approximately 201 spaces; the applicant is proposing to provide approximately 54 spaces on-site. To enable the Project to move forward as proposed, the applicant has requested the approval of the following Planning Entitlements:

- General Plan Amendment (to Allow Religious Assembly Uses);
- Specific Plan Amendment (to Allow Religious Assembly Uses; Parking);
- Zoning Amendments (to Allow Religious Assembly Uses; Establish a Consistent Zoning Classification for Property; Parking);
- Use Permit Approval (to Allow Proposed Uses);
- Development Plan Approval (to Approve Overall Plan for Development); and
- Tentative Parcel Map Approval (to Divide the Property into Four Parcels).

DISCUSSION

The present issue before the City Council is a request by the Clayton Community Church for the City Council to weigh-in on a request by the EIR Consultant for a contract modification. The Draft EIR was completed and then released for a standard 45-day public review period in accordance with California Environmental Quality Act (CEQA) requirements on May 12, 2011. This review period ended on June 27, 2011. During this period, 304 letters and e-mails were received. This level of comment was extraordinarily high. Moreover, another 200+ e-mails and letters came in after the close of the official comment period on the Draft EIR. CEQA only requires that those comments pertaining to relevant environmental issues received during the official comment period be responded to in the responses to comments document that complements the Draft EIR and, together, comprise the Final EIR. Although LSA had assumed a fairly high level of comment on this project, with approximately $21,800.00 of budget set aside for this aspect of the work effort, it turned out that after sorting (e.g., removing non-environmental and redundant comments) the substantially higher level of comments than anticipated, 88 of the e-mails and letters included specific comments that require an official response in accordance with provisions of CEQA. The total number of discrete comments within the 88 pieces of correspondence is 315. This number is nearly unprecedented for LSA, as they report in their request for contract modification, dated July 22, 2011, and subsequent responses of explanation/clarification, including those on August 30, 2011, September 1, 2011, November 18, 2011, and January 10, 2012. On Page 2 of LSA's November 18, 2011 letter (see **Attachment 3**) it is stated that:

"It is the legitimately-defined comments on the Draft EIR that remain extraordinarily high in volume. As we have explained to the project applicant team and illustrated via a table of empirical data from the one dozen largest responses-to-comment efforts that our office has encountered over the last decade, the 88 letters and 315 comments that require a formal response in this case has only been exceeded by a single project (in the case of the 88 letters) or four projects (in the case of the 315 comments) in our experience. Stated another way, out of the approximately 100 EIRs successfully prepared by the Berkeley office of LSA over the past decade, the Clayton Community Church project has generated the second highest number of letters ever and the fifth highest number of discrete comments that require a response."

As the large volume of comments were submitted and the EIR Consultant indicated concerns about the adequacy of the present budget, staff discussed with LSA various approaches and measures to assure efficiency and economy in the work effort to respond to the comments. These approaches and measures include assuring only those comments that pertain to the EIR and require responses are indeed responded to, that any untimely or duplicative comments are set aside, and that master responses be used wherever possible. LSA agreed to incorporate these approaches and measures in their work effort and this has been communicated to the applicant and the applicant's attorney numerous times, yet the applicant's attorney continues to suggest these approaches and measures be used, hoping to achieve some additional economy (see **Attachment 4**). These approaches and measures were already taken into consideration and are assumed in LSA's requested contract modification.

Further, staff asked LSA representatives to provide a detailed description of the approach to preparing the responses to comments and justification for the requested budget adjustment. LSA responded with a narrative within the requested contract modification (see **Attachment 3d**), describing the work effort that would be required and a matrix, Table 1, (see **Attachment 3a**) that describes the work and costs of the firm's dozen largest response-to-comments (RTC) efforts over the past 10 years. LSA summarizes these costs calculations on Page 3 of Attachment 3a as follows:

"What the table calculates is the average cost per comments of these dozen similar RTC efforts (after inflating the older year dollars to 2011 dollars using Consumer Price Index increases as a rough proxy for inflation). Based on these empirical data, the average cost per comment was $339. If that average cost were to be applied to the number of substantive comments received on the Draft EIR, the total cost for responding to the comments would be $106,826. Applying average cost per comment data from a more limited selection of projects (ones with comment types of less complexity) would yield a total cost of approximately $67,725.

In additional to the increased cost of responding to comments, the City has requested that LSA attend two additional hearing (if needed) that staff believe will be required as part of the project's review by City decision makers.

Our request for a budget increase takes the lesser of the two estimates ($67,725) and subtracts the amount allocated to the RTC process in the original contract budget ($21,800), and adds-in the cost of the two hearings ($2600). The result is a request for a net $48,525.

We would emphasize that the likelihood that LSA will actually encounter substantially less-than-average costs to prepare all of the responses to these comments is not at all certain. Our actual costs could be average, or could even exceed the average of these largest RTC efforts. As our data shows (and by definition, since we're dealing with averages) many other projects required expenditures far greater than what is being requested in this case."

Staff contacted other jurisdictions to obtain a general understanding of what public agencies in the area are experiencing in terms of EIR Consultant costs for project EIRs. Staff received responses from representatives from the cities of Walnut Creek, Hercules, and Orinda (see **Attachment 2**). Representatives from those jurisdictions are reporting that generally EIR Consultant costs for Project EIRs range from approximately $150,000. to $250,000. The original contract amount with LSA Associates is $133,500. The total budget for LSA, with the additional $48,525., would be $182,025.

In terms of managing this contract, staff required as part of the contract a 10% retention from individual invoices up to a maximum of $12,500.00 which would be released upon the City receiving a satisfactory Final EIR, including the responses to comments. Staff has consistently required this retention, and approximately $11,500.00 is being held in retention as of this date. In addition, as there became concerns about the status of the contract modification request, staff has held several invoices from LSA, totaling approximately $7,800.00.

Contract Foundation for the Budget Modification Request

LSA is exercising the firm's right in requesting this contract modification, based on a provision on Page 37, under Task G - Prepare Responses to Comments Document, in its Proposal for Services (see **Attachment 3e**) that states the following:

"Our budget estimate in Table 2 shows the level of professional effort assumed for this task. Should an unexpectedly large volume of comments be submitted, an adjustment in the budget to cover work beyond the assumed level may be required...."

This precaution is very common in proposals from EIR consultants, as the volume and complexity of comments received on a Draft EIR can never be known in advance.

It is noted the Consulting Service Agreement under Section 14 allows termination of the Agreement based on 10 days written notice form either the Consultant or the City, with or without cause. The Consultant is obligated to provide all materials and record prepared in accordance with the work effort to date and the City would be obligated to pay the Consultant for all services rendered up to the date of termination (see **Attachment 3e**).

Conclusion

Staff believes that LSA has provided acceptable and reasonable evidence to support the request for contract modification as referenced above. The volume and complexity of comments and required responses is certainly greater than anticipated. Moreover, the total anticipated EIR Consultant cost, based on information received from other jurisdictions is within a typical range for such Project EIR work. LSA staff has provided explanation and clarification for its requested contract modification on numerous occasions which has been provided directly to the applicant and the applicant's attorney and other applicant representatives. The applicant has been informed by staff consistently, since early pre-application meetings, of its responsibility to pay for Project processing costs. The City Attorney has provided a detailed response to the applicant's attorney's letter regarding this matter (see **Attachment 3**). Nevertheless, the applicant's attorney continues to make unfounded assertions about a range of issues. This has delayed the project substantially, at least five months to date, and has resulted in the loss of substantial time and budget that could have otherwise been constructively directed to processing this Project.

FISCAL IMPACT

The Project applicant, the Clayton Community Church, will be responsible for all costs associated with the preparation and processing of the Project EIR, including monetary augmentations necessitated as the Project's review moves forward.

Attachments:

1. E-mail correspondence , dated January 10, 2012, from Adam Weinstein, LSA Associates, to Community Development Director David Woltering, confirming LSA's attendance at the January 17, 2012 Clayton City Council meeting on a pro bono basis to explain/clarify questions regarding that firm's requested contract modification related to preparing the Clayton Community Church Environmental Impact Report (EIR).
2. E-mail correspondence, dated December 26, 2011 – January 5, 2012, from Community Development staff members at the cities of Walnut Creek, Hercules, and Orinda related to typical EIR Consultant costs for project EIRs.
3. Response letter, dated December 2, 2011, from City Attorney Malathy Subramanian to Attorney Edward Grutzmacher, Meyers/Nave, with the following enclosures:
    a. LSA Associates letter, dated November 18, 2011, to Community Development Director David Woltering explaining/clarifying the request for the contract modification.
    b. LSA Associates memorandum, dated September 1, 2011, to Pastor Shawn Robinson explaining/clarifying the request for the contract modification.
    c. E-mail correspondence, dated August 23, 2011, from Community Development Director David Woltering to Pastor Shawn Robinson confirming a meeting on August 30, 2011 at Clayton City Hall to review and discuss the explanation/clarification of the requested contract modification.
    d. E-mail correspondence, dated July 22, 2011, from Community Development Director David Woltering to Pastor Shawn Robinson, Church Representative Jennifer Lutz, Church Landscape Architect Alan Fishman, and Church Attorney Edward Grutzmacher, along with the requested contract modification, including a detailed explanation/clarification for this request which staff directed be a part of the contract modification.
    e. A copy of the Consulting Services Agreement between LSA Associates and the City of Clayton, dated July 15, 2010, to prepare the Clayton Community Church EIR.
4. Letter from Edward Grutzmacher, Attorney, Meyers/Nave, dated November 11, 2011, to then Mayor Shuey and Members of the Clayton City Council.

Attachment 1

David Woltering

From: Adam Weinstein <Adam.Weinstein@lsa-assoc.com>
Sent: Tuesday, January 10, 2012 11:47 AM
To: dwoltering@ci.clayton.ca.us
Cc: David Clore
Subject: Community Church EIR

David,

This email responds to a few questions you raised on January 4, 2012 about LSA's billings on the Clayton Community Church EIR and costs associated with our attendance at a City Council hearing on January 17.

As background, LSA submitted a request for a budget augment on July 22, 2011 due to the receipt of a much larger-than-expected volume of comments on the Draft EIR that we prepared in collaboration with the City. We believe our cost augment is reasonable based on the number and complexity of comments submitted, and we substantiated our request with a detailed memo and by providing the City with a comparison of the cost of other similar response to comments efforts undertaken by our firm over the last few years. The project sponsor has contested our request for a budget augment, and we have responded to the sponsor's concerns in writing and in person on several occasions, most recently at a face-to-face meeting on August 30; in memos dated September 1 and November 18; and in an email dated December 19, 2011. We hope that our November 18 memo --- which discusses in detail our responses to the project sponsor's suggestions for cost savings -- will be included as part of the staff report for the upcoming January 17, 2012 City Council hearing.

You have requested our attendance at the January 17 hearing, during which our budget augment request will be considered by City Council. We consider attendance at this meeting to be a reasonable project management/administration task for which we would typically bill our client, particularly in light of numerous related expenditures to-date. However, in recognition of the cost concerns of the project sponsor, and our continued good-faith effort to help the City complete the environmental review of this project, we would be willing to attend this meeting on a pro bono basis, if that condition facilitates a decision on the part of the City Council.

We would like to emphasize that, regardless of the decision made by the project sponsor and City Council on the question of completing the CEQA process, we fully expect to be paid for all the work performed in accordance with our July 15, 2010 contract.

Thanks, Adam

Adam Weinstein, AICP, Associate
LSA Associates, Inc.
2215 Fifth Street
Berkeley, CA 94710

(206) 906-9620

Attachment 2

David Woltering

From: Victoria Walker <Walker@walnut-creek.org>
Sent: Monday, December 26, 2011 12:30 PM
To: dwoltering@ci.clayton.ca.us
Cc: Scott Harriman
Subject: RE: Recent Environmental Consultant Costs to Prepare Environmental Impacts Reports

Dear David,

The City of Walnut Creek is in the midst of preparing (via Consultant teams) four EIRs, so we are pretty up to speed on the costs for these. We are looking at between $150,000 - $250,000 for an EIR these days, generally for a project specific EIR. I will ask Scott Harriman (who will be taking on the interim Planning Manager role beginning in 2012) to give you a precise cost for the EIR that is underway for the BART transit village project – that might be a good comparison for your use (Scott,. Would you please email that information to David when you get back from holiday break? – Thanks). The Planning Group (formerly DC&E) are the lead consultants for the BART EIR.

I will be starting in City of Concord as Community and Economic Development Director on January 4th. If there is any useful information there, I will send it along also. The new Planning Manager in Concord is Carol Johnson, and you may also want to check with her directly.

Sincerely,

Victoria

Victoria Walker
Planning Manager
Community Development Department
City of Walnut Creek
1666 N. Main Street
Walnut Creek CA 94596
(tel) 925.943.5829
(fax) 925.256.3500
(em) walker@walnut-creek.org

...try our new website: The Development Center

From: David Woltering [mailto:dwoltering@ci.clayton.ca.us]
Sent: Friday, December 23, 2011 4:10 PM
To: "Robert M. Stewart'; "Jim Kennedy'; "Herb Moniz'; "Niroop K. Srivatsa'; "Kevin Gailey'; "Dan Keen'; "Winston Rhodes'; Sandra Meyer; "Tim Tucker'; "Lori Salamack'; "Alan Wolken'; "Victor Carniglia'; "Dennis Tagashira'; "Emmanuel Ursu'; "Casey McCann'; "Rebecca Willis'; "Joe Sbranti'; jmontagh@ci.concord.ca.us; ltrevino@ci.el-cerrito.ca.us; lorono@ci.oakley.ca.us; KelseyW@ci.san-pablo.ca.us; soniaR@ci.san-pablo.ca.us; 'Barbara Neustadter'; christinaa@ci.san-pablo.ca.us; 'John Cunningham'; "Andy Dillard'; "Richard Yee'; Victoria Walker; swallace@ci.pleasant-hill.ca.us; 'Richard Mitchell'; 'Phil Wong'; Amerideth@ci.lafayette.ca.us; 'Terry Blount'; 'Mitch Oshinsky'; jcarman@ci.el-cerrito.ca.us; 'Greg Fuz'; twilliams@ci.danville.ca.us; slake@ci.danville.ca.us; slawton@ci.hercules.ca.us; 'Victor Carniglia'; avang@ci.san-pablo.ca.us; 'Christine Wehrmeister'; "Dennis Tagashira'; "Emmanuel Ursu'; 'Paul Eldredge'; 'Rebecca Willis'; 'Dana Hoggatt'; enolthenius@ci.brentwood.ca.us; Ehu@ci.pleasant-hill.ca.us; agreenwood@ci.brentwood.ca.us; 'Matt Kelly'; 'Brad Beck'
Subject: Recent Environmental Consultant Costs to Prepare Environmental Impacts Reports

Hello Colleagues,

The City of Clayton has contracted with a well-known environmental consulting firm to prepare a full environmental impact report (EIR) for a controversial private mixed-use development project that includes a Church ("sanctuary") and related uses plus office and retail space. The overall square footage proposed is approximately 42,000 square feet on a 2.3 acre site. The proposed sanctuary use is approximately 22,000 square feet in size. Various entitlement are involved including General Plan, Town Center Specific Plan, and Zoning Ordinance amendments to allow the sanctuary use and reduced parking requirements for the sanctuary. Approval of a Development Plan and Tentative Parcel Map are also involved.

The project Draft EIR has been completed and circulated and a very considerable number of comments received warranting responses. The EIR consultant is requesting a Contract Modification for additional funds to respond to the larger than anticipated number of comments on the Draft EIR. The consultant has provided rationale for the Contract Modification.

I am wanting to have a sense of what agencies might be experiencing in terms of charges for Project EIRs. I fully understand that no two projects, communities, levels of controversies are alike. However, some order of magnitude understanding of what EIRS are costing would be helpful. Therefore, I would interested in knowing the total EIR consultant costs of representative Project EIRs that your agency may have processed over the past four years. I have given a brief description of our project to help in focusing your efforts and responses. I would appreciate your responses by January 14, 2012.

Thanks very much for any assistance that you can provide!

Happy Holidays,

David

David Woltering, AICP
Community Development Director
City of Clayton
925-673-7343

David Woltering

From: Emmanuel Ursu <EUrsu@cityoforinda.org>
Sent: Tuesday, January 03, 2012 9:48 AM
To: dwoltering@ci.clayton.ca.us
Subject: RE: Recent Environmental Consultant Costs to Prepare Environmental Impacts Reports

Hi David,

Our most recent EIR contract was for $105,000 for a 44-unit assisted living facility in a 40,000 square foot building on a 1.1-acre site. We entered into that contract about one year ago. The applicants withdrew their application after the scoping meeting on the EIR.

The most recently completed EIR was for a mixed – use development on 14 acres owned by the City (3 acres) and by the local school district (11 acres). The project entailed general plan and zoning map and text amendments, 73 residential units, relocation of city-owned ball fields and a 6,000 square foot administrative office building for the school district. LSA prepared the EIR for the project and there was significant community input, many changes to the project along the way and the developer started and stopped the project two or three times during preparation of the EIR. The proposal accepted by the City in early 2005 included a budget of $178,000. As a result of changes to the project description and the need to restart work on the project multiple times, the final budget was about $250,000. The EIR was certified in 2008.

Best,

Emmanuel Ursu
Planning Director
City of Orinda
22 Orinda Way
Orinda, CA 94563
(925) 253-4240

www.cityoforinda.org

From: David Woltering [mailto:dwoltering@ci.clayton.ca.us]
Sent: Friday, December 23, 2011 4:10 PM
To: "Robert M. Stewart'; "Jim Kennedy'; "Herb Moniz'; "Niroop K. Srivatsa'; "Kevin Gailey'; "Dan Keen'; "Winston Rhodes'; "Sandra Meyer'; "Tim Tucker'; "Lori Salamack'; "Alan Wolken'; "Victor Carniglia'; "Dennis Tagashira'; Emmanuel Ursu; "Casey McCann'; "Rebecca Willis'; "Joe Sbranti'; jmontagh@ci.concord.ca.us; ltrevino@ci.el-cerrito.ca.us; lorono@ci.oakley.ca.us; KelseyW@ci.san-pablo.ca.us; soniaR@ci.san-pablo.ca.us; 'Barbara Neustadter'; christinaa@ci.san-pablo.ca.us; 'John Cunningham'; "Andy Dillard'; Richard Yee; 'Victoria Walker'; swallace@ci.pleasant-hill.ca.us; 'Richard Mitchell'; 'Phil Wong'; Amerideth@ci.lafayette.ca.us; 'Terry Blount'; 'Mitch Oshinsky'; jcarman@ci.el-cerrito.ca.us; 'Greg Fuz'; twilliams@ci.danville.ca.us; slake@ci.danville.ca.us; slawton@ci.hercules.ca.us; 'Victor Carniglia'; avang@ci.san-pablo.ca.us; 'Christine Wehrmeister'; "Dennis Tagashira'; Emmanuel Ursu; 'Paul Eldredge'; 'Rebecca Willis'; 'Dana Hoggatt'; enolthenius@ci.brentwood.ca.us; Ehu@ci.pleasant-hill.ca.us; agreenwood@ci.brentwood.ca.us; 'Matt Kelly'; 'Brad Beck'
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Thanks very much for any assistance that you can provide!

Happy Holidays,

David

David Woltering, AICP
Community Development Director
City of Clayton
925-673-7343

David Woltering

From: Dennis Tagashira <DTagashira@ci.hercules.ca.us>
Sent: Thursday, January 05, 2012 2:45 PM
To: 'dwoltering@ci.clayton.ca.us'
Subject: RE: Recent Environmental Consultant Costs to Prepare Environmental Impacts Reports

David,

The City of Hercules recently went through a similar scenario with our Bayfront/Intermodal Transit Center EIR. The Draft EIR was started approximately 7-8 years ago, and the project descriptions for the two proposed projects changed, impacts and mitigations were revised, and Planning staff requested and received additional analysis and visual impact photo-simulations that were a part of the Draft EIR. Because of the additional work performed, the EIR consultants have submitted invoices totaling an additional $64,000. The invoices detailed the additional work performed, and we are paying for the additional work. If the original contract was approved by our City Council for a set amount, and the consultants exceed the agreed-upon amount. The City Council has approved the additional funding. The original contracted amount was for $217,000.

Your e-mail stated a "considerable number of comments received warranting responses". If the agreed-upon contract stipulated a specific dollar amount was to be paid for the "Response to Comments" section, and the consultants and the City of Clayton has a signed agreement, then, the consultant should be required to perform the Response to Comments section for that specific dollar amount. Any changes or increases in dollar amounts for services should be approved by your city manager and your City Council.

Our City Manager is limited in the amount that additional funding can be awarded to an existing contract. $30,000.

Good luck.

From: David Woltering [mailto:dwoltering@ci.clayton.ca.us]
Sent: Friday, December 23, 2011 4:10 PM
To: "Robert M. Stewart'; "Jim Kennedy'; "Herb Moniz'; "Niroop K. Srivatsa'; "Kevin Gailey'; "Dan Keen'; "Winston Rhodes'; "Sandra Meyer'; "Tim Tucker'; "Lori Salamack'; "Alan Wolken'; "Victor Carniglia'; Dennis Tagashira; "Emmanuel Ursu'; "Casey McCann'; "Rebecca Willis'; "Joe Sbranti'; jmontagh@ci.concord.ca.us; ltrevino@ci.el-cerrito.ca.us; lorono@ci.oakley.ca.us; KelseyW@ci.san-pablo.ca.us; soniaR@ci.san-pablo.ca.us; 'Barbara Neustadter'; christinaa@ci.san-pablo.ca.us; 'John Cunningham'; "Andy Dillard'; "Richard Yee'; 'Victoria Walker'; swallace@ci.pleasant-hill.ca.us; 'Richard Mitchell'; 'Phil Wong'; Amerideth@ci.lafayette.ca.us; 'Terry Blount'; 'Mitch Oshinsky'; jcarman@ci.el-cerrito.ca.us; 'Greg Fuz'; twilliams@ci.danville.ca.us; slake@ci.danville.ca.us; slawton@ci.hercules.ca.us; 'Victor Carniglia'; avang@ci.san-pablo.ca.us; 'Christine Wehrmeister'; Dennis Tagashira; "Emmanuel Ursu'; 'Paul Eldredge'; 'Rebecca Willis'; 'Dana Hoggatt'; enolthenius@ci.brentwood.ca.us; Ehu@ci.pleasant-hill.ca.us; agreenwood@ci.brentwood.ca.us; 'Matt Kelly'; 'Brad Beck'
Subject: Recent Environmental Consultant Costs to Prepare Environmental Impacts Reports

Hello Colleagues,

The City of Clayton has contracted with a well-known environmental consulting firm to prepare a full environmental impact report (EIR) for a controversial private mixed-use development project that includes a Church ("sanctuary") and related uses plus office and retail space. The overall square footage proposed is approximately 42,000 square feet on a 2.3 acre site. The proposed sanctuary use is approximately 22,000 square feet in size. Various entitlement are involved including General Plan, Town Center Specific Plan, and Zoning Ordinance amendments to allow the sanctuary use and reduced parking requirements for the sanctuary. Approval of a Development Plan and Tentative Parcel Map are also involved.

The project Draft EIR has been completed and circulated and a very considerable number of comments received warranting responses. The EIR consultant is requesting a Contract Modification for additional funds to respond to the larger than anticipated number of comments on the Draft EIR. The consultant has provided rationale for the Contract Modification.

I am wanting to have a sense of what agencies might be experiencing in terms of charges for Project EIRs. I fully understand that no two projects, communities, levels of controversies are alike. However, some order of magnitude understanding of what EIRS are costing would be helpful. Therefore, I would interested in knowing the total EIR consultant costs of representative Project EIRs that your agency may have processed over the past four years. I have given a brief description of our project to help in focusing your efforts and responses. I would appreciate your responses by January 14, 2012.

Thanks very much for any assistance that you can provide!

Happy Holidays,

David

David Woltering, AICP
Community Development Director
City of Clayton
925-673-7343

Attachment 3

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

2001 North Main Street, Suite 390
Walnut Creek, California 94596
(925) 977-3300
(925) 977-1870 Fax
BBKlaw.com

INDIAN WELLS
(760) 568-2611

IRVINE
(949) 263-2600

LOS ANGELES
(213) 617-8100

ONTARIO
(909) 989-8584

RIVERSIDE
(951) 686-1450

SACRAMENTO
(916) 325-4000

SAN DIEGO
(619) 525-1300

Malathy Subramanian
(925) 977-3303
MSubramanian@bbklaw.com

December 2, 2011

VIA U.S. MAIL AND ELECTRONIC MAIL (EGRUTZMACHER@MEYERSNAVE.COM)

Mr. Ed Grutzmacher
Meyers Nave
555 12th Street, Suite 1500
Oakland, California 94607

Re: Clayton Community Church Project

Dear Mr. Grutzmacher:

Best Best & Krieger serves as City Attorney for the City of Clayton. The City received your letter dated November 11, 2011 regarding the Clayton Community Church Project ("Project") that is currently pending before the City and your request that the City take certain actions as outlined in your letter. This letter serves as the City's response to your requests.

CEQA REVIEW OF THE PROJECT

By City Council resolution the City charges applicants for processing an application on a time and materials basis pursuant to the City's Master Fee Schedule. The City hired LSA Associates to prepare the Environmental Impact Report ("EIR") for the Project. On July 22, 2011, LSA requested a modification to the scope and budget of its Consulting Services Agreement ("Agreement") to complete the response to comments process based upon the 88 letters and 315 comments that require a formal response. LSA has determined that in its professional experience this volume and substance have only been exceeded in the last decade by one project it has worked on in regards to the 88 letters, and only 4 projects it has worked on in regards to the 315 comments.

The City notified the Clayton Community Church ("Church") of the consultant's modification request by phone and by email correspondence. City staff also provided the Church with copies of the requested Agreement modification, a table that summarized LSA's costs to prepare responses to comment on a representative past projects for comparison purposes and a sample of a comments and responses section for a prior project. These related materials were provided to enable the Church with an understanding not only of the volume but the themes and complexity of the work effort that will be required to properly complete the California Environmental Quality Act ("CEQA") review process for the proposed Project.

The City also facilitated a meeting with the Church's selected representatives and LSA on August 30, 2011 at Clayton City Hall to further discuss LSA's request for an Agreement modification. LSA then prepared a memo on September 1, 2011 responding to some of the suggestions made during that meeting. LSA's response of September 1, 2011 already addressed many of the comments you raised in your letter and attached is a copy of that letter along with the correspondence from the City to the Church as noted above for your convenience.

Upon receipt of your letter, the City again requested LSA to directly respond to your comments; a copy of its detailed response is also attached to this letter for your review. As you will see from LSA's latest response, LSA's request for an Agreement increase in budget previously assumed: 1) several master responses to comments will be prepared; 2) elimination of comments that pertain to the merits of the project rather than the adequacy of the Draft EIR; and 3) referral of duplicative comments back to the original set of responses.

As noted above, City staff has spent a significant amount of time reviewing LSA's request to increase the scope and budget for the EIR and has included the Church in this process from the beginning. When LSA representatives first discussed a need for an increase in the budget, given the volume and complexity of comments received, it suggested a low end augmentation in the amount of approximately $67,725. City staff was able to successfully reduce this amount to $48,525 (with budget for two additional public hearings included), for a direct benefit to the Church. You can, therefore, imagine our astonishment your letter does not mention or acknowledge the City's efforts and various meetings and follow up conversations to already address the Church's repetitive concerns regarding the Agreement modification.

You have specifically requested that the City hold LSA to the terms of its Agreement. The Agreement provides in pertinent part LSA's "*...budget estimate in Table 2 shows the level of professional effort assumed for this task. Should an unexpected large volume of comments be submitted, an adjustment in the budget to cover work beyond the assumed level may be required.*" Therefore, LSA can seek an adjustment in the budget to cover work beyond what was expected to complete the response to comments. A copy of LSA's Agreement is attached for your review.

In the alternative, you have asked that the City pay for any increase above and beyond the Agreement. We were very surprised to read this incredulous request as it violates both the California Constitution and the U.S. Constitution. The City cannot expend public/taxpayer money on a private project that does not fulfill a public purpose, such as this Project as it would be considered a gift of public funds in violation of Section 6, Article XVI of the California Constitution. In addition, the City cannot expend public funds in favor of religion in violation of the Establishment Clause of the California and U.S. Constitutions; using public funds to pay for processing the construction of a church would surely be considered a violation of the Establishment Clause. Clearly, both of these suggestions violate the California and U.S. Constitutions and cannot be taken by the City.

Processing of the Application

On July 10, 2007, the City initiated the omnibus Town Center Specific Plan Amendment at a public meeting of the Planning Commission to update antiquated provisions in various chapters of the 1990-dated Plan, including the Land Use and Urban Design Chapters. The stated intent was to ensure the Specific Plan accurately reflects the visions, goals, policies, and priorities of the merchants, property owners, and the City. It is our understanding the Church did not acquire title to all of its real property targeted for the Project until November 27, 2007. Therefore, the Church should have been aware of the City's proposed revisions in land use that would affect its properties well in advance of its ultimate acquisition.

You have further suggested that every project in the Clayton downtown has proceeded under a mitigated negative declaration and that the City is treating the Church differently by requiring an environmental impact report for the Project. As you are aware, CEQA requires that an EIR be prepared before a California public agency approves a project having a potentially significant effect on the environment. The City conducted a preliminary environmental review on the Project and identified four potentially significant impacts (i.e., Cultural Resources, Land Use and Planning, Transportation/Traffic, and Mandatory Findings of Significance). LSA also came to the same conclusion, yet actually added four additional subject areas (i.e., Air Quality, Noise, Visual Resources, and Hydrology and Water Quality), more than affirming the City's determination this Project required the preparation of an EIR in accordance with the provisions of CEQA. The complexity, scope, and scale of the Project, including the significant reduction in the number of required parking spaces, require the City prepare an EIR for the Project to comply with CEQA. No other project in terms of range of potential significance of impacts has occurred in the Clayton downtown, and therefore, it would be improper to compare previous projects that have been reviewed with a mitigated negative declaration to this Project. More importantly, doing otherwise would not comply with CEQA.

Likewise, you have indicated that the City requested the Church to erect story poles "*...despite the fact that no other development in City has ever had to erect story poles.*" This statement is incorrect as the City required story poles for a single family home that was being remodeled from a one story to a two story home in a neighborhood of primarily one story homes within the City. Additionally, story poles were also required to determine the extent of a view protection easement that was granted to several adjacent properties related to the Bridlewood residential subdivision in Clayton. Finally, story poles are commonly used by many local communities as a tool to better understand the potential visual impact of a proposed project.

You have also suggested that the City has "*...never required any other development in the City to prepare even a single economic impacts study.*" This too is an erroneous statement as the City required an economic impact study for the Diamond Terrace Senior Housing project also located in downtown Clayton. Furthermore, in a pre-application meeting, the City informed the Church that its Project would require the City to obtain an independent third party economical fiscal analysis. Thus, the Church was well informed prior to hiring its own consultant that the City required and would charge the Church for an independent analysis. Therefore, any costs incurred by the Church for its own expert or its expectation of sufficiency should not be attributed to the City.

You have also suggested that three Planning Commissioners have expressed actual bias against the Project. However, you have cited no evidence to demonstrate actual bias nor are we aware of any such evidence.

You have concluded that these requirements, including the costs associated with processing the application have placed a substantial burden on the Church in violations of the Religious Land Use and Institutionalized Persons Act of 2002 ("RLUIPA"). As noted above, the City has requested information of the Church to comply with CEQA and/or to process the application and has not treated the Church differently from other applicants. Nor have you demonstrated any evidence of City bias towards the Church. To suggest that the City has violated RLUIPA is simply incorrect.

We appreciate the opportunity to directly respond to the Church's misrepresentations regarding the City's processing of the Project and to correct inaccurate assumptions and assertions. We hope that upon reading this letter, the Church will recognize that the City has indeed treated its application no differently than other applications within the City and will also recognize that it is hard to compare this application to other applications because this proposed Project exceeds the complexity, scope, and scale of other projects recently processed within the City.

Should you have any questions please do not hesitate to contact me.

Very truly yours,

Malathy Subramanian
for Best Best & Krieger LLP
City Attorney
City of Clayton

Enclosures

cc: Honorable Mayor and Members of the City Council
Gary Napper, City Manager
David Woltering, Community Development Director

38044.07101\7041683

Attachment 3a

1976 LSA 2011 35th ANNIVERSARY

LSA ASSOCIATES, INC.
2215 FIFTH STREET
BERKELEY, CALIFORNIA 94710

510.540.7331 TEL
510.540.7344 FAX

CARLSBAD
FORT COLLINS
FRESNO

IRVINE
PALM SPRINGS
POINT RICHMOND

RIVERSIDE
ROCKLIN
SAN LUIS OBISPO
SOUTH SAN FRANCISCO

November 18, 2011

David Woltering, AICP
Community Development Director
City of Clayton
600 Heritage Trail
Clayton, CA 94517-1250

Transmitted by First Class Mail and E-mail

Subject: Clayton Community Church Project EIR

Dear David:

Two days ago we received a copy of the letter that the City of Clayton received from Ed Grutzmacher of Meyers|Nave (M|N) representing the applicant, Clayton Community Church, for the above-mentioned project. At your request, we are responding to a number of comments and assertions set forth in that letter that generally relate to the environmental review process and specifically relate to our request for a scope and budget augment to address the extraordinary volume of public comments on the Draft EIR prepared by LSA.

We appreciate being given this opportunity to respond to Mr. Grutzmacher's comments because we strongly disagree with many of his assertions. However, for the benefit of those City Council members or the public who are unaware of it, we would like to provide some context for our thoughts below.

FIRM AND STAFF BACKGROUND

LSA is an environmental consulting firm celebrating its 35th year in business in 2011. We have nine offices throughout California, one of which, in Berkeley, took the lead on this EIR, with assistance from technical staff in our other offices as well as two expert subconsultants. The firm's Principal-in-Charge, David Clore, AICP, is a Harvard-trained city planner with over 30 years of experience preparing over 350 EIRs and other environmental documents. The firm's Project Manager, Adam Weinstein, AICP, is a UC Berkeley-trained city planner with over 10 years of experience preparing EIRs. These two individuals have worked together on dozens of successful projects over the last decade, including residential, commercial, industrial, infrastructure, civic, and recreational land uses across all nine Bay Area counties and greater Northern California.

BASIS OF DRAFT EIR CONTRACT BUDGET AND EXPENDITURES TO-DATE

When LSA submitted the proposal to undertake this assignment, it was with the expectation that there would be a large number of technical issues that would require careful attention to detail, and that the work would be subject to intense public scrutiny. Our original budget reflected that expectation (and may explain why it exceeded that of one or more firms who were competing for the assignment). That expectation was born-out throughout our work, up to the point of the public review period for the Draft EIR. It was at that point that the explosion of public opposition to the project began to manifest itself in the form of a nearly unprecedented flood of letters and emails purportedly commenting on the Draft EIR. Prior to that time, the professional efforts of LSA staff and our subconsultants were only slightly over budget (but within what we consider a reasonable margin of error).

SCALE OF COMMENTS AND RESPONSE EFFORT

As we have explained in previous memos and in person to the applicant team, it is the nearly unprecedented volume of comment letters and individual comments that drives the need for far more professional effort than was assumed in our contract with the City. Unfortunately, M|N continues to refer to the very large unfiltered volume of letters and emails posted on the City's website when offering such comments as Mr. Grutzmacher's, without recognizing that – as has been explained – LSA has already gone through all of those materials and winnowed-out all correspondence of the type emphasized in the M|N letter (page 2, first full paragraph). Other than having to read through and set-aside such irrelevant correspondence as oppositional emails and notations from a website, late submittals, and duplicate materials, in the initial stage of responding to comments, these items do not add to the cost estimate. Furthermore, the large amount of these materials will not even require "little to no effort" or "boilerplate" responses; they have already simply been defined to not be comments on the Draft EIR and will not be included in any further EIR-related documentation.

It is the legitimately-defined comments on the Draft EIR that remain extraordinarily large in volume. As we have explained to the project applicant team and illustrated via a table of empirical data from the one dozen largest response-to-comment efforts that our office has encountered over the last decade, the 88 letters and 315 comments that require a formal response in this case has only been exceeded by a single project (in the case of the 88 letters) or four projects (in the case of the 315 comments) in our experience. Stated another way, out of the approximately 100 EIRs successfully prepared by the Berkeley office of LSA over the past decade, the Clayton Community Church project has generated the second highest number of letters ever and the fifth highest number of discrete comments that require a response.

STRATEGIES FOR ECONOMIZING

Mr. Grutzmacher reiterates several methods by which LSA could reduce the time and effort in responding to comments on the Draft EIR:

- Master Responses. The suggestion is that "master responses" could be prepared for comments that relate to the following topics: parking; historical quality of the former Pioneer Inn building; visual resources impacts; and church membership. We agree and believe that additional topics warrant master responses. These would include: traffic congestion (including during special events in the Town Center); project alternatives; and land use compatibility. Unfortunately, in terms of economizing, our budget augment request is already based on the assumption that several master responses would be prepared, thus reducing the need to respond individually to thematically duplicative comments.
- Comments on the Project's Merits. Many of the comments submitted to the City pertain to the merits of the project and do not make claims about the adequacy of the Draft EIR or even the environmental review process in general. In developing our budget augment, we noted that 232 of the 304 letters and emails that were transmitted to us by City staff (and which constituted the batch of materials posted on the City's website and reviewed by the applicant team) do not relate to the Draft EIR and do not warrant a response. However, the remaining submittals raise arguments about the adequacy of the EIR and/or technical issues and will require a detailed response. These substantive submittals are the ones that will require supplemental budget to address.
- Duplicative Comments. Many of the comments submitted on the Draft EIR (including some that raise substantive issues) are duplicative. Our budget augment is based on the assumption that responses to duplicative letters would simply refer back to the original set of responses. In the

table of past response to comments efforts that we provided for your review (in which we reiterate in the following section of this letter), the average costs all included at least some proportion of similar duplicative comments, though to a somewhat smaller extent than is the case for this project.

COST CALCULATIONS

Because we seldom ever experience a volume of Draft EIR comments that is as large as that received for this project, and recognizing that estimating the effort required to undertake the work would be a challenge, LSA undertook a forensic exercise using empirical data from the dozen largest response-to-comment (RTC) efforts of the past decade. We created a table from those compiled data and presented it to the City and applicant team (attached here as Table 1).

What the table calculates is the average cost per comment of these dozen similar RTC efforts (after inflating the older year dollars to 2011 dollars using Consumer Price Index increases as a rough proxy for inflation). Based on these empirical data, the average cost per comment was $339. If that average cost were to be applied to the number of substantive comments received on the Draft EIR, the total cost for responding to the comments would be $106,826. Applying average cost per comment data from a more limited selection of projects (ones with comment types of less complexity) would yield a total cost of approximately $67,725.

In addition to the increased cost of responding to comments, the City has requested that LSA attend two additional hearings that staff believe will be required as part of the project's review by City decisionmakers.

Our request for a budget increase takes the lesser of the two estimates ($67,725) and subtracts the amount allocated to the RTC process in the original contract budget ($21,800), and adds-in the cost of two additional hearings ($2,600). The result is a request for a net increase of $48,525.

We would emphasize that the likelihood that LSA will actually encounter substantially less-than-average costs to prepare all of the responses to these comments is not at all certain. Our actual costs could be average, or could even exceed the average of these largest RTC efforts. As our data shows (and by definition, since we're dealing with averages) many other projects required expenditures far greater than what is being requested in this case.

CONTRACTUAL RESPONSIBILITIES

On rare occasions, LSA needs to secure a scope and budget augment to prepare responses to comments. We craft our initial budget estimates so as to anticipate nearly all possible outcomes across the comment letter spectrum, but we are confident that our municipal clients and most applicants appreciate our not presenting budgets that anticipate a 95-99 percent of highest historic effort on this task (which is what this project represents). That would be unnecessarily self-protective and tend to skew project cost expectations unreasonably.

The following clause from our contract clearly stated our intentions in this regard and, in combination with the very detailed budget table provided with our scope of work, illustrates how LSA is living up to its legal obligations on the contract:

> Our budget estimate in Table 2 shows the level of professional effort assumed for this task. Should an unexpectedly large volume of comments be submitted, an adjustment in the budget to cover work beyond the assumed level may be required.

Lest M|N suggest that some technical or substantive shortcoming in the Draft EIR is the cause of the large volume of comment letters, we would note that not a single letter was received from any local, regional, State or federal regulatory agency. Furthermore, only one letter was received from a local advocacy group (Clayton Historical Society). Both of these outcomes demonstrate an extraordinarily robust, technically accurate and legally defensible environmental document. The other 87 comment letters and emails are from Clayton residents, mostly opposed to the proposed project.

EFFORTS UNDERTAKEN TO GET THIS FAR

We would lastly note that even advancing the response to comments process to the stage we have reached has required a substantial effort. Reviewing the unfiltered materials posted on the City's website, determining which items were actually questions/comments on the Draft EIR, digitally scanning the materials, marginally numbering each comment letter and all of the comments within each letter, and creating the list of all commentors, has drawn upon approximately $9,000 of the $21,800 originally budgeted for the entire RTC process.

Thank you again for the opportunity to correct several assertions in Mr. Grutzmacher's letter and to clarify our position with regard to the ways in which LSA has and continues to live up to its obligations under our contract with the City. We are hopeful that decisions will be made that allow us to help complete this work in a timely manner.

Sincerely,
LSA ASSOCIATES, INC.

David Clore, AICP
Managing Principal

Adam Weinstein, AICP
Associate/Project Manager

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Table 1. Comparison of Draft EIR Comment Volumes and Budgets for Largest Comment Projects (2000 - 2011)

Project	Lead Agency	Total # of Letters	Total # of Comments	Actual Year's Dollars: Labor Cost for Preparing Responses	Actual Year's Dollars: Average Cost per Comment	Current Dollars: Labor Cost for Preparing Responses	Current Dollars: Average Cost per Comment
Strong Neighborhoods Initiative (2000)	San Jose Redevelopment	5	47	$22,000	$468	$29,000	$620
Alameda Point GPA (2001)	City of Alameda	20	75	$18,000	$240	$23,000	$310
Uptown Mixed Use Development (2002)	City of Oakland	19	85	$53,000	$623	$66,500	$780
Thomas Berkeley Square (2002)	County of Alameda	6	42	$11,500	$273	$14,500	$350
Brandenburg Mixed Use (2002)	San Jose Redevelopment	13	163	$45,000	$276	$56,500	$350
Livermore General Plan and Specific Plan (2002)	City of Livermore	27	275	$35,000	$127	$44,000	$160
Catellus Mixed Use Project (2003)	City of Alameda	33	279	$59,000	$211	$74,000	$270
Martinez Downtown Specific Plan (2003)	City of Martinez	59	650	$67,270	$103	$84,500	$130
North Main St Projects (2004)	City of Milpitas	6	25	$10,721	$428	$13,000	$520
Bentley School (2009)	City of Oakland	147	453	$51,212	$113	$54,000	$120
Albany Village (2010)	City of Albany	37	355	$89,860	$253	$93,000	$260
Jensen Lane Elementary School (2011)	Windsor USD	75	870	$187,250	$215	$187,250	$215
Average		41	302	$59,074	$283	$67,205	$339

P:\CLY1001 Clayton\Admin\Contract\Table 1 for 11 18 11 Woltering ltr.xls

Attachment 3b

LSA | LSA ASSOCIATES, INC.
2215 FIFTH STREET
BERKELEY, CALIFORNIA 94710

510.540.7331 TEL
510.540.7344 FAX

CARLSBAD
FORT COLLINS
FRESNO
IRVINE

PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROCKLIN

SAN LUIS OBISPO
S. SAN FRANCISCO

MEMORANDUM

DATE: September 1, 2011

TO: Shawn Robinson, Pastor, Clayton Community Church

CC: David Woltering, AICP, Community Development Director, City of Clayton

FROM: David Clore, AICP and Adam Weinstein, AICP

SUBJECT: Budget to Prepare Response to Comments Document, Clayton Community Church Project Draft Environmental Impact Report (EIR)

We appreciated meeting with you, David Woltering, and Alan Fishman on August 30 to discuss LSA's requested budget augment for preparation of the Response to Comments Document on the Clayton Community Church Project Draft EIR. As you know, we submitted this augment request on July 22, 2011 because the budget allocated in our original scope of work (dated July 15, 2010) would be insufficient to respond to the large volume of comments submitted by the public on the Draft EIR. We understand that the growing cost of this environmental review process is a concern for the Clayton Community Church. In crafting our augment, we sought to identify a budget that would allow us to complete the Response to Comments Document as efficiently as possible. This memo responds to some of the good suggestions that your group offered in a memo provided to us at the meeting on August 30.

- *Prepare Master Responses.* You suggest that master responses be prepared for comments that relate to the following topics: parking; historical quality of the former Pioneer Inn building; visual resources impacts; and church membership. We agree and believe that additional topics warrant master responses. These would include: traffic congestion (including during special events in the Town Center); project alternatives; and land use compatibility. Unfortunately, in terms of economizing, our budget augment request is already based on the assumption that several master responses would be prepared, thus reducing the need to respond individually to thematically duplicative comments.
- *Comments on Project Merits.* Many of the comments submitted to the City pertain to the merits of the project and do not make claims about the adequacy of the Draft EIR or even the environmental review process in general. In developing our budget augment, we noted that 232 of the 304 letters and emails that were transmitted to us by City staff (and which constituted the batch of materials reviewed by the applicant team) do not relate to the Draft EIR and do not warrant a response. However, the 72 remaining submittals raise arguments about the adequacy of the EIR and/or technical issues and will require a detailed response. These 72 substantive submittals are the ones that will require supplemental budget to address.
- *Duplicative Comments.* Many of the comments submitted on the Draft EIR (including some that raise substantive issues) are duplicative. Our budget augment is based on the assumption that responses to duplicative letters would simply refer back to the original set of responses. In the table of past response to comments efforts that we provided for your review, the average costs there all included at least some proportion of similar duplicative comments, though to a somewhat smaller extent than is the case for this project.

- *Public Hearings.* The budget augment includes budget allocated for LSA's attendance at one additional Planning Commission hearing and one additional City Council hearing. LSA would ultimately attend a total of three Planning Commission hearings and three City Council hearings. City staff believes that LSA's attendance at all six hearings is necessary.

Therefore, we are unable to further reduce our budget augment for the preparation of the Response to Comments Document. However, as we emphasized at our meeting of earlier this week, we log our time on timesheets and then bill on a time and materials basis and will seek -- as much as possible -- to economize our effort while still preparing a legally adequate Final EIR. We have enjoyed the many challenges of working on this project and look forward to completion of the environmental review process.

Please let us know if you have questions about any of the items discussed in this memo or the original augment request.

Attachment 3c

David Woltering

From: David Woltering [dwoltering@ci.clayton.ca.us]
Sent: Tuesday, August 23, 2011 2:51 PM
To: 'srobinson@claytoncc.com'
Subject: Contract Modification Meeting- 8.30.11
Importance: High

Hello Shawn,

I have heard back from David Clore, LSA Associates, and he is confirmed for the meeting we discussed at 2:00 p.m., Tuesday, August 30th. The meeting will be held in the 3rd floor conference room of City Hall. If Alan is not able to attend, and you wish to re-schedule, please let me know.

Thank you,

David

David Woltering, ACIP
Community Development Director
City of Clayton

Attachment 3d

David Woltering

From: David Woltering [dwoltering@ci.clayton.ca.us]
Sent: Friday, July 22, 2011 3:46 PM
To: 'srobinson@claytoncc.com'
Cc: 'Jennifer Lutz'; 'Alan Fishman, ASLA'; 'Grutzmacher, Edward'
Subject: Clayton Community Church Project EIR - Request for Contract Modification
Importance: High
Attachments: Contract Modification request, dated 7.22.11.pdf; RTC Comparison Table.pdf; Comments and Responses Section - LSA Sample.pdf

Shawn,

This e-mail is a follow-up to our telephone conversation this morning regarding the Contract Modification requested by LSA Associates for preparation of the Clayton Community Church Environmental Impact Report (EIR). As we discussed during our telephone conversation, I have asked LSA Associates representatives to provide not only an understanding of the volume of distinct responses (315) that will be required, given the very large number of comment letters, e-mails, etc. (304) that were received regarding the Draft EIR during the comment period, but, additionally, to describe themes, the complexity, and the work effort that will be required to prepare the Response to Comments (RTC) document. The additional funding amount being requested is $45,925.00 to prepare the RTC document and $2,600.00 to attend two additional public hearings. Initially, LSA's scope of work assumed attendance at two Planning Commission meetings and two City Council meetings. I have asked them to add one additional meeting for each hearing body, given the large number of comments that were received regarding the Draft EIR. Accordingly, the total augment being requested is $48,525.00.

Attached you will find three (3) documents as follows: 1) the Contract Modification, dated July 22, 2011; 2) Table 1 which summarizes LSA's costs to prepare responses to comments on representative past projects for comparison purposes; and, 3) a sample of a Comments and Responses section prepared by LSA Associates for a prior project (It was indicated to me by Mr. Weinstein, LSA Project Manager, that the RTC document for the Clayton Community Church project may be 8-10 times the size of this excerpt). I believe this information will be useful to gaining an understanding not only of the volume but the themes and complexity of the work effort that will be required to accomplish preparing the RTC document.

The matter of this Contract Modification will need to go to the Clayton City Council for authorization. I can be prepared to bring this forward to the City Council at its next scheduled meeting on August 16, 2011. I will need from you your written agreement and the additional funds requested to move this forward. Some additional work on this project can be done in the meantime; however, if agreement cannot be reached within this timeframe I will need to formally stop work on the project. I will be out of the office next week, July 25th -July 29th, and will interrupt time off to return for the work days of August 1st and August 2nd. I will then be out August 3rd-August 5th. You indicated to me during our telephone conversation to forward this information to those individuals copied on this e-mail. You also requested to make every effort to have this matter on the August 16th City Council agenda. Finally, you indicated that in your absence Alan Fishman could be a primary contact on this matter. I will follow-up with Mr. Fishman this afternoon by telephone.

Thank you,

David

David Woltering, AICP
Community Development Director
City of Clayton

LSA | LSA ASSOCIATES, INC.
2215 FIFTH STREET
BERKELEY, CALIFORNIA 94710

510.540.7331 TEL
510.540.7344 FAX

CONTRACT MODIFICATION

CHANGE NO:	1
PROJECT NO:	CYY1001
ORIGINAL CONTRACT	$ 133,500
AUGMENT	$ 48,525
REVISED CONTRACT	$ 182,025

DATE: July 22, 2011
PROJECT: Clayton Community Church Project EIR
TO: David Woltering, AICP, Community Development Director
ADDRESS: 6000 Heritage Trail
Clayton, CA 94517

This is a scope and budget augment requested by LSA Associates, Inc. to complete the response to comments component of the Clayton Community Church Project Environmental Impact Report (EIR).

LSA's July 15, 2010 proposal allocated a total budget of $21,800 for completion of the entire response to comments process (including preliminary review and enumeration of the letters and emails received, digital scanning and clean-up of the originals, distribution to technical staff, preparation of responses, word processing, graphics preparation, and publication and distribution of the Response to Comments Document). However, the City received a volume of letters and emails that substantially exceeded our expectations. Altogether, the City received 304 discrete letters and emails. Although 232 of these submittals do not pertain to the adequacy of the Draft EIR or related project/environmental issues, 72 of the submittals (comprising 315 individual comments) raise arguments about the adequacy of the Draft EIR and/or ask technical questions about the land use/planning policy, aesthetics, traffic, parking, air quality, growth-inducement, and alternatives analyses. Still others raise issues about the adequacy of the project description, including information provided by the applicant. The volume of substantive/technical comments received greatly exceeds the anticipated effort described in our proposal of July 2010. Responding to letters and emails received, along with the verbal comments offered at the Draft EIR public hearing, will require a significant work effort by all members of the project team, including project management staff, planners in the LSA-Berkeley office, transportation engineers in the LSA-Irvine office, and support staff.

Responding to a large number of public comments – particularly when many raise substantive technical questions – is an extremely labor-intensive process that typically proceeds as follows: David Clore (Principal-in-Charge) and Adam Weinstein (Project Manager) read through the entire set of comments, identify the comments that pertain to issues of EIR adequacy (and thus require a formal response), and enumerate the individual comments. LSA's word processing/graphics staff then digitally scan-in originals of the pertinent submittals and digitally code the resulting files to indicate a discrete letter number and comment number for each comment. Comments pertaining to specific environmental topics evaluated in the Draft EIR (e.g., Transportation and Circulation, Air Quality, Noise, Historic Resources, Hydrology and Water Quality) that are of a highly technical nature are then submitted to our subconsultants with directions for responding. The Project Manager works closely with the technical staff and subconsultants to ensure the comments are addressed comprehensively and in a way that is consistent with the previous analysis in the Draft EIR (unless changes in methodology are required to address specific comments). Any proposed text changes to the Draft EIR are scrutinized and evaluated to determine if they would result in any related changes to the rest of the document (as all modifications to the Draft EIR must be reported in the Response to Comments Document). Depending on the complexity of the comments, the Project Manager and Principal-in-Charge undertake what are sometimes lengthy conference calls with the technical staff and subconsultants to discuss overall strategy and the approach to the responses. The non-technical comments, including ones that pertain to land use and planning policy, aesthetics, and demographics, will be primarily drafted by Adam Weinstein and reviewed by David Clore. Preparing an initial response to comments for each of the 315 individual comments (i.e., not including final review by the Project Manager or Principal-in-Charge) can require from 30 minutes to several hours of staff labor inputs, depending on the complexity of the comments and required responses.

After the initial preparation of responses (and the submittal of one or more revised drafts of the responses by technical staff, after review by the Project Manager), the responses are consolidated in the Response to Comments Document along with the original enumerated comments and supplementary text describing the purpose of the document and the overall CEQA process. At this point, certain responses that address similar issues may be consolidated into "Master Responses" provided at the beginning of the document that will be referenced throughout the Response to Comments Document. In addition, changes to the text of the Draft EIR (including graphics and appendices) are copied and assembled into an independent chapter of the document. Following word processing and formatting of the document, and preparation of any new or revised graphics, the Project Manager and Principal-in-Charge then undertake independent detail-oriented reviews of the completed draft to ensure that all comments are fully addressed and the responses are internally consistent (in terms of characterizations of the project, identified impacts, mitigation measures, methodology, etc.). The review to ensure internal consistency is a critical stage of the responses preparation, as the Response to Comments Document, along with the Draft EIR, will comprise the Final EIR, which is the document that will be considered by the Planning Commission and City Council for certification.

An Administrative Draft Response to Comments Document is then submitted to City staff for review. After review, the City transmits a set of comments back to LSA. LSA then addresses these comments and revises the document accordingly. This process often requires an additional round of coordination with our technical staff and subconsultants. The Administrative Draft is formatted and word processed and an additional interim draft is published and submitted to the City for another round of review. This process may be repeated two to three times, resulting in a Final Response to Comments Document that will be published and distributed to agencies. The Final Response to Comments Document for this project will be several hundred pages in length, including original copies of the comment letters, detailed responses drafted by LSA, and supplementary text.

A budget augment of $45,925 will be required to complete the response to comments process. The City has also requested LSA's attendance at one additional Planning Commission hearing and one additional City Council hearing (for a total of three Planning Commission hearings and three City Council hearings). The total cost for preparation for and attendance at each hearing is $1,300. Thus a budget augment of $2,600 would be required for the two additional hearings. This augment for preparation of the Response to Comments Document ($45,925) along with the augment required for attendance at two additional public hearings ($2,600) would total $48,525.

All other terms and conditions of the contract dated July 15, 2010 remain unchanged. Please sign, date and return one copy of this letter. Your signature will serve as confirmation and acceptance of the stated amounts and terms. Please notify us if any part of this letter is inconsistent with your understanding of the revised amounts and terms.

Sincerely,

LSA ASSOCIATES, INC.

BY: [signature]

TITLE: PRINCIPAL

DATE: July 22, 2011

Approved by:
CITY OF CLAYTON

BY: ____________________

TITLE: ____________________

DATE: ____________________

Table 1. Comparison of Draft EIR Comment Volumes and Budgets for Recent Large Comment Projects (2000 - 2011)

Project	Lead Agency	Total # of Letters	Total # of Comments	Actual Year's Dollars: Labor Cost for Preparing Responses	Actual Year's Dollars: Average Cost per Comment	Current Dollars: Labor Cost for Preparing Responses	Current Dollars: Average Cost per Comment
Strong Neighborhoods Initiative (2000)	San Jose Redevelopment	5	47	$22,000	$468	$29,000	$620
Alameda Point GPA (2001)	City of Alameda	20	75	$18,000	$240	$23,000	$310
Uptown Mixed Use Development (2002)	City of Oakland	19	85	$53,000	$623	$66,500	$780
Thomas Berkeley Square (2002)	County of Alameda	6	42	$11,500	$273	$14,500	$350
Brandenburg Mixed Use (2002)	San Jose Redevelopment	13	163	$45,000	$276	$56,500	$350
Livermore General Plan and Specific Plan (2002)	City of Livermore	27	275	$35,000	$127	$44,000	$160
Catellus Mixed Use Project (2003)	City of Alameda	33	279	$59,000	$211	$74,000	$270
Martinez Downtown Specific Plan (2003)	City of Martinez	59	650	$67,270	$103	$84,500	$130
North Main St Projects (2004)	City of Milpitas	6	25	$10,721	$428	$13,000	$520
Bentley School (2009)	City of Oakland	147	453	$51,212	$113	$54,000	$120
Albany Village (2010)	City of Albany	37	355	$89,860	$253	$93,000	$260
Jensen Lane Elementary School (2011)	Windsor USD	75	870	$187,250	$215	$187,250	$215
Average		41	302	$59,074	$283	$67,205	$339

Table 2. Preliminary Cost Estimate for Clayton Community Church – Based on Average Per-Comment Data

Project		Total # of Letters	Total # of Comments	Preliminary Labor Cost Estimate	Average Cost per Comment
Clayton Community Church (2011)	City of Clayton	304	315	$106,826	$339

Table 3. Preliminary Cost Estimate for Clayton Community Church – Based on Lower-than-Average Per-Comment Cost

Project		Total # of Letters	Total # of Comments	Preliminary Labor Cost Estimate	Cost per Comment
Clayton Community Church (2011)	City of Clayton	304	315	$67,725	$215

III. COMMENTS AND RESPONSES

Written responses to each comment letter received on the Draft EIR are provided in this chapter. Letters received during and after the public review period on the Draft EIR are provided in their entirety. Each letter is immediately followed by responses keyed to the specific comments. The letters are grouped by the affiliation of the commenter as follows: State, regional, and local agencies (A); organizations (B); individuals (C); and public hearing comments (D).

Please note that text within individual letters that has not been numbered does not raise environmental issues or relate to the adequacy of the information or analysis within the Draft EIR, and therefore no response is required, per *CEQA Guidelines* Section 15132.

Many of the comments received on the Draft EIR involve variations of several key issues. In order to consolidate responses to questions and comments related to these topics, and to address concerns comprehensively, several master responses have been prepared. Master responses are included below and referenced in certain responses, as appropriate.

Supplemental letters from the City of Oakland Police Department, Fire Department, and Transportation Services Division that confirm the analysis and conclusions in the EIR were provided to City staff and are included as Appendix C to this RTC Document.

MASTER RESPONSES

Master Response #1: Parking. As discussed on page 73 of the Draft EIR, a parking shortage is not considered a physical environmental impact unless it would cause significant secondary physical effects, such as the substantial degradation of air quality (that might result from drivers circulating a neighborhood in search of an available parking space). In the case of the proposed Project, no parking shortage was identified. Although the parking spaces along Hiller Drive in the immediate vicinity of Bentley School are fully utilized or almost fully utilized during the AM peak and after-school peak hours, during these peak periods there is an abundance of vacant spaces on Hiller Drive north of Hill Court, just a short walk away from Bentley School (refer to page 74 of the Draft EIR). Therefore, even during periods of peak parking demand, drivers unable to park on Hiller Drive immediately adjacent to the School would easily be able to park north of Hill Court, and would not be expected to continually circulate through the site vicinity in order to find a parking space, or engage in any other behavior that would result in significant secondary environmental impacts.

During non-peak hours, there is a surplus of parking spaces along all segments of Hiller Drive in the vicinity of Bentley School. Therefore, there is no evidence of a parking shortage associated with the Project. This conclusion would remain even if the City of Berkeley rejects the School's application to legalize the lower parking lot (containing 20 spaces) – which would result in increased demand for on-street spaces.

Master Response #2: Mitigation Measures. *CEQA Guidelines* Section 15126.4 states that mitigation measures are not required for effects which are not found to be significant. Because the analysis in the Draft EIR identifies no significant environmental impacts, no mitigation measures are identified for the Project. However, the Draft EIR identifies a series of recommended measures that are intended to reduce the already less-than-significant impacts of the Project. These measures may be considered by decision-makers and required as conditions of Project approval. However, these recommended measures are exempt from the requirements imposed by CEQA on mitigation measures identified to reduce significant environmental effects. These requirements include: the identification of performance standards; enforcement through permit conditions or other legally-binding agreements; and long-term monitoring. Nevertheless, the recommended measures included in the Draft EIR are designed with performance standards and are intended to be enforceable and monitorable, should the City choose to impose them.

Since publication of the Draft EIR, the City has converted the recommended measures in the Draft EIR into Conditions of Approval. A complete copy of the Conditions of Approval adapted from the recommended measures in the Draft EIR is included as Appendix B to this RTC Document. The recommended measures were converted into Conditions of Approval to achieve the following objectives: 1) enable the recommended measures to be adopted by City decision makers using the typical Condition of Approval format; 2) enable the public to easily identify the recommended measures in the staff report and ensure that the measures will be required as part of Project implementation; 3) consolidate certain recommended measures that share a similar implementation/monitoring mechanism (for instance, Recommended Measures TRANS-1, TRANS-3, TRANS-5, TRANS-9, TRANS-11, and TRANS-12 were consolidated into Condition of Approval #14, which requires the preparation and implementation of a Parking and Transportation Demand Management (TDM) Plan); 4) modify the recommended measures based on written and verbal comments received on the Draft EIR; and 5) strengthen the recommended measures to make certain conditions mandatory, and to ensure that adequate implementation and monitoring occur. None of the recommended measures identified in the Draft EIR have been excluded from the Conditions of Approval; in all instances, the measures as reflected in the Conditions of Approval are at least as, protective as or more protective of, the neighborhood around Bentley School than, the recommended measures included in the Draft EIR. In addition, two new measures were added to the Conditions of Approval: 1) Condition #16 (which requires certain elements to be added to the School's Traffic and Parking Handbook and mandates City review and regular updates of the Handbook) and 2) Condition #20 (which requires the School to hire a traffic engineer to evaluate the feasibility of restriping Hiller Drive to accommodate dual approach lanes). The overarching goal of the Conditions of Approval is to allow Bentley School to operate with an increased enrollment in a way that protects the quality of life of neighbors in the vicinity of the School.

As noted above, the recommended measures in the Draft EIR (formulated into Conditions of Approval) are not considered mitigation measures pursuant to the *CEQA Guidelines* because they are not required to mitigate significant impacts of the project (the Project would not result in significant impacts). Therefore, the recommended measures are not required to meet the requirements for mitigation measures in CEQA and the *CEQA Guidelines* (see *CEQA Guidelines* Section 15126.4). Changes to the recommended measures in the Draft EIR, even if the measures are not ultimately adopted by Bentley School, would not require recirculation of the Draft EIR pursuant to *CEQA Guidelines* Section 15088.5.

Table 1 lists the previously recommended measures in the Draft EIR, and the corresponding replacement Conditions of Approval included in Appendix B.

Table 1: Summary of Previously Recommended Measures in the Draft EIR and Corresponding Replacement Conditions of Approval

Previously Recommended Measure	Replacement Condition of Approval	Summary of Changes
<u>Standard Condition of Approval 63: Vegetation Management Plan</u> ***Prior to issuance of a demolition, grading, and/or construction and Ongoing*** a) The project applicant shall submit a vegetation management plan to the Planning and Zoning Division and Fire Services Division that includes if deemed appropriate, but not limited to the, following measures: i. Removal of dead vegetation overhanging roof and chimney areas; ii. Removal of leaves and needles from roofs; iii. Planting and placement of fire-resistant plants around the house and phasing out flammable vegetation; iv. Trimming back vegetation around windows; v. Removal of flammable vegetation on hillside slopes greater than 20%; vi. Pruning the lower branches of tall trees; vii. Clearing out ground-level brush and debris; viii. Stacking woodpiles away from structures. b) The project applicant shall enter into a maintenance agreement with the City that ensures that landscaping will be maintained and adhere to measures listed above.	Condition 13 (Vegetation Management Plan)	City staff changed the timeframs for implementation of this Condition of Approval.
<u>TRANS-1</u>: Since AC Transit requires a minimum level of ridership to sustain its service to Bentley School, the School should work with AC Transit (and continue to support transit ridership) to ensure that existing bus service is continued. If AC Transit service is discontinued, then the school should provide private shuttle service to replace the AC Transit service.	Condition 14 (Parking and Transportation Demand Management)	City staff incorporated this measure into a Condition of Approval requiring a Parking and Transportation Demand Management Plan and added more detail to the condition to tailor it to this specific project by specifying bus lines, the specific number of students that need to ride the bus (on average), what the School should do if AC Transit discontinues service to the School, and the monitoring parameters. These changes were made in response to the following comments: B2-7, B3-25, B3-26, B4-8, B4-12, B4-15, B4-23, B4-37, B4-68, B4-77, B4-79, B4-80, B4-90, and B5-16, among others.

Table 1 *Continued*

Previously Recommended Measure	Replacement Condition of Approval	Summary of Changes
TRANS-2: School staff has indicated that the typical garbage pick-up time is arranged to occur outside of the busiest student drop-off hour. However, the school should work with the appropriate waste management agency to ensure that garbage pick-up at the school does not occur between 8:00 a.m. and 8:45 a.m.	Condition 15 (Garbage Pick-Up)	City staff added more detail to the original recommended measure to ensure that a "best faith effort" would be pursued by the School to implement the measure. Also, staff included provisions for submitting documentation to ensure the condition is met. These changes were made in response to the following comments: B4-16, B4-84, B6-photos, and the B9 video, among others.
TRANS-3: Currently, during the after school pick-up period, the school stations one traffic assistant at the Firestorm Memorial Garden, and two traffic assistants (including one flag person) at the parking area within the driveway loop. The school should station at least one more traffic assistant near the exit point of the driveway loop during the after-school pick-up period. Together, these three staff members (excluding the flag person) should ensure that all drivers remain in their vehicles, and that the queue moves efficiently. In the morning peak hour, the school typically assigns nine people (including one flag person) to assist in the drop-off activities along the Firestorm Memorial Garden and driveway loop. Field observations confirm that this level of staffing is adequate to ensure that the queue continues to move. This number of staff members should continue to be assigned to ensure continued efficient flow during the morning peak	Condition 14 (Parking and Transportation Demand Management)	City staff incorporated this measure into a Standard Condition of Approval requiring a Parking and Transportation Demand Management Plan, and added additional detail describing the roles of the traffic assistants, when the traffic assistants are needed and when back-up assistants must fill in. These changes were made in response to the following comments: B4-17, B4-63, B4-85, and B4-120, among others.
TRANS-4: The school should continue to educate parents/guardians and students, and to better enforce the no jaywalking policy. The school should ensure that parents/ guardians park only on the west side of Hiller Drive, or on Hiller Drive north of Hill Court, where there is a crosswalk for pedestrians to safely cross the street. Parents/guardians who do not comply with the proposed regulation should be penalized as set forth in the school's Traffic and Parking Handbook.	Condition 18 (Mandatory Meetings with Parents/Guardians)	City staff combined this and other recommended measures that pertain to enforcement of the School's traffic rules into one Condition of Approval. Staff changed the term "jaywalking" to "unsafe crossing" to reflect the Oakland Police Department's use of the term. "Jaywalking" is a technical term that only implies crossing between two signalized locations (in violation of the signal), which is illegal and subject to a traffic ticket. Parents and children crossing Hiller Drive are not jaywalking per this definition; however the movement is considered unsafe. The required education described in Condition 18 will be in the form of mandatory additional traffic training sessions for violators. These changes were made in response to the following comments: B2-8, B2-14, B3-25, B4-18, B4-24, B4-46, B4-87, B4-91, B4-120, and the B9 video, among others.

Table 1 *Continued*

Previously Recommended Measure	Replacement Condition of Approval	Summary of Changes
TRANS-5: The school should coordinate with City of Oakland staff to purchase, install and maintain delineators (which are attached to the pavement and thus less prone to be displaced by motor vehicles), instead of orange traffic cones. The delineators would be more stable than cones and would also enhance visibility.	Condition 14 (Parking and Transportation Demand Management)	City staff incorporated this measure into a Condition of Approval requiring a Parking and Transportation Demand Management Plan and changed this measure per the Oakland Police Department. The Oakland Police Department will coordinate the acceptable traffic warning devices, which could include cones, delineators, or power flares. Staff also added more detail about the set-up, operation, and maintenance of these devices and when they should be placed and removed. These changes were made in response to the following comments: B2-15, B3-14, B4-19, B4-36, B4-47, B4-48, B7 photos, and B9 video, among others.
TRANS-6: The school should continue to educate parents/guardians regarding potential hazards of U-turn movements on Hiller Drive. Parents/guardians who do not comply with the proposed regulation should be penalized as set forth in the school's Traffic and Parking Handbook. A feasible U-turn location is the cul-de-sac on N. Hill Court.	Condition 18 (Mandatory Meetings with Parents/Guardians)	City staff combined this and other recommended measures that pertain to enforcement of the School's traffic rules into one Condition of Approval. The required education described in Condition 18 will be in the form of mandatory additional traffic training sessions for violators. These changes were made in response to the following comments: B2-8, B2-16, B3-25, B4-20, B4-24, B4-87, B4-91, and the B9 video, among others.
TRANS-7: The school should continue to educate parents/guardians about the driveway exit left turn prohibition, and better enforce the prohibition. Parents/guardians who do not comply with the proposed regulation should be penalized as set forth in the school's Traffic and Parking Handbook.	Condition 18 (Mandatory Meetings with Parents/Guardians)	City staff combined this and other recommended measures that pertain to enforcement of the School's traffic rules into one Condition of Approval. The required education described in Condition 18 will be in the form of mandatory additional traffic training sessions for violators. These changes were made in response to the following comments: B2-8, B2-17, B3-25, B4-21, B4-24, B4-87, and B9 video, among others.
TRANS-8: The school should continue to educate parents/guardians, and reiterate that there is only one through traffic lane and that exit vehicles are required to yield to the southbound through traffic. Parents/guardians who do not comply with the proposed regulation should be penalized as set forth in the school's Traffic and Parking Handbook.	Condition 18 (Mandatory Meetings with Parents/Guardians)	City staff combined this and other recommended measures that pertain to enforcement of the School's traffic rules into one Condition of Approval. The required education will be in the form of mandatory additional traffic training sessions for violators. These changes were made in response to the following comments: B2-8, B2-18, B3-25, B4-22, B4-24, B4-65, B4-87, B6 photos, and B9 video, among others.
TRANS-9: The school should continue to provide free AC Transit bus passes to students, and continue to sponsor the operation of Michael's Transportation Service. In addition, in order to further reduce vehicle trips in and out of the school during the peak hours, the school should consider sponsoring additional shuttle services for students in areas under-served by transit.	Condition 14 (Parking and Transportation Demand Management)	City staff incorporated this measure into a Condition of Approval requiring a Parking and Transportation Demand Management Plan and added more detail to this measure by requiring the School to prepare a transit subsidy program, including bus passes, to discourage single occupancy vehicle travel. These changes were made in response to the following comments: B2-7, B3-25, B3-26, B4-8, B4-12, B4-37, B4-68, and B4-80, among others.

Table 1 *Continued*

Previously Recommended Measure	Replacement Condition of Approval	Summary of Changes
TRANS-10: School staff should establish mandatory meetings with parents/guardians to review transportation instructions and penalties for violators. These meetings should be conducted once per semester.	Condition 18 (Mandatory Meetings with Parents/Guardians)	City staff added more detail to this recommended measure, including provisions requiring a contract, emphasizing good neighbor practices, and penalties for violators, as well as City submittal requirements. These changes were made in response to the following comments: B2-6, B3-25, and B4-24, among others.
TRANS-11: The school should establish staggered drop-off times in the morning, with durations of staggering similar to the afternoon pick-up schedule. The afternoon staggered pick-up times should be coordinated with Kaiser Elementary School so that no pick ups are scheduled between 2:55 p.m. and 3:20 p.m., to avoid contributing to peak Kaiser Elementary School traffic. Consultation shall also occur with AC Transit.	Condition 14 (Parking and Transportation Demand Management)	City staff incorporated this measure into a Condition of Approval requiring a Parking and Transportation Demand Management Plan and added more detail to this measure by requiring a certain number of drop-off times, maintenance of drop-off times, flexibility to coordinate with Kaiser School and State regulations, and City submittal documentation. These changes were made in response to the following comments: B2-11, B3-16, and B3-26, among others.
TRANS-12: The school should hire, in consultation with the City of Oakland, two independent and qualified rule enforcers to ensure that the school maintains an adequate number of staff/volunteers to assist with pick-up and drop-off activities, and to ensure that guardians and the school comply with the traffic and parking rules outlined in the Traffic and Parking Handbook, Emergency Management Plan, and Recommended Measures outlined in the Bentley School Major Conditional Use Permit Final EIR. The independent rule enforcers should submit a written monitoring report to the Community and Economic Development Agency Planning Division and Public Works Agency Traffic Engineering Division once a month outlining: 1) vehicle queue lengths in the morning and afternoon (numbers should be reported every 10 minutes); 2) identification of excessive queues (northbound queues on Hiller Drive extending to the signalized intersection of Hiller Drive and Tunnel Road and/or blockage of southbound traffic on Hiller Drive north of the school driveway); 3) changes in traffic management that have been implemented to reduce or eliminate excessive queues/potential for blockage of emergency vehicles; 4) incidents of illegal behavior, and follow-up actions regarding individuals with numerous violations, per the Traffic and Parking Handbook; and 5) penalties imposed on drivers that violate rules. Initially, reports should be submitted once a month during the entire current school year following planning approval and the applicant should petition the Director of Planning to reduce the frequency of monitoring and reporting if compliance is achieved.	Condition 14 (Parking and Transportation Demand Management)	City staff incorporated this measure into a Condition of Approval requiring a Parking and Transportation Demand Management Plan and added more detail to this measure by explaining the roles of the traffic enforcers, and monitoring and submittal requirements. These changes were made in response to the following comments: B2-6, B2-8, B3-25, B4-24, B4-27, B-35, B4-46, B4-91, B4-92, B6 photos, and B9 video, among others.

Table 1 *Continued*

Previously Recommended Measure	Replacement Condition of Approval	Summary of Changes
TRANS-13: The Oakland Fire Marshall's Office should make regular, unannounced visits to the school (the frequency, timing, and types of visits should be at the Fire Marshall's discretion based on need for visits and compliance by the school) to verify that adequate emergency vehicle access is being maintained during peak pick-up and drop-off periods. The Fire Marshall should consult with the independent rule enforcer(s) to identify modifications to the circulation rules, if emergency access problems are identified. The school should fund these Fire Marshall services.	Condition 17 (Emergency Management Plan)	City staff combined this and other recommended measures that pertain to emergency evacuation and access management into one Condition of Approval. Staff made slight changes in the text for clarification. Staff also added to this measure requirements for Fire Services occupancy reviews, an emergency plan for Hiller Highlands, and an Emergency Evacuation Plan during both regular School sessions and special events. These changes were made in response to the following comments: B3-16, B3-24, B4-13, B4-93, B4-102, B4-103, B4-105, B4-106, B4-107, B4-109, and B4-110, among others.
TRANS-14: The school should designate a Board of Trustees member to be responsible for overseeing the school's commitment to reducing traffic congestion and preserving emergency access. The appointed member should receive regular updates from the rule enforcer(s) regarding the effectiveness of implemented traffic measures, work with the rule enforcer(s) and school staff to correct problems, provide regular updates on traffic/ emergency access issues to the Board, ensure the Traffic and Parking Handbook is up-to-date and effective, and ensure that adequate funding is allocated to maintain and enhance all transportation programs.	Condition 19 (School Board Institutionalize Traffic Safety)	City staff added more detail to this recommended measure by explaining the role of Board members and City submittal requirements. These changes were made in response to the following comments: B2-6, B2-8, B4-24, B4-27, B-35, B-94, and B-97, among others.
HAZ-1: The school should consider the following measures: • In evacuation situations where students are required to walk along Tunnel Road towards the City of Berkeley, it is important to maintain a clear and safe route for pedestrian access. It has been reported that there is debris on the side of Tunnel Road (SR 13) adjacent to the school that could restrict pedestrian access. The school should coordinate with Caltrans to provide regular maintenance to ensure that a safe route is provided for pedestrians. • Language should be incorporated into the Emergency Management Plan advising guardians not to enter the school campus during a neighborhood evacuation so that traffic conflicts with drivers attempting to leave the area are avoided.	Condition 17 (Emergency Management Plan)	City staff combined this and other recommended measures that pertain to emergency evacuation and access management into one Condition of Approval. Staff added more detail to this measure including requirements to add evacuation protocols to the Traffic and Parking Handbook, implement additional education on evacuation, and hold fire drills with the Fire Services Division and the Oakland Police Department. Staff also added to this measure requirements for Fire Services occupancy reviews, an emergency plan for Hiller Highlands, and an Emergency Evacuation Plan during both regular School sessions and special events. These changes were made in response to the following comments: B3-16, B3-24, B4-13, B4-93, B4-102, B4-103, B4-105, B4-106, B4-107, B4-109, and B4-110, among others.

Table 1 *Continued*

Previously Recommended Measure	Replacement Condition of Approval	Summary of Changes
HAZ-1 *Continued* • Language should be incorporated into the Emergency Management Plan notifying guardians that, in the event that an emergency requires a fire truck/ambulance to enter Hiller Drive, motorists accessing the school should comply with the California Vehicle Code and pull over to the right to yield a clear path for emergency vehicles.		
No corresponding measure	Condition 16 (Traffic and Parking Handbook)	City staff added this Condition of Approval in order to distinguish the Parking and Transportation Demand Management Plan from the Traffic and Parking Handbook. The Parking and Transportation Demand Management Plan focuses on the School's rules, requirements, and enforcement procedures. The Traffic and Parking Handbook is intended for parents/guardians and guests of the School. The Handbook outlines the responsibilities of parents/guardians, traffic procedures and policies, and the enforcement of those policies. This Condition of Approval outlines how the Traffic and Parking Handbook will be updated in relation to the Parking and Transportation Demand Management Plan. These changes were made in response to the following comments: B2-8, B3-25, B3-26, B4-18, B4-20, B4-21, B4-22, B4-24, B4-45, B4-46, and B4-91 among others.
No corresponding measure	Condition 20 (Restriping Southbound Hiller Drive to Accommodate Dual Approach Lanes for State Route 13)	City staff added this Condition of Approval based on a comment letter from Caltrans.

Source: City of Oakland, 2009.

Master Response #3: CEQA and Project Definition. This comment addresses two key claims raised in several comments: 1) that the Draft EIR erred in assuming that the project does not fall within CEQA and 2) that the analysis in the Draft EIR focuses on the net environmental change between existing conditions at Bentley School and the proposed Project (i.e., a net increase in enrollment of approximately eight students). In regard to the first claim, the City considers the Project a code enforcement issue and thus not subject to CEQA's requirement for environmental review. The City's understanding of CEQA is correctly expressed in Footnote #1 (on page 1 of the Draft EIR) and elsewhere in the Draft EIR. Footnote #1 reads:

For purposes of evaluating environmental impacts under CEQA, the lead agency compares the existing, physical baseline conditions (usually at the time of the zoning application) against the future conditions with the project. CEQA authorizes/permits the lead agency to follow this same type of analysis where, as here, there has been an unauthorized expansion of activity. The expansion is considered to be a code enforcement matter rather than a CEQA issue. Here, the existing conditions are the operations of a school for 352 students, when only 200 students are authorized under the 1969 Conditional Use Permit. The applicant is seeking to legalize its existing operations and allow for a maximum enrollment of up to 360 students, but is not proposing a significant physical increase/expansion of the existing activity/facility as it now operates. Thus, the existing conditions are virtually the same as the future conditions with the Project and therefore, there is no change in the physical conditions and thus no environmental impacts under CEQA. Nevertheless, in the interest of being conservative and responsive to community concerns, this EIR is being prepared, although it is not legally required.

The analysis undertaken in the EIR, as stated in numerous places throughout the Draft EIR and Response to Comments Document, is unusual in that the City is "looking back" to assess the impacts resulting from an increase (to 360 students) from a "hypothetically created" baseline of 200 students, which does not currently exist. This had led to some confusion amongst the commenters on the Draft EIR about what was actually studied in the Draft EIR, and associated impacts. The analysis in the Draft EIR represents the best faith efforts of the City to fully and completely assess the impacts resulting from an increase of 160 students.

Regardless of the conclusion that an EIR is not required for the Project, the City has prepared an EIR for the Project that is fully compliant with CEQA's procedural and substantive requirements. The claim that the Draft EIR is flawed as a result of the City's decision that the Project is not subject to CEQA is thus moot because, regardless of this decision, a Draft EIR was prepared for the Project that fully meets CEQA requirements.

In regard to the second claim, the analysis in the Draft EIR is not focused on the net change between existing conditions (352 students) and the proposed Project (360 students, i.e., a net increase in enrollment of eight students), but rather on the environmental effects of a total enrollment of 360 students, which represents a 160 student increase. This approach is explained in more detail below.

The proposed Project is effectively implemented under existing conditions; thus an analysis of existing conditions – for most environmental topics – captures the environmental effects of the Project. For certain topics, the analysis also includes an evaluation of the net environmental change between <u>Baseline conditions</u> (the enrollment and operational characteristics – including an enrollment of 200 students – that would exist if Bentley School complied with the conditions of its approved 1969 Major CUP) and <u>Project conditions</u> (the enrollment and operational characteristics – including an enrollment of 360 students – that would be permitted as part of the proposed Major CUP). (Baseline, Existing, and Project conditions are defined on pages 2 to 3 of the Draft EIR.) For some topics (e.g., Public Services), the net environmental change between Baseline and Project conditions cannot not be adequately ascertained, and the focus of the analysis is on impacts associated with existing conditions.

In other words, the analysis first focuses on the environmental impacts of existing conditions (e.g. whether an enrollment of 352 students at Bentley School already results in unacceptable levels of roadway congestion or noise). Adjustments were made to take into account the eight additional students that would be added to existing conditions under the Project scenario (and operational characteristics at the School that differ slightly from existing conditions), as appropriate. If an impact had been identified as a result of existing conditions, an analysis would have been conducted of the extent of this impact. Where required by the City's criteria of significance, the Draft EIR analyzes the net change between Baseline conditions (enrollment of 200 students) and Project conditions (enrollment of 360 students) to evaluate the effects of the Project in regard to the City's criteria of significance that measure change between "no-project" and "with-project" scenarios (e.g., Would the Project cause the total delay at an intersection operating at Level of Service F to increase by 2 or more seconds?). This approach ensures that all potential physical environmental impacts of the Project are captured in the analysis.

Master Response #4. Effectiveness of the Transportation Program. Several comments were submitted suggesting that the Draft EIR does not examine how the existing Transportation Program works. The purpose of the Draft EIR is not to evaluate the effectiveness of the Transportation Program, but to determine whether or not the Project (including the Transportation Program) results in physical environmental impacts. Therefore, the Draft EIR does not contain a detailed evaluation of the program, but analyzes the program along with other components of the Project (e.g., increased enrollment, changes in operational hours). As discussed in the Transportation and Circulation section of the Draft EIR, the proposed Project (including the Transportation Program) does not result in significant levels of congestion or roadway safety hazards, or exceed any of the transportation-related criteria of significance established by the City. However, the Draft EIR arrives at the conclusion that the Transportation Program could be improved to further address neighborhood concerns, and makes several recommendations for improving the circulation system on and around the campus (please also refer to Master Response #6). Please refer specifically to Recommended Measures TRANS-1 through TRANS-14 on pages 72 through 81 of the Draft EIR (these Recommended Measures have been converted into Conditions of Approval #14-#19 in Appendix B; see also Master Response #2).

Master Response #5. Physical Expansion. The entire Bentley School campus (including parcels in the City of Berkeley) is considered the "Project site" for purposes of the Draft EIR because all the parcels together are considered the "School" and also because the parcels accommodate School activities, such as parking in the lower parking lot, that Bentley School is seeking to legalize. The School may at a future date decide to consolidate existing parcels on its property and construct new school facilities. Such activities would be subject to separate planning review by the City and independent environmental review under CEQA, as appropriate. However, as noted on page 23 of the Draft EIR, the current Project "would not result in the construction of additional square footage or physical alterations to the campus, and thus, there would be no physical alteration to the environment." No physical changes to the campus are required to accommodate the increased enrollment desired by the School. Physical changes that have occurred on the campus prior to proposal of the Project were processed under independent applications, are not directly relevant to the Project, and are summarized on pages 21 and 22 of the Draft EIR. Additional discussion of past construction/building activities within the Project site is not necessary to understand the Project which is the subject of the Draft EIR. Bentley School is not proposing to acquire additional properties, change on-site land uses, or otherwise expand the physical coverage of the Hiller Campus as part of the Project; therefore a Master Plan is not warranted.

Master Response #6. Effectiveness of Recommended Transportation Measures. Several comments were submitted that suggest that specific components of the Transportation and Parking Handbook or specific measures recommended in the Transportation and Circulation section of the Draft EIR (such as mandatory meetings with parents/guardians) are not sufficient by themselves to ensure drivers comply with Bentley School's transportation and circulation rules. The Draft EIR preparers agree with this claim. The guidance in the Transportation and Parking Handbook and the recommended measures in the Draft EIR (which have since been converted into Conditions of

Approval; see Master Response #2) are intended to operate in conjunction with each other to achieve compliance with the School's transportation and circulation rules. The recommended measures (now Conditions of Approval) in Section IV.B, Transportation and Circulation, reflect several different strategies to enhance compliance with the School's transportation rules, ranging from improved education of drivers to more diligent enforcement and monitoring of rules. Recommended Measures TRANS-12, TRANS-13, and TRANS-14 on page 81 of the Draft EIR (now Conditions of Approval #14, #17, and #19; see Master Response #2), in particular, were designed to address the concern raised in several comments: that additional monitoring and enforcement of the School's transportation and circulation rules is needed. These recommended measures (now Conditions of Approval) would require the School to hire three independent rule enforcers to ensure that penalties are imposed on drivers that violate traffic rules, and require the School to appoint School Board members to oversee the School's traffic congestion and emergency access measures (including the correction of problems associated with rule enforcement). Reports documenting compliance would be submitted to the City once a month during the entire school year following planning approval (and on a negotiated schedule following the one-year period, if the School petitions the Director of Planning; a decision by the Director of Planning would be subject to the City Planning Code and Administrative Appeal procedures). In addition, the recommended measures (now Conditions of Approval) would require the Oakland Fire Marshall to make unannounced visits to the School to verify that drivers are adhering to rules regarding emergency access, and to ensure that adequate emergency access is being maintained. Recommended Measures TRANS-12 through TRANS-14 (now Conditions of Approval #14, #17, and #19) are expected to result in reduced rule-breaking and an improvement in parent/guardian behavior.

Master Response #7. Project Trip Generation. Several comments were submitted that question the accuracy of some of the statements about traffic generation and parking demand in the Draft EIR, including the number of transit riders, School employees and volunteers, and extracurricular sports teams. These comments suggest that if the underlying assumptions regarding trip generation are inaccurate, the trip generation analysis conducted for the Project may also be inaccurate. However, the analysis of traffic and parking demand generated by the Project is based on empirical data collected by Dowling Associates under conditions that closely approximate the Project. Empirical data collected by Dowling Associates, who are qualified traffic personnel, include existing parking demand and supply on Hiller Drive, and weekday traffic counts for the morning peak hours (7:00-9:00 a.m.), after-school peak hour (3:00-4:00 p.m.) and afternoon peak hours (4:00-6:00 p.m.). These data, which were collected on two occasions when School activity was anticipated to be at normal levels (October 24, 2007 and January 8, 2008) were adjusted slightly to reflect the addition of eight additional students to the "Existing Conditions" (352 students) scenario. These existing data were used as the inputs to the traffic/level of service analysis. Therefore, existing traffic levels reported in the Draft EIR – which closely approximate "Project" (360 students) conditions – are based on <u>observed</u> trips leaving and entering Bentley School, and are not derived from assumptions made about transit ridership, School employees and volunteers, extracurricular sports teams, or any of the other operational characteristics of the School. The trip generation analysis is thus based on "real world" observations of existing operations at the School, which reflect the fact that traffic conditions are not static and change over time. The data collected on the two dates referenced above fall within an accepted range of variation based on observations of traffic conditions at and around the Project site.

Master Response #8: Americans With Disabilities Act. A number of comments on the Draft EIR express concern with Bentley School's compliance with the Americans with Disabilities Act (ADA) or State building codes. The ADA is a civil rights law that prohibits, under certain circumstances, discrimination based on disability. Title III of the ADA pertains to the accessibility of physical places to disabled individuals and requires the removal of architectural barriers in areas used for public accommodation, such as shopping centers and public spaces. Although violation of the ADA is considered a violation of a federal law, it is arguably not considered a significant physical environmental impact as defined by CEQA. CEQA Section 21068 defines "significant effect on the environment" as "a substantially, or potentially substantial, adverse change in the environment." CEQA Section 21060.5 defines "environment" as "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, [and] objects of historic or aesthetic significance." In any event, since the Project does not include any development or physical changes to the Project site, there are no CEQA issues associated with ADA compliance (or lack thereof).

Similar concerns about ADA compliance at Bentley School have been raised with City staff in other forums and City staff has responded, as appropriate. The preparers of the Draft EIR understand that certain commenters have not been completely satisfied with the City response to questions about ADA access at Bentley School. Again, the EIR is not the appropriate venue to address these concerns.

Master Response #9: Lake Temescal Pick-Up/Drop-Off Alternative. This Master Response discusses a Project alternative that is not considered in detail in the Draft EIR: a scenario involving the same student enrollment proposed as part of the Project (360 students) under which all Bentley School pick-up and drop-off operations involving private vehicles would occur at the Lake Temescal Park (officially known as the Temescal Regional Recreation Area) parking lot. In the morning, students would be shuttled from the parking lot to Bentley School, a distance of approximately 1.3 miles via Broadway, the State Route (SR) 24 freeway overpass, Caldecott Lane, Spy Glass Hill, and Hiller Drive. The reverse commute would occur during the afternoon, at which time students would be picked up at the Lake Temescal parking lot by guardians and driven to their ultimate destinations. Figure 1, which is an aerial photo of the Lake Temescal parking lot, shows the area that could be used for pick-up and drop-off operations.

This alternative is not subject to detailed quantitative analysis in the Draft EIR because the Lake Temescal parking lot is not under the control of the School (it is operated by the East Bay Regional Park District (EBRPD) and permission from EBRPD would be required to implement the alternative), and the alternative would not substantially reduce the already less-than-significant effects of the Project. The focus of this discussion is on the transportation-related effects of the alternative; effects in other environmental topical areas would be similar to those of the other alternatives explored in detail in the Draft EIR.

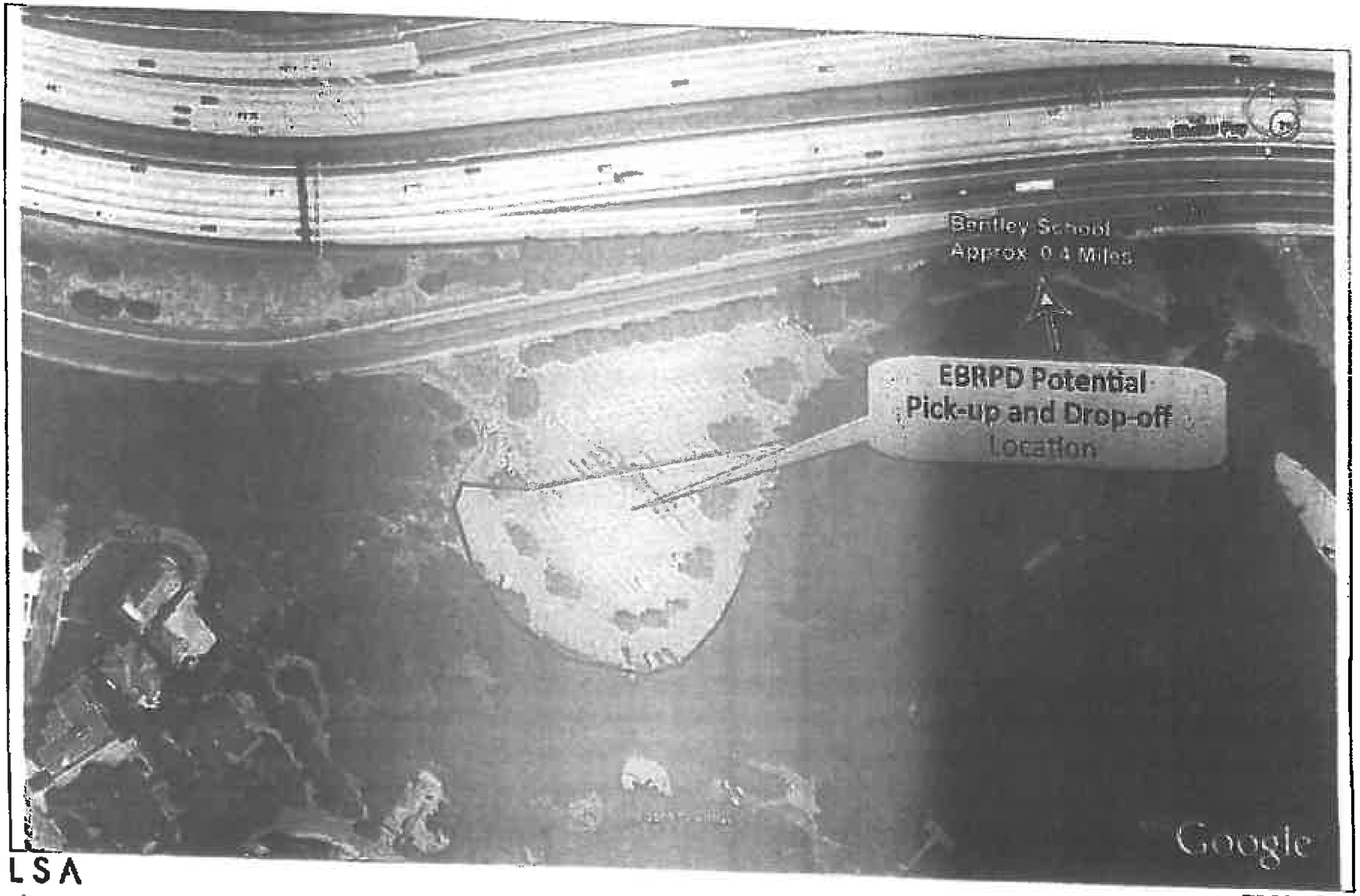
The Lake Temescal parking lot is located on Broadway in the vicinity of the SR 24 and SR 13 interchange in the City of Oakland. This alternative is based on the assumption that all private vehicles would conduct student loading and unloading activities at this off-site location during peak hours, while public transit vehicles would continue to load and unload students at the School parking lot. Drop-off and pick-up activities by private vehicles would be prohibited at the Bentley School campus during peak hours (7:30 to 8:30 a.m. and 2:30 to 4:00 p.m.). The long-term use of the Lake Temescal parking lot for student drop-off and pick-up would require Bentley School to secure permission for daily use from the East Bay Regional Park District and to implement measures to ensure adequate safety and security of students being transported to the School. It is likely that several staff members and/or volunteers would need to be stationed at the Lake Temescal parking lot to supervise waiting students and convey them onto shuttles (in the morning) or into private vehicles (in the afternoon). As under Project conditions, several staff members/volunteers would also need to be stationed at Bentley School during the morning and afternoon peak hours to supervise students disembarking or embarking on public transit vehicles or school shuttle buses, in addition to School staff and guests using the existing parking lots. Compared to the Project, this alternative would require Bentley School to train and supervise several additional designated staff and volunteers to manage additional traffic operations at Lake Temescal (including directing students to designated pedestrian pathways to protect them from vehicle traffic in the parking lot). In addition, the School would be required to lease and manage designated shuttle vans to transport students between Bentley School and Lake Temescal.

The operational logistics and assignment of staff at the proposed pick-up and drop-off area would need to be carefully planned and organized for the use of this site to be feasible. The use of the southern-most portion of the parking lot for the pick-up and drop-off area would provide for the greatest separation between students and the freeway frontage road. Even if that area were designated for School activities, security measures would need to be implemented to ensure the safety of the students. It is not certain that adequate safety and security measures could be established at the Lake Temescal parking lot because, in addition to the issues discussed above, it is located at a distance from the School. Permission from EBRPD would also be required in order to restrict parking in areas used by the School. Management of pick-up and drop-off activities adjacent to the School is complex under existing conditions due to the need to convey large numbers of students between the campus and transport areas in a relatively short time frame, and to manage associated vehicle traffic; the logistics of these operations would likely increase in complexity if pick-up and drop-off activities are located at a distance from the campus.

In terms of traffic circulation, this alternative would eliminate a majority of School-related private vehicle trips on Hiller Drive, and would reroute these trips to Lake Temescal. Rerouted traffic and the addition of shuttle vans could result in greater vehicle delays along northbound Broadway at the SR 24 overpass, and westbound on the SR 24 overpass at Caldecott Lane, where traffic movements are controlled by stop signs (under existing conditions, only approximately 28 percent of School-related trips approach the School from this general direction in the morning or return to this general location in the afternoon; refer to Figures IV.B-5 and IV.B-6 in the Draft EIR). In addition, since a large number of left-turn vehicles would be added to Broadway in a southbound direction at the Lake Temescal parking lot entrance, southbound through movements could experience additional delays due to the left turn queue (and would require careful traffic management by staff or volunteers).

Although the Lake Temescal Pick-Up/Drop-Off alternative would achieve the key objectives of the Project, and would reduce local traffic on Hiller Drive, it would likely be inferior to the Project and the Public Transit alternative (the secondary environmentally superior alternative) for the following reasons. As noted above, no quantitative analysis was conducted for this alternative; the following conclusions are based on the traffic analysis conducted for the Project and a qualitative analysis of the alternative.

- The alternative could add additional vehicle trips to the roadway network compared to the Project and the other alternatives evaluated in detail in the Draft EIR. The additional shuttle trips between Lake Temescal and Bentley School would contribute to regional pollution levels and greenhouse gas emissions above and beyond the Project and other alternatives;



LSA

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FIGURE 1

Bentley School Major Conditional Use Permit EIR
Lake Temescal Pick-Up/Drop-Off Alternative

SOURCE: DOWLING ASSOCIATES, GOOGLE EARTH, 2009.
I:\BES0702 bentley school\figures\RTC\Fig_1.ai (10/5/09)

- The alternative could increase vehicle delays around SR 24 because all student-related traffic would be routed in this direction;
- The location of the Lake Temescal parking lot, adjacent to the freeway frontage road, poses potential safety hazards to waiting students (e.g., there is currently no separation of pedestrian and vehicle circulation);
- The Lake Temescal site is under the control of EBRPD and not Bentley School. EBRPD would need to restrict parking during park hours during both pick-up and drop-off times and with the help of Bentley School establish one zone for parent drop-off and pick-ups and another zone for shuttle transport; and
- The alternative would require additional management and monitoring that, while feasible, would add to the complexity of the School's existing traffic management protocols. Drop-off and pick-up activities would need to be managed remotely; additional volunteers/staff may be needed to manage pick-up and drop-off activities in two separate areas; and the need for monitoring to ensure the safety of these operations (and coordination between the campus and remote pick-up/drop-off area) would increase. Additional control of students would be required, to ensure they remain in the pick-up and drop-off area.

A. STATE, LOCAL AND REGIONAL AGENCIES

Letter A1

Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

Cynthia Bryant
Director

December 15, 2008

Heather Klein
City of Oakland
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Subject: Bentley School Major Conditional Use Permit (CUP) EIR
SCH#: 2007052013

Dear Heather Klein:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on December 11, 2008, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation." 1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

Letter
A1
cont.

Document Details Report
State Clearinghouse Data Base

SCH# 2007082013
Project Title Bentley School Major Conditional Use Permit (CUP) EIR
Lead Agency Oakland, City of

Type EIR Draft EIR

Description The proposed Project would legalize and permit the Bentley School's existing day-to-day operations, which are currently in violation of the Major Conditional Use Permit (CUP) granted by the Oakland City Council in 1996. The new Major CUP would reflect existing (or current) conditions by permitting a maximum enrollment of 360 students (approximately eight more students than enrolled during the 2007/2008 school year), expanded hours of operation for a variety of school activities, and a limited number of weekend, evening and summer events. The new Major CUP would also permit a maximum of 62 employees at the school, which also reflects existing conditions. In addition, the Project includes a comprehensive busing, carpooling, parking, traffic, and circulation plan, and emergency evacuation program, which have been implemented at Bentley School. The new CUP would not permit any construction or physical alteration to the campus and would not result in any physical impacts.

Lead Agency Contact

Name Heather Klein
Agency City of Oakland
Phone (510) 238-3659 *Fax* 510 238-6538
email hklein@oaklandnet.com
Address 250 Frank H. Ogawa Plaza, Suite 3315
City Oakland *State* CA *Zip* 94612

Project Location

County Alameda
City Oakland, Berkeley
Region
Lat / Long 37° 51' 7.7" N / 122° 14' 1.2" W
Cross Streets Hiller Drive and Tunnel Road
Parcel No. 048-7675-001-04, -02, -259, -245, -201; 064-4231-015, -016, -017
Township *Range* *Section* *Base*

Proximity to:

Highways SR 13, 24
Airports
Railways
Waterways Lake Temescal, San Leandro Creek, Diamond Canyon Creek
Schools
Land Use GP Oakland: Hillside Residential
Zoned: One Family Residential Zone (R-30)

GP Berkeley: Low Density Residential
Zoned: Single Family Residential Zone (R-1H)

Project Issues

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 3; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Services; California Highway Patrol; Caltrans, District 4; Air Resources Board, Transportation Projects; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission

Date Received 10/27/2008 *Start of Review* 10/27/2008 *End of Review* 12/11/2008

Letter A1
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit
Terry Roberts, Director
December 15, 2008

A1-1: This letter acknowledges that the City has complied with State Clearinghouse review requirements for draft CEQA documents, and indicates that the Draft EIR was distributed to State agencies for review. Letters on the Draft EIR from State agencies are included in Section A (State, Regional, and Local Agencies) of this RTC Document.

Letter
A2

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711

Flex your power!
Be energy efficient!

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STATE CLEARING HOUSE

December 11, 2008

ALA024032
ALA-24-3.92
SCH2008052013

Ms. Heather Klein
City of Oakland
Community and Economic Development Agency
Planning Division
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Dear Ms. Klein:

Bentley School Major Conditional Use Permit – Draft Environmental Impact Report

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Bentley School Major Conditional Use Permit project. The following comments are based on the Draft Environmental Impact Report (DEIR). As lead agency, the City of Oakland is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process. 1

Traffic Operations

On page 53, under the "*Planned Bicycle and Pedestrian Facility Improvement*" section, please be advised that a previous landslide has blocked the sidewalk located on the east side of Tunnel Road, just north of the Hiller intersection. The project should include a plan to clean up the debris from the landslide to provide adequate pedestrian sidewalk connectivity to the school. 2

On page 182, under the "Tunnel Road Drop-Off Alternative" section, it states, "there is currently no detailed design plan for a loading/unloading area along Tunnel Road. However, a shoulder exists adjacent to the northbound Tunnel Road lane that could conceivably be used for loading/unloading. The school would be required to ensure that adequate pedestrian linkages

Letter
A2
cont.

Ms. Heather Klein/City of Oakland
December 11, 2008
Page 2

(e.g., an obstacle-free sidewalk) exist between the loading/unloading zone and the rest of the school campus". The proposed curbside loading/unloading zone is located north of Tunnel Road where the traffic merges from two lanes to one lane. The Department does not support this alternative due to the current congested condition of State Route 13 (SR-13) and the potential for increased accidents at the SR-13/Hiller Drive intersection. 2 cont.

Signal Operations
Based on the Cumulative plus Project conditions, to operate effectively, the Hiller Drive/Tunnel Drive intersection will require 100-feet of lane storage for southbound Hiller Drive. The Department recommends restriping southbound Hiller Drive into two lanes; a through lane for southbound SR-13 and a lane for northbound SR-13. 3

Encroachment Permit
Any work or traffic control within the State ROW requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information: http://www.dot.ca.gov/hq/traffops/developserv/permits/ 4

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Mail Stop 5E.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,

Lisa Carboni

LISA CARBONI
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Letter A2
State of California Department of Transportation
Lisa Carboni, District Branch Chief, Local Development – Intergovernmental Review
December 11, 2008

A2-1: This comment states that the City of Oakland is responsible for all project mitigation, including any recommended improvements to State highways that would be the responsibility of the Project sponsor. As detailed in Chapter IV.B, Transportation and Circulation, of the Draft EIR, the Project would not result in any significant transportation impacts, and thus no mitigation would be required. If work within the Tunnel Road (SR 13) right-of-way would be required to implement Recommended Measure HAZ-1 (now Condition of Approval #17; see Master Response #2) on page 148 of the Draft EIR (which requires Bentley School to coordinate with the Department of Transportation (Caltrans) to maintain the Tunnel Road sidewalk), the Project sponsor would seek an encroachment permit.

A2-2: This comment notes that a landslide has blocked the sidewalk located on the east side of Tunnel Road (SR 13). Recommended Measure HAZ-1 (now Condition of Approval #17; see Master Response #2) on page 148 of the Draft EIR would require Bentley School to coordinate with Caltrans to provide regular maintenance to ensure the Tunnel Road sidewalk is fully accessible to pedestrians.

The comment also states that Caltrans does not support the Tunnel Road Drop-Off alternative (described and analyzed on pages 182-185 of the Draft EIR) "due to the current congested condition of State Route 13 (SR 13) and the potential for increased accidents at the SR-13/Hiller Drive intersection." This conclusion is the same as that reached in the analysis in the Draft EIR. As noted on page 184 of the Draft EIR, ". . . with limited space available for vehicle queuing on Tunnel Road (approximately four vehicles), queues associated with the loading/unloading area could extend beyond the available drop-off area and create substantial congestion on Tunnel Road. . . In addition, vehicles slowing to drop-off and merging to re-enter the north-bound Tunnel Road flow could increase the potential for traffic incidents." Therefore, the Tunnel Road Drop-Off alternative is not identified as environmentally superior to the proposed Project, and is not recommended for adoption in the Draft EIR.

A2-3: Based on the analysis of cumulative traffic conditions in the Draft EIR (refer to pages 66-69), with Project-related traffic, the intersection of Tunnel Road and Hiller Drive would operate at an acceptable Level of Service (LOS) C. The addition of Project-related traffic in the cumulative condition would increase delay at the intersection by 0.7 seconds during the AM peak hour and 0.2 seconds during the PM peak hour. No measurable increase in delay is expected to occur during the after-school peak hour. Hiller Drive is not under Caltrans jurisdiction. However, the City will consider Caltrans' suggestion to restripe southbound Hiller Drive into separate lanes for southbound SR 13 traffic and northbound SR 13 traffic. Because the Project would not exceed any of the intersection-related criteria established by the City in the year 2030, the Project would not result in significant cumulative impacts, and no mitigation is required.

The City crafted Condition of Approval #20, which requires the School to hire (in consultation with the City and Caltrans) a qualified, independent Traffic Engineering Consultant to assess the feasibility of restriping Hiller Drive to accommodate dual approach lanes at the intersection of Hiller Drive and Tunnel Road, to address this comment. Please refer to Master Response #2 for additional detail.

A2-4: Please refer to Response to Comment A2-1 regarding the potential need of the Project sponsor to obtain an encroachment permit from Caltrans, and the absence of mitigation measures in the Draft EIR.

Letter
A3

ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

December 11, 2008

Ms. Heather Klein
City of Oakland Planning Division
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
hklein@oaklandnet.com

SUBJECT: Comments on the Draft Environmental Impact Report (DEIR) for the Bentley School Major Conditional Use Permit Draft Environmental Impact Report, City of Oakland

Dear Ms. Klein:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Bentley School Major Conditional Use Permit Draft Environmental Impact Report in the City of Oakland. The 4.2 acre project site is located at 1 Hiller Drive in the North Oakland/Berkeley Hills, near the intersection of Hiller Drive and Tunnel Road/Highway 13. The project would legalize and permit the existing Bentley School's daily operations, which are in violation of the Major Conditional use Permit (CUP) granted by the Oakland City Council in 1969. The new Major CUP would reflect existing conditions by permitting a maximum enrollment of 360 student, expanded hours of operation for a variety of school activities and a limited number of weekend, evening and summer events. It would also permit a maximum of 62 employees at the school. 1

Based on our review of the DEIR, the project would result in generating less than 100 p.m. peak hour trips compared with the trips generated by the current facilities located on the project site. Since the Congestion Management Program (CMP) Land Use Analysis compliance is required only if a project generates 100 or more p.m. peak hour trips above the existing allowed conditions, this project is therefore exempt from the Land Use Analysis Program of the CMP.

Thank you for the opportunity to comment on this Draft EIR. Please contact me at 510/836-2560 if you require additional information.

Sincerely,

Diane Stark

Diane Stark
Senior Transportation Planner

cc: Elizabeth Walukas, Manager of Planning, ACCMA
file: CMP - Environmental Review Opinions - Responses – 2008

Letter A3
Alameda County Congestion Management Agency
Diane Stark, Senior Transportation Planner
December 11, 2008

A3-1: This comment, which states that the Project is "exempt from the Land Use Analysis Program of the CMP" (Congestion Management Program) because it would generate less than 100 PM peak period trips, is noted. The Project would generate approximately 65 new trips during the PM peak hour. No additional response is required.

Letter A4

EAST BAY
MUNICIPAL UTILITY DISTRICT

December 2, 2008

Heather Klein, Planner III
Community and Economic Development Agency
Planning and Zoning Services Division
City of Oakland
250 Frank Ogawa Plaza, Suite 3315
Oakland, CA 94612-2032

Re: Draft Environmental Impact Report – Bentley School Major Conditional Use Permit, Oakland

Dear Ms. Klein:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Bentley School Major Conditional Use Permit in the City of Oakland (City). EBMUD has the following comments.

WATER SERVICE

EBMUD's Summit Pressure Zone, with service elevations between 500 and 700 feet, currently serves the existing property. If additional water service is needed, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing additional water service to the proposed development. Engineering and installation of water services requires substantial lead-time, which should be provided for in the project sponsor's development schedule. 1

If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,

Jule R. R... for WRK

William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:NJR:sb
sb08_323.doc

cc: Bentley School

Letter A4
East Bay Municipal Utility District
William R. Kirkpatrick, Manager of Water Distribution Planning
December 2, 2008

A4-1: This comment, which discusses the protocol for requesting new water service from the East Bay Municipal Utility District (EBMUD), is noted. Bentley School would not require new water service as part of the Project as the School is not proposing a significant physical increase/expansion of the existing activity/facility as it now operates (refer to Master Response #3).

B. ORGANIZATIONS

Letter
B1

Comments to Draft Environmental Impact Report
for
The Bentley School
Major Conditional Use Permit

Volume I

1

Prepared by Neighbors for Safety in Hiller Highlands
December 2008

Letter
B1
cont.

Neighbors for Safety in Hiller Highlands
75 Hiller Drive, Oakland, CA 94618

RECEIVED
DEC 11 2008
City of Oakland
Planning & Zoning Division

December 11, 2008

Ms. Heather Klein
Planner III
City of Oakland
Community & Economic Development Agency
250 Frank Ogawa Plaza
Oakland, CA 94612

RE: Case File Number CM04-411;ER07-006

Dear Heather,

Attached are Neighbors for Safety in Hiller Highlands' (NSHH) comments to the Draft Environmental Impact Report on Bentley School's CUP application, along with attachments.

While the Draft EIR contains some practical recommendations we have as you can imagine additional recommendations that we submit for review. 1 cont.

Thank you for the opportunity to review the document and we look forward to continuing the dialogue on Bentley's CUP use permit application.

Sincerely,

Neighbors for Safety in Hiller Highlands

Attachments

Letter B1
Neighbors for Safety in Hiller Highlands
December 11, 2008

B1-1: This cover letter introduces a packet of comments submitted by Neighbors for Safety in Hiller Highlands. Letters submitted by Neighbors for Safety in Hiller Highlands are included in this RTC Document as Letters B2 through B10. Attachments to these letters that do not pertain directly to the adequacy of the Draft EIR (and thus do not require a detailed response) are included as Appendix A to this RTC Document. Appendix A is contained in a CD attached to the back cover of this document.

Attachment 3e

CITY OF CLAYTON

CONSULTING SERVICES AGREEMENT

CLAYTON COMMUNITY CHURCH ENVIRONMENTAL IMPACT REPORT (EIR)

1. Special Conditions:

   A) Consultant's Name & Address:

      LSA Associates, Inc.
      2215 Fifth Street
      Berkeley, CA 94710

      Attn: David Clore, AICP, Principal

   B) Effective Date: July 15, 2010

   C) Payment Limit: $133,500 (Includes Expense/Travel Limit of $2,120)

   D) Completion Date: Final Draft Environmental Impact Report (FEIR), including Responses to Comments, is to be completed within 25 Weeks of the issuance of the Notice to Proceed. Thereafter, Consultant's services will continue through the hearing process and project completion. Consultant's services shall be as described in Consultant's proposal titled, Clayton Community Church Development/Redevelopment Environmental Impact Report, dated June 2010 (As amended to include and support a replacement Table 3: Clayton Community Church EIR Cost Estimate, with Total Team Costs in the amount of $133,500).

2. Signatures: These signatures attest the parties' agreement hereto:

CITY OF CLAYTON	CONSULTANT
BY	BY
Gary A. Napper, City Manager	~~David Clore, AICP, Principal~~ Robert H. McCann, President LSA Associates, Inc.

3. Parties: Effective on the above date, the City of Clayton ("City") and Consultant mutually agree and promise as follows.

4. Employment: City hereby employs Consultant, as an independent agent, and Consultant accepts such employment, to perform the professional services described in Exhibit A included herein by reference, upon the terms and in consideration of the payments stated herein.

5. Scope of Service: Scope of services shall be as described in Exhibit A, attached hereto and made a part hereof by this reference. The scope of services for the Clayton Community Church environmental impact report (EIR) shall be as described in Exhibit A, except as modified herein.

6. Insurance: Consultant shall, at no cost to the City obtain and maintain during the term hereof: (a) Workers' Compensation Insurance pursuant to State Law, and (b) Commercial General Liability Insurance and Automobile Liability Insurance including coverage for owned and non-owned automobiles. Both liability policy's shall have combined single limit coverage of at least $2,000,000.00 for all damages due to bodily injury, sickness or disease, or death to any person and damage to property, including the loss of use thereof, arising out of each accident or occurrence. All policies shall be primary and non-contributory. Consultant shall furnish evidence of such coverage, naming the City of Clayton, its agents, officers and employees as additional insured and requiring 30 days written notice of policy lapse or cancellation. All policies shall be endorsed with a waiver of subrogation, and Consultant shall furnish to City copies of all policies and policy endorsements for each required insurance policy.

7. Payment: The City of Clayton shall pay the Consultant for professional services performed at the rates shown in Exhibit A (As amended to include a replacement Table 3: Clayton Community Church EIR Cost Estimate, with Total Team Costs in the amount of $133,500), which include all overhead and incidental expenses, for which no additional compensation shall be allowed. In no event shall the total amount paid to the Consultant exceed the payment limit specified in Sec. 1 C) without prior written approval of the City Manager. Consultant's statements of charges, invoices, shall be submitted at convenient intervals and related to tasks described in the Consultant's Project Cost schedule in Exhibit A that have actually been performed. Payments will be made within thirty (30) days after receipt of each statement. Consultant is informed that checks are authorized for payment by the City Council on the first and third Tuesday of every month. Accordingly, the Consultant is requested to submit invoices to be received by the City at least one week prior to the City Council meetings to help assure timely payments. The City of Clayton reserves the right to withhold 10% (retainage) of the monthly invoice amounts up to $12,500 of the contract amount until the Final Draft EIR, including Responses to Comments, has been submitted to initiate formal public hearings on this project.

8. Status: The Consultant is an independent contractor and shall not be considered an employee of the City of Clayton. The City of Clayton agrees not to, during the term of this Agreement, nor for a period of one year after termination, solicit for employment, hire or retain, whether as an employee or independent contractor, any person who is or has been employed by Consultant. Should the City desire to hire Consultant's employee, the City agrees to pay Consultant a mutually agreed to compensation for the employee.

9. Time of Completion. Unless the time is extended in writing by the City, the Consultant shall complete all services covered by this agreement no later then the completion date listed above. Interim completion dates, if any, will be established as shown in Exhibit A, attached hereto and made a part hereof by this reference.

10. Record Retention. Except for materials and records delivered to the City, the Consultant shall retain all material and records prepared or obtained in the performance of this Agreement, including financial records, for a period of at least three (3) years after Consultant's receipt of the final payment under this Agreement. Upon request by the City, the Consultant shall make such materials and records available to the City at no additional charge and without restriction or limitation on their use. The Consultant shall also make such materials and records available to authorized representatives of the State and Federal Governments at no additional charge.

11. Documentation: The Consultant shall prepare and deliver to the City at no additional charge the items described in Exhibit A to document the performance of this Agreement and shall furnish to the City such information as is necessary to enable the City to monitor the performance of this Agreement.

12. Ownership of Documents: All materials and records of a finished nature, such as final reports prepared or obtained in the performance of this Agreement shall be delivered to the City. All materials of a preliminary nature, such as working papers prepared or obtained in the performance of this Agreement, shall be made available, upon request, to the City. Consultant shall not be held liable for any reuse of the City-owned documents for purposes outside this agreement.

13. Extra Work: The Consultant shall be paid for the extra work at a rate mutually agreed on prior to commencement of the extra work. In no event shall the Consultant be entitled to compensation for extra work unless a written authorization or change order describing the work and payment terms has been executed by the City prior to the commencement of the extra work.

14. Termination By The City or The Consultant: The City or the Consultant shall have the right to terminate this Agreement with 10 days written notice provided to the other party. Upon such termination, the Consultant shall, without delay, deliver to the City all materials and records prepared or obtained in the performance of this Agreement and shall be paid, without duplication, all amounts due for the services rendered up to the date of termination.

15. Abandonment By Consultant: In the event that the Consultant ceases performing services under this Agreement or otherwise abandons the project prior to completing all of the services described in this Agreement, the Consultant shall, without delay, deliver to the City all materials and records prepared or obtained in the performance of this Agreement, and shall be paid for the value of the services performed up to the time of cessation or abandonment.

16. Breach: In the event that the Consultant fails to perform any of the services described in this Agreement or otherwise breaches this Agreement, the City shall have the right to pursue all remedies provided by law or equity. Any dispute relating to the performance of this Agreement shall not be subject to non-judicial arbitration.

17. Compliance with Laws: In performing this Agreement, the Consultant shall comply with all applicable laws, statutes, ordinances, rules and regulations, whether federal, state or local in origin. In the circumstance that there is a conflict between or among these various applicable laws, statutes, etc., the consultant shall use its professional judgment and work with the City to resolve the situation.

18. Assignment: This Agreement shall not be assignable or transferable in whole or in part by the Consultant, whether voluntarily, by operation of law or otherwise provided, however, the Consultant shall have the right to sub-contract that portion of the services for which the Consultant does not have the facilities to perform so long as the Consultant notifies the City of such sub-contracting prior to execution of this Agreement. Any other purported assignment, transfer or sub-contracting shall be void.

19. Indemnification: The Consultant shall defend, indemnify, save and hold harmless the City and its agents, officers and employees from any and all claims, litigation costs and liability for any damages, injury or death (herein collectively "City Expenses") arising directly or indirectly from or connected with the services provided hereunder, due to or claimed or alleged to be due to negligent or wrongful acts, errors or omissions or other legal responsibility of Consultant or any person under its control, save and except claims or litigation costs and liability arising through the sole negligence or sole willful misconduct of the City. All City Expenses shall be paid by the Consultant as they are incurred.

22. Heirs, Successor and Assigns: Except as provided otherwise in Section 19 above, this Agreement shall insure to the benefit of and bind the heirs, successors, executors, personal representatives and assigns of the parties.

Attachment:

Exhibit A: LSA Associates, Inc. Proposal for Services Clayton Community Church Development/Redevelopment Environmental Impact Report, dated June 2010 (As amended to include a replacement Table 3: Clayton Community Church EIR Cost Estimate, with Total Team Costs in the amount of $133,500).

Table 3: Clayton Community Church EIR Cost Estimate

PHASE/TASKS	Principal-in-Charge (Clare)	Project Manager (Weinstein)	Word Processing (Staff)	Graphics/Production (Linder)	Project Management (and Non technical Analysis) Subtotal	Principal (Chang)	Associate – Noise (Fischer)	Air Quality and Global Climate Change (Pasha)	Noise, Air Quality and Global Climate Change Subtotal	Transportation Manager (Macias)	Transportation Planner (Aiskabbas)	Transportation, Circulation and Parking Subtotal	Cultural Resources Manager (Pelsham)	Historian/Archaeologist (Staff)	Cultural Resources Subtotal	LSA Total	Principal (Nordhav)	Hydrogeologist (Abell-Ames)	Sr. Environmental Scientist (Bodine)	Baseline Environmental Consulting Total	Principal (McNichol)	Andrew McNichol Total	Team Total
Hourly Rate:	$200	$160	$90	$105		$190	$135	$185		$146	$125		$95	$75			$175	$140	$110		$220		
[illegible]																							
1. Start-Up Meeting	2	2			$400		2		$250	2		$375	2		$270	$1,330			2	$220		$0	$1,590
2. Site Visit/Field Survey	2	2			$600		2		$250	2	8	$1,290	2	12	$1,090	$3,290			2	$220	3	$960	$4,450
3. Data Gathering and Evaluation	2	6			$1,000				$0			$0			$0	$1,000				$0		$0	$1,000
4. Base Map Preparation	1	3		3	$815				$0			$0			$0	$815				$0		$0	$815
5. Project Description	5	10			$2,000				$0			$0			$0	$2,000				$0		$0	$2,000
6. Criteria of Significance	1	2			$400				$0			$0			$0	$400				$0		$0	$400
7. Initial Study	6	24			$3,600				$0			$0			$0	$3,600				$0		$0	$3,600
8. Notice of Preparation and Scoping Sessions	12	20			$4,400				$0			$0			$0	$4,400				$0		$0	$4,400
Subtotal for Task A	31	69	0	3	$13,415	0	4	0	$500	4	8	$1,580	4	12	[illegible]	$16,775	0	0	4	$440	4	$960	$18,255
[illegible]																							
1. Land Use and Planning Policy	2	20	1	2	$2,780				$0			$0			$0	$2,780				$0		$0	$2,780
2. Transportation, Circulation and Parking	4	10	2	2	$2,190				$0	24	92	$14,980			$0	$17,170				$0		$0	$17,170
3. Air Quality and Global Climate Change	2	8	1	1	$1,395	4	42	25	$9,635			$0			$0	$10,030				$0		$0	$10,030
4. Noise	1	4	1	1	$795	4	32		$4,760			$0			$0	$5,555				$0		$0	$5,555
5. Cultural Resources	1	5	1	1	$895				$0			$0	20	42	$5,050	$5,945				$0		$0	$5,945
6. Visual Resources	2	18	1	2	$2,500				$0			$0			$0	$2,500				$0	19	$2,280	$4,780
7. Hydrology and Water Quality	1	4	1	1	$795				$0			$0			$0	$795	1	3	46	$6,635		$0	$7,430
Subtotal for Task B	13	69	8	10	$11,270	8	74	25	$13,355	24	92	$14,980	20	42	$5,050	$44,695	1	3	46	$6,635	19	$2,280	$53,610
[illegible]																							
Subtotal for Task C	12	40	3	4	$7,800	[illegible]	[illegible]	[illegible]	$1,382	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$0	[illegible]	0	0	0	$0	0	$0	$9,400
[illegible]																							
Subtotal for Task D	4	8	0	0	$1,400	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$600	$1,550	0	0	0	$0	0	$0	$1,550
[illegible]																							
Subtotal for Task E	1	4	0	0	$800	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	$0	$800	0	0	0	$0	0	$0	$800
[illegible]																							
1. Administrative Draft EIR	10	16	4	3	$4,275				$0			$0			$0	$4,275				$0		$0	$4,275
2. Screencheck Draft EIR	6	18	4	3	$3,675				$0			$0			$0	$3,675				$0		$0	$3,675
3. Public Review Draft EIR	2	12	4	3	$2,275				$0			$0			$0	$2,275				$0		$0	$2,275
Subtotal for Task F	18	46	12	9	$10,225	0	0	0	$0	0	0	$0	0	0	$0	$10,225	0	0	0	$0	0	$0	$10,225
TOTAL FOR DRAFT EIR	80	234	22	26	$44,110	8	84	31	$15,275	32	116	$17,640	36	60	$6,780	$84,805	1	3	50	$7,355	27	$3,345	$94,200
[illegible]																							
1. Administrative Draft Responses to Comments Document	16	22	6	3	$6,845		8	4	$1,470	8	25	$3,???	1	3	$600	$12,563	1	1	8	$1,375		$0	$12,680
2. Screencheck Draft Responses to Comments Document	12	20	6	2	$5,150				$0			$0			$0	$5,150				$0		$0	$5,150
3. Final Responses to Comments Document	4	16	4	2	$2,970				$0			$0			$0	$2,970				$0		$0	$2,970
Subtotal for Task G	32	58	16	7	$14,975	0	8	4	$1,470	8	25	[illegible]	1	3	$600	$20,425	1	1	8	$1,375	0	$0	$21,800
[illegible]																							
Subtotal for Task H	1	4	1	0	$890	0	0	0	$0	0	0	$0	0	0	$0	$890	0	0	0	$0	0	$0	$890
[illegible]																							
Subtotal for Task I	4	14	1	0	$2,490	0	0	0	$0	0	0	$0	0	0	$0	$2,490	0	0	0	$0	0	$0	$2,490
[illegible]																							
Subtotal for Task J	14	25	2	0	$7,600	0	0	0	$0	0	0	$0	0	0	$0	$7,600	0	0	0	$0	0	$0	$7,600
[illegible]																							
Subtotal for Task K	12	20	0	0	$4,400	0	0	0	$0	0	0	$0	0	0	$0	$4,400	0	0	0	$0	0	$0	$4,400
TOTAL LABOR (ALL TASKS)	114	381	41	33	$74,465	8	91	35	$16,695	38	134	[illegible]	22	60	$7,440	$119,610	2	4	58	$8,530	27	$3,340	$131,380
[illegible]																							
Mailing/Postage					$100				$0			$0			$0	$300				$0		$0	$100
Travel					$200				$450			$100			$110	$860				$0		$0	$860
Maps, Plans, Reports, Misc. Photocopying and Graphic Reproduction					$200				$0			$0			$0	$200				$0		$300	$350
Report Printing					$120				$0			$0			$0	$120				$0		$0	$120
Toll/Parking Costs					$0				$0			$450			$0	$450				$0		$0	$450
TOTAL MISCELLANEOUS COSTS					$620				$450			$550			$110	$1,770				$0		$350	$2,120
TOTAL TEAM COSTS					$75,085				$17,145			$21,560			$7,550	$121,380				$8,530		$3,590	$123,900

PROPOSAL FOR SERVICES

CLAYTON COMMUNITY CHURCH DEVELOPMENT/REDEVELOPMENT ENVIRONMENTAL IMPACT REPORT

Submitted to:

David Woltering, AICP
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517-1250

Prepared by:

LSA Associates, Inc.
2215 Fifth Street
Berkeley, CA 94710
510.540.7331

LSA

June 2010

2. Screencheck Draft EIR

Based on a single set of consolidated and non-contradictory comments, LSA will amend the Administrative Draft EIR and prepare a Screencheck Draft EIR for final review by City staff. We have allotted time for responding to changes; however, if this task exceeds the cost allotted in the budget due to changes in project description or requests for additional analysis that are not necessary to prepare a legally adequate document, a budget adjustment may be required. One paper copy and one digital copy of the Screencheck Draft EIR will be provided for review by City staff to verify that all requested changes have been made and all appendix materials, references, and final graphics are acceptable.

3. Public Review Draft EIR

Working from a single set of consolidated and non-contradictory comments (to be provided by City staff), LSA will amend the Screencheck Draft EIR. One paper copy of the Draft EIR and one digital copy will be sent to the City for distribution to responsible agencies, the State Clearinghouse, the public, and the State Clearinghouse. Digital versions of the document in PDF format will also be created for posting on the City's web site. In addition, LSA will provide the City with a copy-ready paper version of the document.

TASK G. PREPARE RESPONSES TO COMMENTS DOCUMENT

LSA will prepare the Responses to Comments Document on the project within 2 weeks of the end of the public review period. The Responses to Comments Document, together with the Draft EIR, will comprise the Final EIR.

1. Administrative Draft Responses to Comments Document

The LSA team will formulate responses to comments on the Draft EIR, including review period comments received from the public and agencies, and will prepare a Responses to Comments Document. Included in the document will be: 1) a list of persons, organizations, and public agencies that commented on the Draft EIR; 2) written comments received and minutes of any public hearings where verbal comments were received; 3) responses to comments raised in the review process; and 4) any necessary text, table or figure changes to the Draft EIR. LSA will discuss the best approach to the responses document with City staff at a meeting following the close of the comment period.

Our budget estimate in Table 2 shows the level of professional effort assumed for this task. Should an unexpectedly large volume of comments be submitted, an adjustment in the budget to cover work beyond the assumed level may be required. One paper copy and one digital version of the Administrative Draft Responses to Comments Document will be provided to the City for review.

2. Screencheck Draft Responses to Comments Document

After review by City staff and the transmittal of one set of consolidated, non-contradictory comments, LSA will amend the Administrative Draft Responses to Comments Document and prepare a Screencheck version for final review by City staff. One paper copy and one digital version of the Screencheck Draft Responses to Comments Document will be provided for review by City staff.

3. Final Responses to Comments Document

After incorporating final comments on the Screencheck Draft, LSA will prepare one paper copy and one digital version of the Final Responses to Comments Document for agency/public distribution. A digital version in PDF format will also be created for posting on the City's web site. In addition, a copy-ready version of the document will be provided to the City.

TASK H. MITIGATION MONITORING AND REPORTING PROGRAM

LSA will prepare a Mitigation Monitoring and Reporting Program. We will identify responsibility for implementing and monitoring each mitigation measure, along with monitoring triggers and reporting frequency, subject to approval by City staff. Monitoring will be dovetailed with existing processes of project development and review.

Mitigation measures will generally take the form of design guidelines and standards that could be incorporated into project plans to reduce adverse effects. Where this approach is successful, the project plans themselves can become the monitoring mechanism. An administrative draft Mitigation Monitoring and Reporting Program will be submitted to City staff for review with the Administrative Draft Responses to Comments Document. The final Mitigation Monitoring and Reporting Program will be included in the Final Responses to Comments Document.

TASK I. FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS

LSA will prepare the Findings of Fact and a Statement of Overriding Considerations (if necessary). The Findings will include the following: a record of proceedings for the City's decision on the project; a summary description of the project; identification of potentially significant effects of the project which were determined to be mitigated to a less-than-significant level; identification of significant impacts that cannot be mitigated to a less-than-significant level even though all feasible mitigation measures have been identified and incorporated into the project; identification of the project's potential environmental effects that were determined not to be significant, and do not require mitigation; cumulative effects; feasibility of project alternatives; and the City's Statement of Overriding Considerations (if significant unavoidable impacts are identified).

TASK J. PUBLIC HEARINGS AND MEETINGS

LSA staff, including Adam Weinstein and David Clore, will be available to attend working sessions with City staff and the project team to gather information, review progress, arrive at a reasonable range of alternatives, review preliminary findings, and discuss staff comments. The proposed cost estimate includes attendance by Adam and David at the project initiation meeting, the scoping sessions, and five public hearings (including one hearing on the Draft EIR and four hearings on the Final EIR). LSA will prepare and file the Notice of Determination (NOD) within 5 days of project approval/EIR certification.

We are interested in strategizing with the City on facilitating greater public involvement in the project review process, if this is an objective of the City. Other public involvement tools could include the

meyers | nave

555 12th Street, Suite 1500
Oakland, California 94607
tel 510.808.2000
fax 510.444.1108
www.meyersnave.com

Attachment 4

November 11, 2011

Via email and US Mail

Mayor Shuey
Members of the City Council
City of Clayton City Hall
6000 Heritage Trail
Clayton, CA 94517-1250

Re: Clayton Community Church Project

Dear Mayor Shuey, Members of the City Council:

Introduction

Meyers Nave represents the applicant, Clayton Community Church ("CCC") with respect to the Clayton Community Church Project ("Project") currently pending before the City of Clayton ("City"). I am writing to express CCC's concerns with the City's processing of CCC's application, especially with regards to the requested contract modification by the City's consultant tasked with preparing the Environmental Impact Report ("EIR") for the Project, but also with the actions of the City which tend to show disparate, and unequal treatment of CCC's Project when compared with the City's past treatment of other projects in the Downtown area and throughout the City.

Requested Contract Modification

CCC "pushed the pause button" with respect to the Project while CCC considered the best way to proceed following the revelation that the City's environmental consultant, LSA, was requesting to add nearly $50,000 in costs to their existing contract with the City in order to respond to the comments the City received on the Draft EIR for the Project. This is in addition to the $24,000 in LSA's existing contract already allocated for LSA to respond to comments on the Draft EIR. The only reason CCC has been given for this requested modification is that LSA did not expect to receive such a large volume of comments. There are multiple problems with LSA's position, however. First, LSA is a professional environmental consulting firm. In essence, LSA drafts EIRs for a living. That LSA would not anticipate that a Project such as this would generate significant comments from the community simply does not ring true. In addition, LSA was not even the low bidder for this contract before the City. Rather, the City selected LSA because the City believed that LSA's proposal was the most responsive and that LSA was the most experienced and best qualified firm to handle the EIR for this Project. In any event, LSA's miscalculation as to the size and scope of the work required to fulfill the contract should not serve as a basis to allow LSA to fail to perform under that contract. In no other field would the City allow a contractor to increase the value of its contract with the City by over 30% without taking a hard look at the reasons for the requested modification. CCC requests that the City take just such a hard look at the purported reasons for the requested modification. In doing so, it quickly becomes clear that LSA's evidence in support of a contract modification simply does not add up.

LSA claims that responding to the large number of comments received will require over $70,000 worth of work. The 520 pages of correspondence posted on the City's website as comments received on the Draft EIR may, at first glance, appear large. However, a closer examination of the comments shows that many will require little to no effort to respond to. Under the California Environmental Quality Act ("CEQA") the City is only required to evaluate in writing "comments on *environmental issues* .... received during the noticed comment period." (CEQA Guidelines, § 15088(a) (emphasis added).) Of the 520 pages, pages 313 - 414 and 444 - 520 are all printouts from the Save Clayton.com website, which consist almost entirely of one sentence emails with no comments on the environmental issues raised in the Draft EIR. This represents 177 pages out of the 520, or over 1/3 (34%) of the total pages and a higher percentage of the total comments. These comments can be responded to with boilerplate language common to EIRs throughout the state such as "Comment noted. The comments do not raise a question or concern with the adequacy of the DEIR and no further response is required. The comment will be forwarded to the City's decisionmakers for their consideration." Moreover, the second batch (pages 444 - 520) were received after the comment period and the City has no legal responsibility to respond to those comments in the FEIR. Additionally, there are another 70 - 75 comments letters/emails from sources other than Save Clayton.com that express only support or opposition to the Project. Again, the responses to these comments can be provided using similar boilerplate language. Thus, nearly half of the total pages of comments and more than half of the total comments can be dealt with in short order, at little expense, and well within LSA's existing budget for responding to comments.

Of the remaining substantive comments, first, many of the comment letters contain multiple copies which need only be responded to once. For example: Mr. Pete Lawrence's May 24, 2011 email was sent to multiple people at the City and is included in the collected comments at least four times; a June 18, 2011 letter from Mr. Westly Hydrick is included five times; other examples abound. These comments need only be responded to once. Similarly, there are common tools of the trade which LSA can use to reduce the time and expense of responding to the comments in order to stay within their contract. The Courts have recognized that where a response to a particular comment adequately addresses an environmental issue raised by one commenter, additional responses to that same issue identified by other commenters may simply refer the reader to the prior response. (See *Twain Harte Homeowners Assoc. Inc. v. County of Tuolomne* (1982) 138 Cal.App.3d 664, 680-681, 683-684; *Remy, Thomas, et al.*, "Guide to CEQA" 11th ed., pp. 372 - 373.) In preparing EIRs, then, it has become common practice for the response to comments to include "Master Responses" that address areas of environmental issues that are common throughout the comments. Here, nearly all of the substantive comments deal with one of four environmental issues: parking; the historical resource value of the Church Offices (former Pioneer Inn); the visual resource impacts of the proposed project (height, massing, shade); or the increase/decrease in membership of Church (i.e. the requirement that EIR take project as presented and not speculate as to potential future membership). Once these four Master Responses are complete, the vast majority of the comments can be responded to simply by referencing the appropriate Master Response, thereby saving time and money and allowing LSA to comply with the terms of its contract.

CCC requests that the City hold LSA to the terms of its contract. Given the large number of non-environmental and duplicate comments, doing so should not pose a problem. If the City insists that LSA be allowed to escape its legal obligations to the City and modify the contract, however, CCC demands that the City pay for any increase above and beyond the existing contract. CCC should not be punished for LSA's inability to stay within its contract and City staff's inability to manage the City's consultants.

<u>**Bias in the City Process**</u>

CCC is also concerned about the increasing bias in the City's process. When CCC first acquired the Project site, the City's General Plan and Downtown Specific Plan had allowed assembly uses in the downtown area for more than 15 years. However, shortly after CCC acquired the site, the City changed the rules to prohibit assembly uses. CCC did not address this transparent rezoning of the property in response to CCC's purchase because, at the time, CCC had not yet finished its plans for the Project and because CCC was informed that if the City amended the downtown plan once, the could do so again to allow assembly use. When the City required that an EIR be prepared for the Project, even though every other recent development in the Downtown has proceeded under the less burdensome, and less expensive mitigated negative declaration process, CCC was told this was necessary because of the complexity and size of its project.

Similarly, when the City required that CCC erect story poles on the Project site, CCC was willing to be a good neighbor and citizen and comply with the City's requirements despite the fact that no other development in the City has ever had to erect story poles. Then, though CCC had already had experts prepare and submit an economic impact study to the City, the City required CCC to pay for a second economics study by a second set of experts. This was despite the fact that the City, to our knowledge, has never required any other development in the City to prepare even a single economic impacts study. Nevertheless, CCC wanted to be sensitive to the City's economic concerns and agreed to fund both studies.

Now, however, CCC sees that a pattern of conduct demonstrating bias towards CCC and the Project is emerging. In addition to the unique requirements placed on CCC noted above, the City is also requiring that CCC produce a parking plan for the entire Downtown area. The City has habitually granted parking variances to commercial development in the Downtown as a means to encourage that development. While there is nothing wrong with this as a policy, CCC should not need to pay for the City's promotion of commercial development by funding a parking study for the entire downtown. This new traffic study, coupled with the significant additional costs for preparing the EIR and for City staff time has combined to place a substantial burden on CCC and its pursuit of the Downtown project.

The federal Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc-1 *et seq.*, ("RLUIPA") provides churches and other religious institutions with protections against the use of local land use laws and regulations as a means to restrict the free exercise of religion. RLUIPA states that:

> "No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution
>
> (A) is in furtherance of a compelling interest; and
>
> (B) is the least restrictive means of furthering that compelling governmental interest."

RLUIPA further provides that

> "(b) DISCRIMINATION AND EXCLUSION-
>
> (1) EQUAL TERMS- No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.
>
> (2) NONDISCRIMINATION- No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.
>
> (3) EXCLUSIONS AND LIMITS- No government shall impose or implement a land use regulation that--
>
> (A) totally excludes religious assemblies from a jurisdiction; or
>
> (B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction."

The actions taken by the City treat CCC's Project differently than any other project the City has considered, placing obligations on CCC that are unique, and more burdensome, to CCC. Continued unequal and unduly burdensome treatment of CCC and its Project by the City risks violation of RLUIPA.

Perhaps even more troubling is the due process violation committed by the City's Planning Commission. Procedural due process in the administrative setting requires that the hearing be conducted " ' "before a reasonably impartial, noninvolved reviewer." ' " (*Nasha v. City of Los Angeles* (2004) 125 Cal. App. 4th 470, 483.) A due process violation occurs where there is 'an unacceptable probability of actual bias" on the part of the decision-makers. (*Id.*) Following the August 23, 2011 presentation of the economic report to the Planning Commission, all three of the Planning Commissioners present – Keith Haydon, Dan Richardson, and Bob Armstrong, expressed their actual bias against the Project. This was done at an open, regularly scheduled meeting with many present. The appropriate procedure would be for those Planning Commissioners demonstrating an actual bias against the Project to recuse themselves from further consideration of the Project. In any event, it is critical that the City take steps to ensure that CCC and its project receives a full and impartial review by the City.

Conclusion

CCC is committed to continuing to work with the City to implement a Project that meets CCC's needs for religious assembly while also balancing the City's desire for a vibrant Downtown. However, CCC cannot stand idly by while the costs of the City's process spin out of control and CCC's, and its member's, constitutionally-protected rights are violated. CCC hopes that the City will take the steps outlined in this letter to remedy this conduct.

Very truly yours,

/s/

Edward Grutzmacher
1738719.2

1538.002

Agenda Date: 1-17-12

Agenda Item: 9b

CITY OF CLAYTON
Founded 1857 Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Laci J. Jackson, City Clerk

DATE: January 17, 2012

SUBJECT: Consideration of 1) Resolution of Intent and 2) Introduce Ordinance No. 438 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to provide for the exclusion of City Council members elected on or after the effective date of this amendment to contract.

BACKGROUND

On August 16, 2011 the City Council directed staff to move forward with the process of eliminating future City Council members from membership in CalPERS. Staff contacted CalPERS in August but due to their system changes CalPERS only recently provided the necessary information in late December 2011.

The attached Resolution to implement the contract amendment is 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, 30 days later, the contract amendment will go into effect the following payroll date. Based on the current schedule, the effective date of the contract modification will be March 19, 2012.

This reduced benefit change only affects newly elected City Councilmembers who have never been enrolled in the CalPERS system.

FINANCIAL IMPACT

There will be no immediate impact to the City's current employer contribution rate from this amendment since no "new hires" or election of new Councilmembers has occurred. Ultimately, the City's cost will decrease when new Councilmembers are elected and not eligible for enrollment in the CalPERS pension system.

RECOMMENDATION

Following public comment, it is recommended the City Council:

1. By motion, adopt the Resolution of Intent.
2. By motion, direct the City Clerk to read Ordinance No. 438 by title and number only.
3. After reading by the City Clerk, adopt a motion approving Ordinance No. 438 for First Reading.

Attachments:
1. Resolution of Intent
2. Ordinance No. 438
3. Contract Amendment

RESOLUTION NO: XX-2012

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 for the exclusion of City Council members hired on or after the effective date of this amendment to contract.

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 January 17, 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

____

Laci J. Jackson, City Clerk

ORDINANCE NO. 438

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 January 17, 2012.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

____
Howard Geller, Mayor

ATTEST

____
Laci J. Jackson, City Clerk

APPROVED AS TO FORM

____
Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

____
Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on January 17, 2012, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on __________.

____
Laci J. Jackson, City Clerk

Attached: EXHIBIT

CalPERS

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, January 29, 2007 and January 10, 2011 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective January 10, 2011, 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 January 10, 2011 and age 60 for local miscellaneous members entering membership for the first time in the miscellaneous classification after January 10, 2011; age 55 for local safety members entering membership in the safety classification on or prior to January 10, 2011 and age 50 for local safety members entering membership for the first time in the safety classification after January 10, 2011.

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.

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; AND**
   b. **CITY COUNCIL MEMBERS HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO CONTRACT.**

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 January 10, 2011 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 January 10, 2011 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 January 10, 2011 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 January 10, 2011 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). Legislation repealed said Section effective January 1, 2002.

    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 January 10, 2011.

       Section 21362 (2% @ 50 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after Janaury 10, 2011.

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 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

BY_______________________________
KAREN DE FRANK, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF CLAYTON

BY_______________________________
PRESIDING OFFICER

____
Witness Date

Attest:

____
Clerk

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (225-7377)

CERTIFICATION OF GOVERNING BODY'S ACTION

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

____ of the
(governing body)

____
(public agency)

on ______________________.
(date)

____
Clerk/Secretary

____
Title

Agenda Date: 1-17-12

Agenda Item: 9c

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 17 JANUARY 2012

SUBJECT: CONSIDERATION OF THE CITY ELECTING TO BECOME THE SUCCESSOR AGENCY/SUCCESSOR HOUSING AGENCY FOR DISSOLUTION OF THE CLAYTON REDEVELOPMENT AGENCY

RECOMMENDATION

Following staff report and public comments, it is recommended the City Council adopt the Resolution electing for the City of Clayton to be the Successor Agency and the Successor Housing Agency to administer and oversee the dissolution of the Clayton Redevelopment Agency.

BACKGROUND

On 29 December 2011, the California Supreme Court delivered its decision in the *California Redevelopment Association v. Matosantos* case, finding ABx1 26 (the "Dissolution Act") largely constitutional and AB1x 27 (the "Alternative Redevelopment Program Act") unconstitutional. The Court's bifurcated decision means that all California redevelopment agencies, including the Redevelopment Agency of the City of Clayton (the "Redevelopment Agency"), shall now be dissolved under the constitutional Dissolution Act. No redevelopment agency in California has the opportunity to opt into continued existence under the unconstitutional Alternative Redevelopment Program Act by making an exorbitant "pay to play" ransom note to the state of California.

As a result, the Clayton Redevelopment Agency (the "Agency") will be dissolved on February 1, 2012. The Agency's non-housing funds and assets are then turned over to a successor agency (the "Successor Agency") charged with the responsibility of paying off the former Redevelopment Agency's existing debts, disposing of the former Agency's real properties and assets to help pay off debts, returning available tax increment revenues to the local government entities that receive property taxes within the Agency's defined Project Area (the "Taxing Entities"), and winding up the affairs of the former Agency. The Agency's affordable housing assets, other than its existing housing fund balance, are turned over to a successor housing agency (the "Successor Housing Agency") to continue performing affordable housing activities. The former Agency's affordable housing fund balance is used to repay existing housing fund debts and/or is remitted to the Contra Costa County Auditor-Controller for re-distribution to the underlying Taxing Entities (which includes the City of Clayton).

The Dissolution Act further provides that the City of Clayton (the "City"), as the parent community that established the Clayton Redevelopment Agency, will be the Successor Agency to the former Redevelopment Agency unless the City elects not to serve as the Successor Agency, in which case the first other Taxing Entity making a proper election will be designated as the Successor Agency. If the City elects **not** to be the Successor Agency, it must adopt a Resolution to that effect and notify the County Auditor-Controller by not later than 13 January 2012. Even if it elects to be the Successor Agency by default, the Agency's special legal counsel (Karen Tiedemann, Goldfarb & Lipman law firm) recommends a City Resolution to that effect be adopted anyway and an accompanying notice be transmitted to the County Auditor-Controller in order to have a clear record of the City's intention to be the Successor Agency.

The Dissolution Act also authorizes the City to elect to become the Successor Housing Agency of the former Redevelopment Agency and to retain the housing assets (other than any existing housing fund balance) and affordable housing functions of the former Agency. Should the City not elect to become the Successor Housing Agency, then the local County Housing Authority (or if there is no local County Housing Authority, the California Department of Housing and Community Development) automatically becomes the Successor Housing Agency.

SUCCESSOR AGENCY DISCUSSION

The Successor Agency and the Successor Housing Agency will each play a key day-to-day role in assuring the existing obligations of the former Redevelopment Agency are properly honored and paid, and that the former Redevelopment Agency's properties and other assets are disposed of in an appropriate manner. In that regard, the Successor Agency will be overseen by an "Oversight Board" of seven representatives selected largely by Contra Costa County and various local education districts. The staff of the Successor Agency will have a strong role in initiating and implementing actions in a way that achieves not only the requirements of the Dissolution Act but also is sensitive to the long-term development needs of our City and local community, and in a manner that protects the good name of our City in the financial markets by assuring timely repayment of the former Redevelopment Agency's existing debts.

If the City elects not to serve this role, the Successor Agency will be some other Taxing Entity that is likely to have little to no experience in redevelopment financial and land disposition matters and that may not necessarily take into account the interests of our City and local community in performing its functions. Similarly, if our City elects not to serve as the Successor Housing Agency, then some other taxing entity outside the

City's control will perform various affordable housing functions in our City using affordable housing assets of the former Redevelopment Agency.

The Dissolution Act provides the liability of the Successor Agency is limited to the funds and assets it receives under the Dissolution Act to perform its functions. Thus, if we take on the role of Successor Agency (and Successor Housing Agency), the City would not expose its General Fund to liability to discharge the obligations of the former Redevelopment Agency (unless it was found to have mismanaged or misappropriated the funds and assets it does receive under the Dissolution Act). That said, it will be important for the City, if it becomes the Successor Agency (and Successor Housing Agency), to exercise the same care and prudence in the management and protection of the funds and assets that it receives from the former Redevelopment Agency as the City applies with its own funds and assets.

SUCCESSOR AGENCY OPERATIONS

Subject to the approval of the Oversight Board and to specified reductions if other funds are available for administration, the Dissolution Act permits the Successor Agency [City] to receive an annual operating budget to defray its administrative costs in an amount up to five percent of the property tax allocated to the Successor Agency for FY 2011-12 to pay the former Redevelopment Agency's existing debts, and up to three percent of the property tax allocated to the Successor Agency each succeeding fiscal year; provided, however, that the annual amount shall not be less than $250,000 for any fiscal year (or such lesser amount as agreed to by the Successor Agency). It is possible, but not clear in the currently written Dissolution Act, that the City could receive a portion of this amount to perform its functions as the Successor Housing Agency. (Otherwise, the City would need to fund its Successor Housing Agency activities from asset-related revenues it receives (e.g., affordable housing loan repayments and other program income generated by the housing assets it inherits from the former Redevelopment Agency), or other revenue sources including the City General Fund).

To administer and oversee the active Clayton Redevelopment Agency, unlike many other area and statewide redevelopment agencies the Agency did not employ or hire employees. Rather, the Clayton Redevelopment Agency utilized the professional services of existing City of Clayton employees and appointed officials to administer the Agency's programs and services *without additional compensation.* For examples: the Clayton City Council served as the Board of Directors of the Agency; the Clayton City Manager was the Agency's Executive Director; the Clayton City Clerk functioned as the Agency's Secretary; the Clayton Finance Manager performed the fiscal, accounting and accounts payable services of the Agency; the Clayton Community Development Director provided service in land use matters and affordable housing programs to the Agency; the City of Clayton housed office space and equipment when Agency services and operations were routinely and regularly performed by City employees, including but not limited to such costs of custodial, facility maintenance, office supplies, postage and utility expenses. In return, the City of Clayton charged an annual flat expense of $400,000 total to the Agency for these purposes. For Fiscal Year 2011-12, the City's charges to administer the Agency's programs and operations equaled a 6.8% overhead expense to the Agency's net Discretionary Project Fund (No. 301) and a 12% overhead cost to the Agency net Low-Moderate Income Housing Fund (No. 302). When compared to the total tax increment revenue of the Agency this fiscal year, the Agency administration/overhead cost represents a 7% charge, fairly inexpensive relative to other public agencies and private companies overhead rates.

With the demise of the Clayton Redevelopment Agency, this annual income to the City's General Fund will end on 31 January 2012 causing a loss of approximately 11% to the City's General Fund. When the Redevelopment Agency would have ended under normal circumstance with all bonded indebtedness paid off, the Agency's operational income of $400,000 to the City's General Fund would have been supplanted by the same (or higher) amount of local property tax revenues due the City as one of the several public Taxing Entities having jurisdiction in the Agency's Project Area. However, this abrupt termination of the Agency prior to its scheduled conclusion disrupts that fiscal plan and places the City's General Fund at risk to lose this performance revenue until such time (2014-15) when the Agency's bonded indebtedness is retired. By electing to serve as the Successor Agency/Successor Housing Agency, experienced City staff remains available to guide and manage the Agency's dissolution using former Agency tax increment revenues allowed it by the Dissolution Act (a *minimum* $250,000) to handle the necessary affairs. Continuing this symbiotic relationship benefits all parties and aids in bridging the City's General Fund potential loss over the next several years until the full amount of municipal property tax revenues flow to its General Fund.

In addition, staff of the Successor Agency must also serve as staff to the new Oversight Board which functions will necessitate additional time and work by the experienced City staff. Therefore, the combination of servicing both the Successor Agency and yet appointed Oversight Board will likely place the $400,000 at a net push or wash.

SUCCESSOR AGENCY "BUDGET"

With the fate of redevelopment agencies now decided by the California Supreme Court, without swift alternative legislative action the Clayton Redevelopment Agency must transform its planned budget adopted in June 2011 into a wind-down mode. Essentially, staff had to strip the Agency's adopted budget and rebuild it without programs and services designed entirely for its expiration starting 01 February 2012. What often is a multi-month task had to be accomplished within a shortened time period for inclusion with this Agenda item.

Attachment 1 to this Report is a summary of the Agency's pre-existing contractual obligations and bonded indebtedness that must be managed during the multi-year course of dissolution. Fortunately due to management practices, the Agency holds no title to real property that would have required appraisal reports and offers to sell on the market as part of liquidation of an agency's assets per the Dissolution Act. In this downed economy, such real property holdings of redevelopment agencies may now suffer financial losses and the real estate market in California may soon be flooded with depressed real properties for sale. Whether that occurrence will stimulate or further exacerbate the economic recovery remains to be seen.

In projecting Agency obligatory expenses for this fiscal year and on (until the Agency's bonded indebtedness is fully retired in approximately FY 2014-15), staff has inserted the intra-agency repayment of the former SERAF "borrowing" ($592,412) and down-sized the bond call to a lesser number than originally budgeted ($1,310,000 vs. $3,110,000) to accommodate repayment of Agency loan principals and the bonded indebtedness within the expectant tax increment revenue this year. The revised multi-year dissolution plan attached (FYs 2011-12 through 2014-15) now represents the Successor Agency's fiscal plan that will be submitted to, reviewed, subject to modification and approval by the new Oversight Board.

DISSOLUTION AND FISCAL TIMELINES

Before 01 March 2012, the City [Council] acting as the "Successor Agency" must adopt this proposed dissolution plan as its "Recognized Obligation Payment Schedule (the "ROPS") and then the County Auditor-Controller will allocate property tax increment to the Successor Agency to pay the debts listed on the ROPS. By 01 April 2012 the Successor Agency must report to the County Auditor-Controller whether the total amount of tax increment available to the Successor Agency will be sufficient to fund its ROPS obligations over the next six-month fiscal period. Staff has prepared the EOPS and the attached fiscal plan with this balanced objective in mind.

By 15 April 2012 the Successor Agency must send its adopted ROPS to the State Controller and the State Department of Finance for approval, and the ROPS is also subject to approval by the Oversight Board. And then by 01 May 2012, the Oversight Board begins its overseer functions and files a report of its membership with the State Department of Finance.

This cycle continues until the entire Agency's recognized and approved bonds, contracts, enforceable obligations and indebtedness are completely retired and addressed, and then the Successor Agency ends. Successor Agency staff will remain busy over several years complying with its obligation to dissolve the Clayton Redevelopment Agency.

FISCAL IMPACT

The premature termination of the Clayton Redevelopment Agency means the Clayton community will no longer benefit from further capital improvement projects, economic development programs and services, or the opportunity to facilitate affordable housing units with the city. The fact is: there are no recurring, unobligated funds of the City to replace the annual loss of $5.6 million in redevelopment agency funds in the coming years.

The Clayton Redevelopment Agency's Five Year Implementation Plan (FY 2008-09 thru FY 2012-13), already shackled in its mission by continuing State raids on redevelopment funds (e.g. ERAF & SERAF thefts), identified a host of potential activities and programs targeted for Agency involvement:

- Municipal sewer system connection assistance (note: there are still properties in town on septic tank systems).
- Residential streetlights installation (note: some neighborhoods have no streetlights).
- Clayton Road utility underground assistance.

- Continued pedestrian connectivity improvements.
- Keller Ranch House Master Plan implementation.
- Acquisition of vacant and underutilized properties for enhanced commercial or housing developments.
- Promotional programs to draw potential investors and visitors to the business sectors of the city (e.g. Concerts in The Grove series).
- City entry or gateway improvements (e.g. Pine Hollow Road; east Marsh Creek Road).
- Commercial façade and improvement grants or loans.
- Affordable housing units or multi-density developments (note: the Agency was working with a developer and interested property owners for such a project near the Town Center area).

Whether the State Legislature or Governor will see the wisdom to redesign a redevelopment program statewide to address some or all of these types of improvements or affordable housing opportunities is unknown at this time, although rumors abound that affordable housing advocates are pressuring Sacramento since no other local government monies will now exist for prioritization to facilitate such housing units.

Will the City of Clayton survive without its redevelopment agency activities and programs? Certainly. Has the Clayton community benefited from substantial and significant capital improvements, economic enhancements and affordable housing opportunities provided by the Clayton Redevelopment Agency since July 1987? Absolutely. It will be interesting to observe the fallout caused by this disruption statewide as it will be to read how history will measure overtime the successes and failures of redevelopment agencies in California.

Attachments: 1. Resolution [2 pp.]
2. Successor Agency preliminary multi-year budgets [4 pp.]

ATTACHMENT 1

RESOLUTION NO. - 2012

A RESOLUTION EXPRESSING ITS INTENT TO SERVE AS THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON PURSUANT TO HEALTH AND SAFETY CODE SECTION 34171(j) AND SECTION 34173, AND TO ELECT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

THE CITY COUNCIL
City of Clayton, California

WHEREAS, Assembly Bill 1X 26 (the "Dissolution Act") and Assembly Bill 1X 27 (the "Alternative Redevelopment Program Act") were enacted by the State of California on June 28, 2011, to significantly modify the Community Redevelopment Law and to end the existence of or modify continued operation of redevelopment agencies throughout the state (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of these Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision means that all California redevelopment agencies are now terminated and will automatically dissolve on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, the Dissolution Act provides that a legislative body [e.g., city council] that authorized the creation of a redevelopment agency shall be the "successor agency" to the dissolved redevelopment agency unless the city council elects not to serve as the successor agency under Section 34173(d)(1) of the Redevelopment Law; and

WHEREAS, Section 34176(a) of the Redevelopment Law provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, the City of Clayton desires to, intends to, and considers it to be in the best interest and general welfare of the Clayton community to serve as the successor agency for the Redevelopment Agency of the City of Clayton (the "Agency") in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law; and

WHEREAS, the Clayton City Council is particularly concerned and interested in the disposition of local affordable housing funds of its Agency and thereby desires to elect to retain said housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby order, direct and accept the designation, and hereby declares its intent, to serve as the successor agency for and of the City of Clayton Redevelopment Agency in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law; and

BE IT FURTHER RESOLVED the City Council does hereby elect to retain the [affordable) housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law; and

BE IT FURTHER RESOLVED that the City Manager, or his or her designee, is hereby directed to file a copy of this resolution with the Contra Costa County Auditor-Controller; and

BE IT FURTHER RESOLVED that the City Manager, or his or her designee, is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the City to transfer the assets of the Agency to the City, in its capacity as successor agency to the Agency, pursuant to Sections 34175 and 34176 of the Redevelopment Law.

PASSED, APPROVED AND ADOPTED at a regular public meeting of the City Council of Clayton, California on the 17th day of January 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Laci J. Jackson, City Clerk

City of Clayton
Redevelopment Agency - Successor Agency Analysis
As of 1/12/11

	Project Fund 301			LMI Fund 302			Debt Service Fund 401		
	Budget 2011-12	Actual 12/31/2011	Projected 6/30/2012	Budget 2011-12	Actual 12/31/2011	Projected 6/30/2012	Budget 2011-12	Actual 12/31/2011	Projected 6/30/2012
Property Taxes	3,965,069.00	2,204,400.86	4,008,001.00	991,267.00	551,100.23	1,002,001.00	-	-	-
Interest	5,000.00	4,536.69	5,000.00	30,000.00	28,191.02	30,000.00	1,500.00	44.23	100.00
Transfers In	32,364.00	-	-	148,103.00	135,761.10	592,412.00	2,100,921.00	843,384.84	1,632,387.50
Total Revenue	4,002,433.00	2,208,937.55	4,013,001.00	1,169,370.00	715,052.35	1,624,413.00	2,102,421.00	843,429.07	1,632,487.50
Advertisement	4,074.00	2,458.50	2,458.50	-	-	300.00	-	-	-
PT Admin Costs	43,000.00	-	42,400.00	10,746.00	-	10,600.00	-	-	-
Misc Expense	-	7.30	7.30	-	-	-	-	-	-
Legal Services	15,000.00	2,206.00	14,000.00	1,000.00	205.00	1,000.00	-	-	-
Audit/Financial Reporting	1,500.00	-	1,509.70	5,924.00	2,614.30	2,614.30	-	-	-
Professional Contract *	-	4,000.00	4,000.00	-	-	35,294.00	-	-	-
Trustee Fees							2,900.00	2,425.00	2,900.00
Projects - Diamond Terrace	-	-	-	200,000.00	-	200,000.00			
Principal Expense	-	-	-	-	-	-	3,110,000.00	610,000.00	1,310,000.00
Interest on City /Agency loans	30,875.00	15,437.50	30,875.00	-	-	-	413,663.00	161,658.75	314,222.50
Paying Agent Fee	-	-	-	-	-	-	5,365.00	2,695.94	5,365.00
Pass Throughs	800,000.00	-	871,785.00	200,000.00		217,946.20	-		-
Successor Agency admin	240,000.00	137,500.00	240,000.00	60,000.00	60,000.00	60,000.00	-		
Oversight Board admin	80,000.00	-	80,000.00	20,000.00	2,500.00	20,000.00			
2% Election liability	100,380.00	50,190.00	100,380.00	25,095.00	12,548.00	25,095.00			
Fire Station Loan Repayment***	-	400,786.00	400,786.00				-		
Transfer to RDA Debt **	2,100,921.00	843,384.84	1,632,387.50						
SERAF Repayment	148,103.00	135,761.10	592,412.00				-		
Total Expenses	3,563,853.00	1,591,731.24	4,013,001.00	522,765.00	77,867.30	572,849.50	3,531,928.00	776,779.69	1,632,487.50
Revenue over Expense			0.00			1,051,563.50			-

* Seifel Consulting
**Bond calls less due to cash flow
***Fire Station Land $475,000

All in red on ROPS or EOPS

ATTACHMENT 2

City of Clayton
Redevelopment Agency - Successor Agency Analysis
As of 1/12/11

	Project Fund 301 Estimated 2012-13	LMI Fund 302 Estimated 2012-13	DS Fund 401 Estimated 2012-13
Property Taxes	4,008,001.00	551,100.00	-
Interest	5,000.00	14,000.00	-
Transfers In	-	148,103.00	2,523,075.30
Total Revenue	4,013,001.00	713,203.00	2,523,075.30
Advertisement	-	-	-
PT Admin Costs	43,000.00	10,746.00	-
Misc Expense	-	-	-
Legal Services	14,000.00	1,000.00	-
Audit/Financial Reporting	2,474.00	825.00	-
Professional Contract	-	-	2,900.00
Trustee Fees			
Projects - Diamond Terrace	-	200,000.00	-
Principal Expense	-	-	2,228,683.00
Interest on City /Agency loans	4,824.00	-	286,127.30
Paying Agent Fee	-	-	5,365.00
Pass Throughs	831,093.70	207,773.42	-
Successor Agency admin	240,000.00	60,000.00	-
Oversight Board admin	80,000.00	20,000.00	
2% Election liability	100,380.00	25,095.00	
Fire Station Loan Repayment***	26,051.00	-	-
Transfer to RDA Debt	2,523,075.30	-	-
Transfer to RDA LMI***	148,103.00	-	-
Total Expenses	4,013,001.00	525,439.42	2,523,075.30
Revenue over Expense	0.00	187,763.58	-

City of Clayton
Redevelopment Agency - Successor Agency Analysis
As of 1/12/11

	Project Fund 301 Estimated 2013-14	LMI Fund 302 Estimated 2013-14	DS Fund 401 Estimated 2013-14
Property Taxes	4,008,001.00	551,100.23	-
Interest	5,000.00	14,000.00	-
Transfers In	-	143,103.00	2,533,265.00
Total Revenue	4,013,001.00	708,203.23	2,533,265.00
Advertising	-	-	-
PT Admin Costs	43,000.00	10,746.00	-
Misc Expense	-	-	-
Legal Services	1,000.00	500.00	-
Audit/Financial Reporting	1,500.00	2,635.00	-
Professional Svc	3,784.00	-	2,900.00
Projects - Diamond Terrace	-	-	-
Principal Expense	-	-	2,325,000.00
Interest Expense	4,824.00	-	200,000.00
Paying Agent Fee	-	-	5,365.00
Pass Throughs	831,094.00	207,773.42	-
Successor Agency admin	240,000.00	60,000.00	
Oversight Board admin	80,000.00	20,000.00	
2% Election liability	100,380.00	25,095.00	
Fire Station Loan Repayment***	26,051.00		-
Transfer to RDA Debt	2,533,265.00		-
Transfer to RDA LMI***	148,103.00		-
Total Expenses	4,013,001.00	326,749.42	2,533,265.00
Revenue over Expense	0.00	381,453.81	-

***SERAF Repayment

City of Clayton
Redevelopment Agency - Successor Agency Analysis
As of 1/12/11

	Project Fund 301 Estimated 2014-15	LMI Fund 302 Estimated 2014-15	DS Fund 401 Estimated 2014-15
Property Taxes	2,070,215.00	524,263.00	-
Interest	1,000.00	12,000.00	-
Transfers In	-	148,103.00	699,582.00
Total Revenue	2,071,215.00	684,366.00	699,582.00
Advertising	-	-	-
PT Admin Costs	43,000.00	10,746.00	-
Misc Expense	-	-	-
Legal Services	1,000.00	500.00	-
Audit/Financial Reporting	1,500.00	2,635.00	-
Professional Svc	-	-	2,900.00
Projects - Diamond Terrace	-	-	-
Principal Expense	-	-	491,317.00
Interest Expense	4,824.00	-	200,000.00
Paying Agent Fee	-	-	5,365.00
Pass Throughs	831,094.00	207,773.42	-
Successor Agency admin	240,000.00	60,000.00	
Oversight Board admin	80,000.00	20,000.00	
2% Election liability	-	-	
Fire Station Loan Repayment***	22,112.00		-
Transfer to RDA Debt	699,582.00		-
Transfer to RDA LMI***	148,103.00		-
Total Expenses	2,071,215.00	301,654.42	699,582.00
Revenue over Expense	0.00	382,711.58	-

***SERAF Repayment

Agenda Date: 1-17-12

Agenda Item: 9d

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MAINTENANCE SUPERVISOR JOHN JOHNSTON

DATE: JANUARY 13, 2012

SUBJECT: PURCHASE OF THREE REPLACEMENT SCOREBOARDS CLAYTON COMMUNITY PARK

RECOMMENDATION

It is recommended the City Council, following staff presentation and public comment, approve the contract for purchase of three replacement scoreboards for Clayton Community Park from Scoreboards.com in the amount of $12,988.92, and authorize the appropriation of the necessary purchase amount from the City's Deferred Maintenance Fund.

BACKGROUND

The three Clayton Community Park scoreboards were originally purchased by the Clayton Business and Community Association in February of 1995 and installed in March of that same year by the City's Maintenance Department. Since that time the 17-year old scoreboards have seen lots of use, wear and tear, vandalism, maintenance repairs, and retrofits. By 2005 the Maintenance Department experienced significant maintenance problems with the internal components of the scoreboards including lamp sockets, control boards, and electrical circuits. In 2007 the 2 smaller scoreboards located in the Park's upper fields failed to operate at all, and the larger one on lower Field #1 had many lamps inoperable due to faulty circuit boards. The majority of scoreboard manufacturers only provide a 5 year warranty on their product and these scoreboards outlasted the warranty period threefold. Whole new generations of sports players and sets of parents now frequent the fields each year wondering why the scoreboards do not work and when will the City replace them.

Scoreboards now available in the market today are LED, far more vandal resistant, and energy efficient. Trying to repair our current scoreboards continues to prove very costly, finding replacement parts near impossible and patrons of our sports fields often have a less than positive experience in our community due to the malfunction or inoperability of these scoreboards.

REPLACEMENT SCOREBOARDS

In order to minimize the cost of replacing the scoreboards, the Maintenance Department looked for replacement scoreboards that are similar in size to the current boards primarily so they would conform to the existing posts those scoreboards are mounted on. Staff also considered the longevity of the company and the technical support they would provide. The existing scoreboards are manufactured by All American Scoreboards, and Maintenance staff believes that without the type of technical support they have given us over the years our scoreboards would not have lasted as long. The new replacement scoreboards will have LED illumination, larger digits, vandal proof faces, and wireless remote controllers. Staff also included 1 spare wireless remote for back up. The following is a list of purchase quotes that staff received:

Company	Manufacturer	Total Cost
Spectrum	Spectrum	$16, 879.25
Everbrite, LLC.	All American	$13,702.93
Scoreboards.com	All American	$12,988.92

*All prices include sales tax and freight

INSTALLATION

Staff is still researching the most beneficial means to install the scoreboards. It is likely that the Maintenance Department will mount the scoreboards upon arrival, weather permitting (due to heavy-vehicle access), and then contract out the hardwire hook-up. The 2 smaller scoreboards can be mounted using the City's boom truck as they are very light, and the lower scoreboard will require the use of a crane supplied by Waraner Tree Service. This effort will take 2 days at an approximate cost of $2,000.

The main concern with weather will be getting the larger equipment onto the fields to lift the scoreboards for mounting. The hardwire hook-up will include new shut-off boxes located at the scoreboards, weather proof boxes behind the dugouts, complete with on-off switch and power outlet for wireless remote charger and possible pitching machine. This contractor work is estimated to be an additional $2,600 for all 3 scoreboards.

The final total for the 3 replacement scoreboards and the hardwire installation is therefore approximately $17,588.92. The additional expenses for scoreboard mountings and associated electrical work would be incurred regardless of which company supplies the scoreboards.

In addition, the City will establish a refundable deposit account of at least $1,500.00 for the seasonal use of the wireless remotes to ensure proper user care and to fund possible replacement of the remote controls due to wear and tear or neglect. The approximate cost for each wireless remote is $1,000.00 when purchased separately from the scoreboards.

Ordering the scoreboards necessitates a 4-6 week delivery time. The installation goal of this equipment replacement is to have the new scoreboards operational for the opening of the Clayton Valley Little League season in March 2012. Therefore, timing is of the essence for this purchase authority.

FISCAL IMPACT

Funds for the purchase and installation of the three recommended replacement scoreboards will come from monies available in the City's Deferred Maintenance Fund, which has a current cash balance of $114,275.00.

Attachments: Scoreboard Quotes (3)

scoreboards.com

235 Towle Farm Road
Hampton, NH 03842
Tel. 877-766-4477 Fax 603-766-4477
email sales@scoreboards.com
scoreboards since 1964

Mr. John Johnston
Voice (925) 673-7326
January 12, 2012

Dear Mr. Johnston,

We are pleased to offer our Model MP-8321 Baseball/Softball Scoreboard at $5,099.00. The MP-8349 is priced at $3,299.00. The MP-8000 Wireless Controller is priced at $660.00.

The following is the package discounted pricing for requested equipment:

1- MP-8321 Baseball/Softball Scoreboard
2- MP-8349 Baseball/Softball Scoreboards
1- MP-8000 additional wireless control console and carrying case

Total package price $12,357.00 Discount to **$11,999.00.**

Pricing includes the scoreboards, wireless controls, control carrying case, and shipping to your Clayton, CA area location.

Please feel free to call us with any questions or concerns you may have at 877-766-4477.

Thanking you for your consideration, I am, Martin Burnette

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LEADER IN SCORING & ELECTRONIC PROMOTION.

US & Canada Toll Free Sales

Home Buy Scoreboards › Accessories › Contact Sales & Order Form Links › Scoreboard Support

Multisport Scoreboards

Scoreboards.com has great deals on a wide range of outdoor scoreboards available from 5 to 42 feet long. Sports such as football, baseball, motor racing, soccer, track, field hockey and inline hockey have a wide range of models to choose from.

Home > Buy Scoreboards > Baseball Scoreboards > **MP-8321 Baseball Scoreboard / Softball Scoreboard**

MP-8321 Baseball Scoreboard / Softball Scoreboard

Weight Net/Shipping (lbs):	480/580 lbs -- 216/261 kg
Dimensions:	8 x 12 -- 2.4384 x 3.6576 m
Caption Size:	10" / 6" -- 25.4 / 15.24 cm
Numeric Size:	21" / 18" -- 53.34 / 45.72 cm
Power (amps):	100-277 Volts 5 Amps 50/60 Hz
Horn:	No
Price:	$5,099.00

Quick Links

- MP-8247 Baseball Scoreboard / Softball Scoreboard
- MP-8337 Baseball Scoreboard
- MP-8340 Baseball Scoreboard
- MP-8349 Baseball Scoreboard
- MP-8348 Baseball Scoreboard
- MP-8357-PC Baseball Scoreboard / Softball Scoreboard
- MP-8367 Baseball Scoreboard
- MP-8369 Baseball / Softball Scoreboard
- MP-8318-PC Baseball Scoreboard / Softball Scoreboard
- MP-8379 Baseball Scoreboard
- MP-8360 Baseball Scoreboard
- MP-8368PC Baseball Scoreboard
- MP-8389 Baseball Scoreboard / Softball Scoreboard
- MP-8377PC Baseball Scoreboard
- MP-8321 Baseball Scoreboard / Softball Scoreboard

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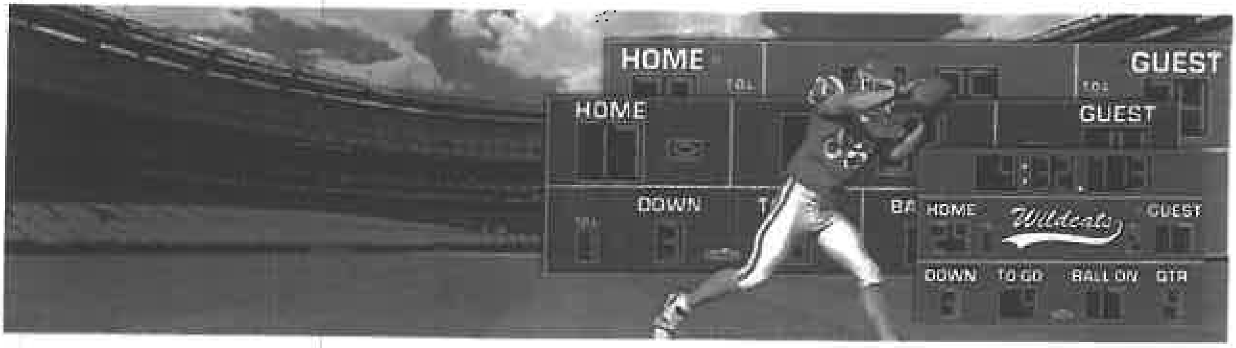
LEADER IN SCORING & ELECTRONIC PROMOTION

US & Canada Toll Free Sales



Multisport Scoreboards

Scoreboards.com has great deals on a wide range of outdoor scoreboards available from 5 to 42 feet long. Sports such as football, baseball, motor racing, soccer, track, field hockey and inline hockey have a wide range of models to choose from.

MP-8349 Baseball Scoreboard

Weight Net/Shipping (lbs):	120/200 lbs -- 54/90 kg
Dimensions:	4' x 10' -- 1.2192 x 3.048 m
Caption Size:	8"" / 6"" -- 8" / 6" cm
Numeric Size:	18" / 16" -- 45.72 / 40.64 cm
Power (amps):	100-277 Volts 2.5 Amps 50/60 Hz
Horn:	No
Price:	$3,299.00

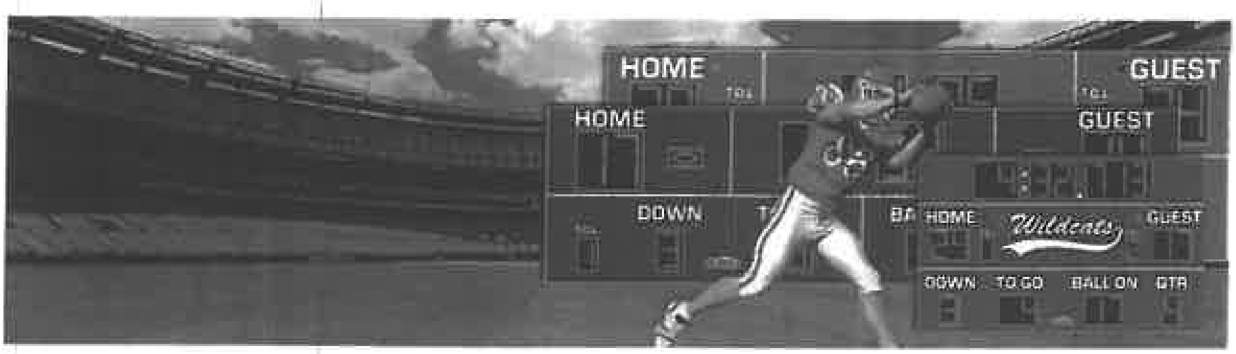
Quick Links

- MP-8347 Baseball Scoreboard / Softball Scoreboard
- MP-8337 Baseball Scoreboard
- MP-8340 Baseball Scoreboard
- MP-8349 Baseball Scoreboard
- MP-8348 Baseball Scoreboard
- MP-8357-PC Baseball Scoreboard / Softball Scoreboard
- MP-8367 Baseball Scoreboard
- MP-8369 Baseball / Softball Scoreboard
- MP-8318-PC Baseball Scoreboard / Softball Scoreboard
- MP-8379 Baseball Scoreboard
- MP-8360 Baseball Scoreboard
- MP-8368PC Baseball Scoreboard
- MP-8389 Baseball Scoreboard / Softball Scoreboard
- MP-8377PC Baseball Scoreboard
- MP-8321 Baseball Scoreboard / Softball Scoreboard
- MP-8388PC Baseball Scoreboard
- MP-8321-DL Baseball Scoreboard / Softball Scoreboard
- MP-8318 Baseball Scoreboard / Softball Scoreboard
- MP-8321-PC Baseball Scoreboard / Softball Scoreboard

'); close(); }}

LEADER IN SCORING & ELECTRONIC PROMOTION

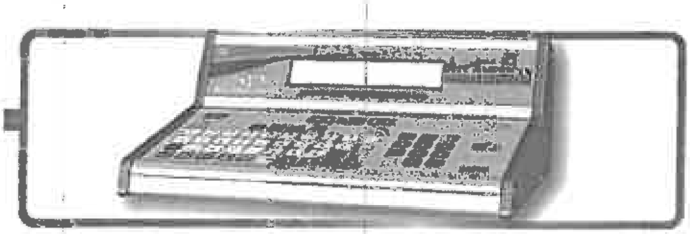
US & Canada Toll Free Sales



Multisport Scoreboards
Scoreboards.com has great deals on a wide range of outdoor scoreboards available from 5 to 42 feet long. Sports such as football, baseball, motor racing, soccer, track, field hockey and inline hockey have a wide range of models to choose from.

Home > Accessories > Control Consoles > 8000 Series Scoreboard Control Console

8000 Series Scoreboard Control Console



Control Description:

Keeping score has never been so easy! Our lightweight and compact console can be quickly configured for use on any of our 8000 Series Scoreboards and Message Centers. Upgrading to a radio controlled system gives your console even more flexibility to keep score from nearly any location. Not only is this a scoreboard control it leads your workout schedule or It programs any 8000 series Everbrite Message Center.

Weight Net/Shipping (lbs):	5/12 lbs -- 2.25/5.4 kg
Power (amps):	100-277Volts 1Amp 50/60Hz
Wired Pricing:	$895.00
Wireless Additional Price:	$500.00

ALL AMERICAN SCOREBOARDS

Everbrite, LLC.
Quote
42465

Printed: 1/12/12

To: JOHN JOHNSTON
CITY OF CLAYTON'S COMMUNITY PARK
CLAYTON, CA 94517
Attn: JOHN JOHNSTON

Quoted 4/27/11
Location: JOHN JOHNSTON
Address: CITY OF CLAYTON'S COMMUNITY PARK
6000 HERITAGE TRAIL
CLAYTON, CA 94517
Site Id: SB6000CLAYTONCA
Contact:

All American Scoreboards, A Product of Everbrite LLC

Qty	Item#	Description	Price	Amount
1	MP8321	SCBD,8321 LED2 BSEBALL 8' x 12' Baseball/Softball Scoreboard	$4,600.00	$4,600.00
2	MP8349RV2	SCBD,8349 BSEBALL RC 4' X 10' Baseball/Softball Scoreboard	$2,501.00	$5,002.00
4	C8000RBV2	CONTROL,8000RB CONSOLE V2	$575.00	$2,300.00

CUSTOMER TO PROVIDE COLOR:
Black, Red, Maroon, Blue, Bright Blue, Navy, Green, Forest Green, and Purple.
Please see attached specification sheets for further product information.
Lead time is 4 - 5 weeks upon receipt of approved order.
Freight charges are an estimate only.
FIVE YEAR LIMITED WARRANTY:
8000 Indoor and Outdoor scoreboards come with a five year limited warranty.
6300 and 6400 Models have a one year limited warranty. A one year limited warranty exists on all radio components. For a complete warranty please see our website.

Subtotal:	$11,902.00
Estimated Freight (94517)	$700.00
Sales Tax:	$1,100.93
Project Total:	$13,702.93

I hereby accept this quotation/change order, please place my order.

Signature / Date

Print Name

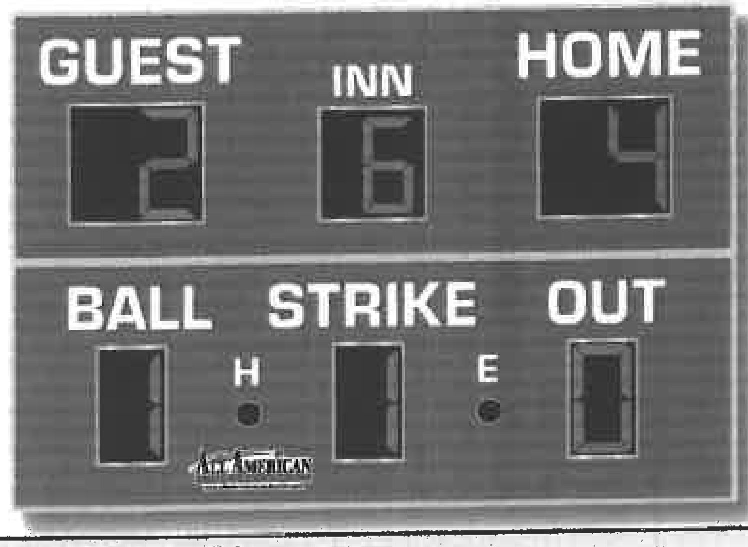
Deposit (if req'd)	$13,702.93
Final Balance:	$.00

EXISTING COLUMN, ANCHOR BOLTS AND FOUNDATION HAVE NOT BEEN INSPECTED FOR ADEQUATE STRUCTURE INTEGRITY. THIS IS THE RESPONSIBILITY OF THE PURCHASER. PURCHASER ASSUMES ALL LIABILITY IN

ALL AMERICAN SCOREBOARDS™

ARCHITECTS SPECIFICATIONS
MODEL 8321 LED BASEBALL SCOREBOARD

OUTDOOR SCOREBOARD
8321
Baseball



OVERALL DIMENSION	8' high x 12' wide x 4.75" deep.
INFORMATION DISPLAYED	Home Score, Guest Score, Ball, Strike, Out, Inning, Hits, Errors
DIGITS	Bright Red, 7-Segment LEDs.
SCORE	21" High Digits, Shall register 0-99.
INNING	18" High Digits, Shall register 0-19.
BALL	21" High Digits, Shall Register 1-3.
STRIKE	21" High Digits, Shall Register 1-2.
OUT	21" High Digits, Shall Register 1-2.
HIT/ERROR INDICATORS	4" Bulls Eye, Displays Hit or Error.
CAPTIONS	White vinyl letters.
CONSTRUCTION	4" extruded aluminum case, .093" thick. Face panels are 22 GA Galvaneal, finished in choice of colors (Black, Dark Blue, Bright Blue, Violet, Maroon, Red, Dark Green, Green, custom colors available).
ELECTRONICS	100% solid state, microprocessor controlled system.
SERVICING	Front access for ease of servicing. Plug in modules for ease of replacement.
MICROPROCESSOR CONTROL CONSOLE	Extruded Aluminum, high impact low profile microprocessor control console, latest state of the art, user friendly. Size: 13.25" wide x 5" high x 9" deep. Weights: 6 lbs. Microprocessor to be supplied with 25 feet of cable (hardwire). Microprocessor control console with membrane keyboard provides for direct entry of all information. Radio Control is available.
JUNCTION BOX	One junction box 5" x 3" with cover and plug. (Hardwire)
DATA CABLE	Twisted pair, direct burial, RJ45 Connectors.
POWER REQUIREMENTS	115 VAC, 60 Hz. Minimum one 20A circuit is recommended.
INSTALLATION	May be installed on two posts. Mounting brackets are supplied with scoreboard.
WEIGHT	Net 400 lbs. / Shipping 600 lbs.
WARRANTY	Five year guarantee against defects in materials and workmanship. Factory repair service for parts in warranty. Union label.

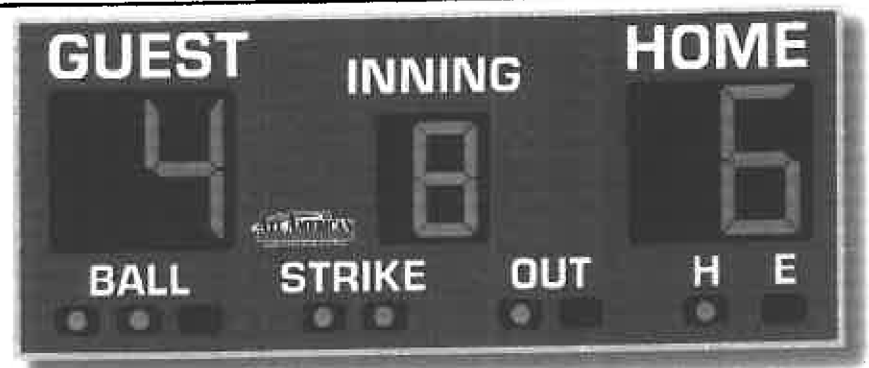
ALL AMERICAN SCOREBOARDS™

ARCHITECTS SPECIFICATIONS
MODEL 8349 LED BASEBALL SCOREBOARD

OUTDOOR SCOREBOARD

8349

Baseball



OVERALL DIMENSION	4' high x 10' wide x 4.75" deep.
INFORMATION DISPLAYED	Home Score, Guest Score, Inning, Ball, Strike, Out, Hit, Error
DIGITS	7-Segment, Bright Red LEDs.
SCORING	18" High Digits, Shall register 0-99.
INNING	16" High Digits, Shall register 1-19.
BALL	3" Bulls Eye Indicators.
STRIKE	3" Bulls Eye Indicators.
OUT	3" Bulls Eye Indicators.
HIT/ERROR	3" Bulls Eye Indicators.
CAPTIONS	White vinyl letters.
CONSTRUCTION	4" extruded aluminum case, .093" thick. Face panels made from shatter resistant polycarbonate (Black, Dark Blue, Bright Blue, Violet, Maroon, Red, Dark Green, Green, custom colors available).
ELECTRONICS	100% solid state, microprocessor controlled system.
SERVICING	Front access for ease of servicing. Plug in modules for ease of replacement.
MICROPROCESSOR CONTROL CONSOLE	Extruded Aluminum, high impact low profile microprocessor control console, latest state of the art, user friendly. Size: 13.25" wide x 5" high x 9" deep. Weights: 6 lbs. Microprocessor to be supplied with 25 feet of cable (hardwire). Microprocessor control console with membrane keyboard provides for direct entry of all information. Radio Control is available.
JUNCTION BOX	One junction box 5" x 3" with cover and plug. (Hardwire)
DATA CABLE	Twisted pair, direct burial RJ45 Connectors.
POWER REQUIREMENTS	115 VAC, 60 Hz Minimum one 20A circuit is recommended.
INSTALLATION	May be installed on two posts. Mounting brackets are supplied with scoreboard.
WEIGHT	Net 120 lbs. / Shipping 200 lbs.
WARRANTY	Five year guarantee against defects in materials and workmanship. Factory repair service for parts in warranty. Union label.

SPECTRUM

Date	QUOTE
1/11/2012	City of Clayton

"WHERE INTEGRITY COUNTS"

Vendor: Spectrum Corporation
10048 Easthaven
Houston, TX. 77075
Contact: Jimmy Dabney
Ph. #: 713-986-8835
Fax #: (713) 944-1290
E-mail: jimmy@spectrumscoreboards.com

Ship To: City of Clayton
6000 Heritage Trail
Clayton, CA 94519
Contact: John Johnston
Ph.#: 925-673-7326
Fax#:
E-mail: jjohnston@ci.clayton.ca.us

Cust. PO#

Project: Baseball/Softball Scoreboards

QTY.	MODEL #	DESCRIPTION	UNIT	SUB-TOTAL
2	SB.9110	LED Baseball/Softball Scoreboard LED Color: Red or Amber Customer's Choice LED Digit Style: Spectrum's SpectraBrite LED Digits with 10-Yr. Warranty Scoreboard Finish: Two Part Urethane with 10 Year Warranty Scoreboard Color: Customer's choice Scoreboard Dimensions: 4' High x 10' Long		$6,500.00
2	AC-CBMS250W	Wireless MS-250 MultiSport Controllers with carrying case		$1,700.00
2	/ART	Team names in place of home		included
1	SB.9214	LED Baseball/Softball Scoreboard LED Color: Red or Amber (Customer's Choice) LED Digit Style: Spectrum's SpectraBrite LED Digits with 10-Yr. Warranty Scoreboard Finish: Two Part Urethane with 10-Yr. Warranty Scoreboard Color: Customer's choice Scoreboard Dimensions: 8' High x 10' Long		$5,000.00
1	AC-CBMS250W	Wireless MS-250 MultiSport Controller with carrying case		$850.00
1	/ART	Team name in place of home		included
1	AC-CBMS250W	Wireless MS-250 MultiSport Controller with carrying case (spare)		$850.00
			Material	$14,900.00
			Tax	$1,229.25
			Freight	$750.00
			TOTAL PRICE	**$16,879.25**

Terms : PO #, Balance Due net 30
Quote in effect 60 days from above date.
Delivery approx. 4 weeks from date of complete order.

APPROVED BY:

Sincerely, ____________________ Customers Signature: ____________________

Jimmy Dabney

Date: ____________________ Date: ____________________

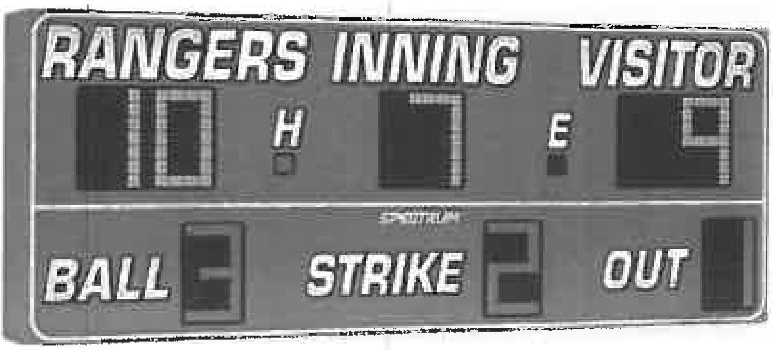
SPECTRUM CORPORATION

Search SpectrumScoreboards

home | contact | quote | site map

Home > Products > Scoreboards > Baseball Scoreboards > 9214

Outdoor Electronic Baseball Scoreboards and Signs, Model #9214



Model #9214
Size: 6'H x 14'W x 5"D

Model shown in Red and Amber LED Digits with optional outline shadowed letters.

- Huge 21" digits
- Scores 0-99
- Inning 0-19
- Ball 0-3, Strike 0-2, Out 0-2
- Bullseye indicators for Hit and Error
- Border Trim Striping
- Control Console with carrying case

Get more information on Spectrum's selection of baseball scoreboards today!

SPECIFICATIOS

Home | Scoreboards | Basketball Scoreboards | Football Scoreboards | Baseball Scoreboards | Outdoor Signs | Service Dealers | Recreational Equipment | Company | Contact Centers | Contact Us | Request A Quote | Privacy Policy | Site Map

Outdoor Electronic Baseball and Softball Scoreboards and Signs, Model #9110

Model #9110
Size: 4'H x 10'W x 5"D

Model shown in Red and Amber LED Combination.

- Huge 21" scores, 18" inning
- Scores 0-99
- Inning 0-9
- Bullseye indicators for Ball, Strike, Out, Hit and Error
- Control Console with carrying case

Request a quote on your baseball and softball scoreboard from Spectrum today.

CITY OF CLAYTON
Founded 1857 . . Incorporated 1964

Agenda Date: 1-17-12

Agenda Item: 4e

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 17 JANUARY 2012

SUBJECT: SET DATE FOR CITY COUNCIL SPECIAL MEETING COUNCIL - MANAGER GOALS AND OBJECTIVES FOR 2012

RECOMMENDATION

It is recommended the City Council determine a date, time and location for a City Council special meeting for the purpose of discussing progress and relevance of existing goals, and setting goals and objectives for Calendar Year 2012.

BACKGROUND

The Clayton City Council meets at least once a year with its City Manager to discuss progress on the Council – Manager goals and objectives set in motion the previous year(s), and to establish new and/or modified goals for the ensuing calendar year.

A separate meeting for this purpose allows sole attention and focus specifically on the achievement, progress, and establishment of City goals and objectives for the current calendar year.

Attached are calendars for the months of January and February 2012 as reference for the selection of a date and time for the special meeting. In the past this meeting has been held in the 3rd Floor Conference Room of Clayton City Hall. Last year's meeting was held on Tuesday, 01 February 2011.

FISCAL IMPACT

No direct fiscal impact. The lack of clearly defined goals and objectives may actually cost the City and its community money over the short and long-term operations of the public entity due to misdirection and/or absence of priorities.

Attachment: Calendars for January & February 2012 [2 pp.]

January 2012

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2 Holiday- City Hall Closed	3	4	5	6	7
8	9	10	11	12	13	14
15	16 Martin Luther King, Jr. Day- Holiday- City Hall Closed	17 City Council Meeting	18	19	20	21
22	23	24 Planning Commission Meeting	25	26	27	28
29	30	31				

February 2012

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
			1	2	3	4
5	6	7 City Council Meeting	8	9	10 Furlough Day- City Hall Closed	11
12	13 Lincoln's Birthday-Holiday- City Hall Closed	14 Planning Commission Meeting	15	16	17	18
19	20 President's Day-Holiday- City Hall Closed	21 City Council Meeting	22	23	24	25
26	27	28 Planning Commission Meeting	29			

MINUTES
OF THE
REGULAR MEETING

Agenda Date: 1-17-12

CLAYTON REDEVELOPMENT AGENCY

Agenda Item: 3a RDA

December 6, 2011

1. **CALL TO ORDER & ROLL CALL** - the meeting was called to order at 8:07 p.m. by Chairperson Pierce in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Boardmembers present: Chairperson Pierce, Vice Chairman Geller, Boardmembers Medrano, Shuey and Stratford. Staff present: Executive Director Napper, Secretary Jackson, and General Counsel Subramanian.

2. **PUBLIC COMMENTS** – None.

3. **CONSENT CALENDAR** **It was moved by Boardmember Stratford, seconded by Boardmember Medrano, to approve the Consent Calendar as submitted (Passed; 5-0 vote).**

(a) Approved the minutes of the regular meetings of August 16, 2011 and August 22, 2011.

4. **ANNUAL REORGANIZATION OF THE BOARD OF DIRECTORS**

(a) Nominations and election of Chair

Chairperson Pierce opened the nominations. It was moved by Vice Chairman Geller, seconded by Boardmember Medrano, to nominate Julie Pierce for Chairperson. No other nominations were received. Chairperson Pierce called for the vote for her re-election as Chair (Passed; 5-0 vote).

(a) Nominations and election of Vice Chair

Chairperson Pierce opened the nominations for Vice Chair.

It was moved by Boardmember Medrano, seconded by Vice Chairman Geller, to nominate David Shuey for the position of Vice Chair. No other nominations were received. Chairperson Pierce called for the vote to elect David Shuey as Vice Chair (Passed; 5-0 vote).

5. **PUBLIC HEARINGS** - None

6. **ACTION ITEMS** – None.

7. **BOARD ITEMS** – None.

8. **ADJOURN** – on call by Chairperson Pierce the meeting adjourned at 8:08 p.m.

Respectfully submitted,

____
Laci J. Jackson, Secretary

Clayton Redevelopment Agency Board

____
Julie K. Pierce, Chairperson

Agenda Date: 1-17-12

Agenda Item: 3b RDA

CITY OF CLAYTON
Founded 1857 .. Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE CHAIR AND BOARD MEMBERS

FROM: EXECUTIVE DIRECTOR

DATE: 17 JANUARY 2012

SUBJECT: RESOLUTION CERTIFYING NO LOANS OR INDEBTEDNESS OWED THE CITY OF CLAYTON BY THE CLAYTON REDEVELOPMENT AGENCY WERE FORGIVEN IN CALENDAR YEARS 2010 AND 2011

RECOMMENDATION

It is recommended the Agency Board of Directors adopt the attached Resolution for compliance with state legislation AB 936 enacted in 2011.

BACKGROUND

Among the host of quirky and provocative bills enacted by the state of California last year impacting and jeopardizing the fiscal operations of local governments was Assembly Bill 936 (Hueso). Regardless of the now-defunct status of redevelopment agencies in California due to the Supreme Court's recent decision ruling AB 1X 26 (the "Dissolution Act") is constitutional, AB 936 requires that by 01 February 2012 redevelopment agencies and their legislative bodies (i.e., city council or county board of supervisors) must adopt a resolution declaring whether or not it forgave a loan, advance or indebtedness owed to the other entity, in whole or in part, during calendar years 2010 or 2011.

To comply with AB 936, Agency staff researched its financial records and reviewed its previously-adopted "Enforceable Obligations Payment Schedule" (EOPS) also required by state legislation aimed at dissolving redevelopment agencies. There are two (2) unsecured debts owed the City by the Clayton Redevelopment Agency and neither one was forgiven in any amount during calendar years 2010 or 2011. The City of Clayton does not owe any loans or debt due the Agency.

FISCAL IMPACT

There is no financial impact to the Agency by adoption of this Resolution reciting facts of indebtedness owed by the Clayton Redevelopment Agency to the City of Clayton.

Attachments:
A. RDA Resolution [2 pp.]
B. RDA Resolution No. 99-66 [5 pp.]
C. RDA Resolution No. 02-2010 [3 pp.]

RDA RESOLUTION NO. – 2012

A RESOLUTION IN COMPLIANCE WITH CALIFORNIA ASSEMBLY BILL NO. 936 (2011 STATUTUE) DECLARING NO LOANS BETWEEN THE CITY OF CLAYTON AND THE CLAYTON REDEVELOPMENT AGENCY WERE FORGIVEN IN WHOLE OR IN PART DURING CALENDAR YEARS 2010 AND 2011

THE BOARD OF DIRECTORS
Clayton Redevelopment Agency

WHEREAS, pursuant to authority granted to local public agencies by the California Community Redevelopment Law (CRL), the City of Clayton duly formed and established the Clayton Redevelopment Agency in July 1987 and in November 1987 formed the Agency's 852-acre Project Area; and

WHEREAS, during its course of continuous existence and operation since said formation date the Clayton Redevelopment Agency did on two (2) occasions execute unsecured promissory notes payable to the City of Clayton for public purposes consistent with the overall mission and implementation plan of the Agency; and

WHEREAS, in 2011 the California State Legislature did enact, and the Governor did sign, state legislation in the form of Assembly Bill 936 (Hueso) that specifies procedures that must now be implemented by the City of Clayton and the Clayton Redevelopment Agency concerning the status of any loan, advance or indebtedness between each public entity during the calendar years of 2010 and 2011; and

WHEREAS, AB 936 requires that by 01 February 2012, irrespective of the California Supreme Court's recent decision on 29 December 2011 that effectively dissolves all California redevelopment agencies on 01 February 2012 by ruling Assembly Bill 1X 26 (the "Dissolution Act") was constitutional, each redevelopment agency and its respective public body (i.e., city or county that formed the agency) must adopt a Resolution declaring whether or not it forgave any such loan in whole or in part during calendar years 2010 and 2011; and

WHEREAS, as of the date of this Resolution the City of Clayton does not owe the Clayton Redevelopment Agency any unpaid loan or indebtedness but the Clayton Redevelopment Agency still owes the City of Clayton the following monetary amounts for the purposes noted below:

Amount Owed	Purpose	Date of Obligation
$475,000.00	Purchase of 1.18 acres of land for a Fire Station.	Reso. No. 99-6 15 June 1999
$439,162.00	Unpaid 2% Election Payments since July 1988.	Reso. No. 02-2010 16 Feb. 2010; and

WHEREAS, as of the date of this Resolution the amounts noted above and owed to the City of Clayton have not been paid in full, remain outstanding, and no action was taken in calendar years 2010 or 2011 by the City or the Redevelopment Agency to forgive either of the loans or the indebtedness in whole or in part.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Clayton Redevelopment Agency, Clayton, California that:

1. The above Recitals are true and correct facts pertaining to the current status of unsecured promissory loans, notes or indebtedness owed the City of Clayton by the Clayton Redevelopment Agency that remain outstanding as of the date of this Resolution.

2. The Board of Directors does hereby acknowledge and attest herein that no portion, whole or in part, of the loan amounts specified in the Recitals above were forgiven, whole or in part, during calendar years 2010 and 2011, and that the dollar amounts stated herein remain outstanding and unpaid by the Clayton Redevelopment Agency to the City of Clayton.

3. The Board of Directors does hereby instruct its Executive Director, within ten (10) days after its adoption of this Resolution, to transmit a copy of said Resolution to the California State Controller in compliance with AB 936.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Clayton Redevelopment Agency, Clayton, California at a regular public meeting thereof held on the 17th day of January 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE BOARD OF DIRECTORS
CLAYTON REDEVELOPMENT AGENCY

____
Julie K. Pierce, Chairperson

ATTEST:

____
Laci J. Jackson, Secretary

ATTACHMENT B

RESOLUTION NO. 99-6

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON AUTHORIZING EXECUTION OF AGREEMENT WITH THE CITY OF CLAYTON FOR PURCHASE OF FUTURE FIRE STATION SITE

WHEREAS, the Redevelopment Agency of the City of Clayton proposes to purchase from the City of Clayton approximately 1.18 acres of unimproved land at the southeast corner of Clayton Road and the future extension of Oakhurst Drive in Clayton (herein the "Property"); and

WHEREAS, the Property is proposed as a site for the construction of a new fire station of the Central Contra Costa Consolidated Fire District (herein "Fire District"); and

WHEREAS, the City has been in negotiations with the Fire District concerning the construction and funding of a new fire station on such site; and

WHEREAS, as part of the plan for achieving the new fire station, the City shall sell the Property to the Agency who shall ultimately convey the same to the Fire District pursuant to an Agreement to be reached with the Fire District; and

WHEREAS, based upon information set forth in the staff report presented to the Agency in connection with its consideration of this Resolution, the Agency finds:

(a) The proposed buildings, facilities, structures and other improvements are of benefit to the Project Area or its immediate neighborhood; and

(b) No other reasonable means of financing the buildings, facilities, structures and other improvements are available to the community; and

(c) The payment of funds for the acquisition of land or the cost of improvements will assist in the elimination of one or more blighting conditions inside the Project Area is consistent with the Agency's implementation plan adopted pursuant to Section 33490 of the California Health and Safety Code; and

(d) The sale will assist in the elimination of blight; and

(e) The consideration to be paid for the Property is not less than the fair market value at its highest and best use in accordance with the Redevelopment Plan.

WHEREAS, an Agreement setting forth the terms for the purchase by the Agency from the City has been prepared by the City Attorney, and recommended for approval by the Executive Director, a true and correct copy of which is attached hereto.

WHEREAS, notice of a public hearing on the proposed expenditure of Agency funds as aforesaid and the ultimate conveyance of the Property to the Fire District for a new fire station site has been given in accordance with Sections 33679 and 33433 of the California Health and Safety Code and a public hearing held before the Redevelopment Agency at its regular meeting of June 15, 1999.

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Clayton that the Chairperson and Executive Director are hereby authorized to execute for and on behalf of the Agency, the Purchase and Sale Agreement for Future Fire Station Site in the form as set forth in Exhibit "A" and the Chairperson and Executive Director are authorized to take all appropriate steps to conclude the purchase of the Property from the City by the Agency as required by the Purchase and Sale Agreement.

Adopted by the Redevelopment Agency Board of Directors of the City of Clayton at a regular meeting of said Agency held on June 15, 1999, by the following vote:

AYES: Agency Members Laurence, Littorno, Pierce, Vice Chair Manning, Chair Peterson

NOES: None

ABSENT: None

Chairperson

ATTEST:

Frances Douglas

Agency Secretary

APPROVED BY ADMINISTRATION:

Executive Director

I hereby certify that the foregoing resolution was duly and regularly passed by the Redevelopment Agency of the City of Clayton at a duly noticed regular meeting held on June 15, 1999.

Frances Douglas

Agency Secretary

S:MehRedevAgencyRes99-3

PURCHASE AND SALE AGREEMENT

FUTURE FIRE STATION SITE
SOUTHEAST CORNER OF CLAYTON ROAD AND FUTURE EXTENSION OF OAKHURST DRIVE

1. PARTIES.

This Agreement is made on June 17, 1999, between the CITY OF CLAYTON, a municipal corporation (herein referred to as "CITY") and the REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON (herein referred to as "AGENCY").

2. AGREEMENT TO SELL AND TO PURCHASE: DESCRIPTION OF PROPERTY.

CITY agrees to sell, and AGENCY agrees to purchase, the 1.1 acre parcel more or less situated at the southeast corner of Clayton Road and the future extension of Oakhurst Drive in the City of Clayton, County of Contra Costa, California, more particularly described in Exhibit "A-1" attached hereto and made a part hereof including any subsequent adjustments to said parcel by lot line adjustment between the CITY and Presley Homes.

3. PURCHASE PRICE.

The purchase price for the property is FOUR HUNDRED SEVENTY FIVE THOUSAND DOLLARS ($475,000.00), payable as follows:

By promissory note from AGENCY to CITY in the amount of the full purchase price, bearing interest at the rate of six and one half percent (61/2%) per annum, interest payable quarterly, the principal balance payable in full on or before January 1, 2023. Said note to be an obligation of the AGENCY and its assets but otherwise unsecured by the property.

4. CLOSE OF TRANSACTION.

The subject transaction shall close by recording of a Grant Deed from CITY to AGENCY in exchange for receipt of the aforementioned promissory note from AGENCY to CITY, all to be handled by CITY staff. AGENCY may elect to require title insurance in the amount of the purchase price at AGENCY'S cost, in which event AGENCY shall make the appropriate arrangements to obtain such insurance. Both CITY and AGENCY shall adopt resolutions approving this Agreement. Each parties obligation thereunder is subject to compliance with all applicable laws, rules or regulations covering sale by CITY and purchase by AGENCY of the property. Recordation shall occur when

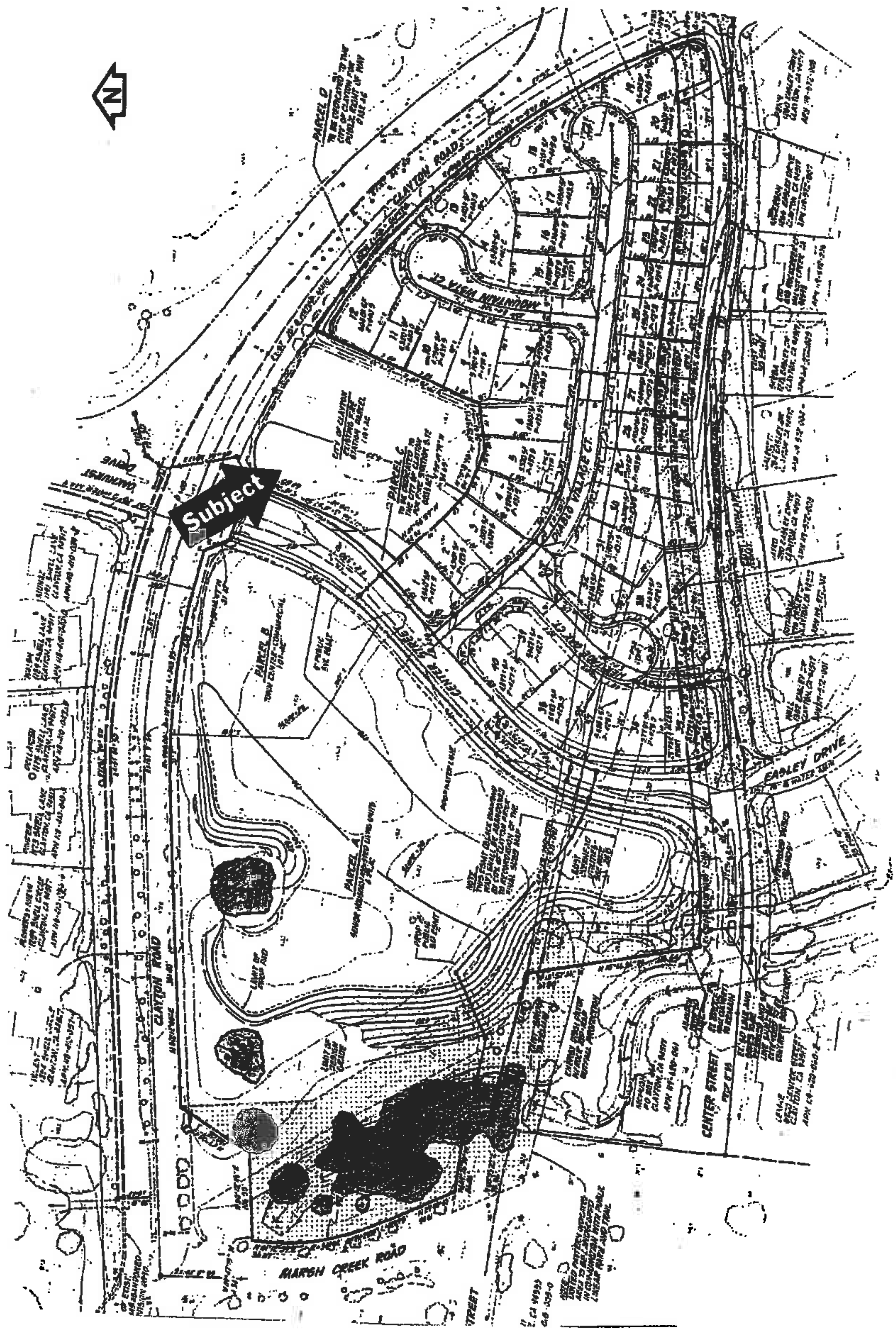
EXHIBIT A-1

All that certain real property situated in the City of Clayton, Contra Costa County, California, being a portion of Parcel 1 as said parcel is shown on that certain Parcel Map entitled Parcel Map "MS 419-90" recorded August 19, 1993 in Book 163 of Parcel Maps at Page 1, Official Contra Costa County Records, more particularly described as follows:

Beginning at the most easterly terminus of that certain line annotated "T-7" on sheet 4 of 4 of said Parcel Map (163 PM 1); thence south 14° 06' 43" west 64.65 feet to a point on a tangent curve, concave to the northwest having a radius of 417.36 feet; thence southerly along the arc of said curve, an arc distance of 138.14 feet, through a central angle of 18° 57' 51" to a point from which the center bears north 56° 55' 25" west; thence south 49° 58' 59" east 84.94; thence south 55° 49' 19" east 34.65 feet; thence south 75° 18' 58" east 54.71 feet; thence north 73° 57' 13" east 58.91 feet; thence north 17° 26' 09" east 223.00 feet to the northerly line of said Parcel 1, said point being on a curve concave to the south, having a radius of 950.00 feet, whose center bears south 26° 48' 27" west; thence westerly along the arc of said curve as arc distance of 186.30 feet, through a central angle of 11° 14' 09" to a point from which the center bears south 15° 34' 17" west; thence continuing along the boundary of said parcel 1 south 52° 48' 31" west 32.43 feet to the point of beginning.

Containing 1.18 acres, more or less.

Plat Map


N
Subject
CLAYTON ROAD
CENTER STREET
EASLEY DRIVE
MARSH CREEK ROAD

RDA RESOLUTION NO. 02– 2010

A RESOLUTION ACKNOWLEDGING AN UNPAID 2% ELECTION PAYMENT DUE THE CITY OF CLAYTON SINCE INCEPTION OF THE CLAYTON REDEVELOPMENT AGENCY AND ESTABLISHING A 4-YEAR PLAN FOR PAYMENT OF SAID DEBIT OBLIGATION

THE BOARD OF DIRECTORS
Clayton Redevelopment Agency

WHEREAS, the Clayton Redevelopment Agency ("Agency") was formed in July 1987 in accordance with *California Redevelopment Law* for a 50-year life to expire in July 2037; and

WHEREAS, during its formation the City Council of the City of Clayton, California did adopt Resolution No. 31-87 on 01 July 1987 ordering "2% election" payments to the City each year by the Agency, as authorized by Section 33676 of the *California Health and Safety Code*, in connection with the Clayton Redevelopment Project; and

WHEREAS, said 2% election payments to the City were to commence after the tax year in which the ordinance adopting the Clayton Redevelopment Plan became effective, namely Fiscal Year 1988-89; and

WHEREAS, during examination of the Agency's remaining fiscal status and condition during calendar year 2009, it was discovered by Agency staff and its consultant, Seifel Consulting, Inc., that these 2% election payments had never been made to the City of Clayton; and

WHEREAS, subsequent verification by Contra Costa County's Auditor-Controller of this payment omission resulted in the County's calculation that the Agency owes the City of Clayton a total of $501,898.64 in unpaid 2% election payments from Fiscal Year 1988-89 through Fiscal Year 2008-09; and

WHEREAS, 2% election payments originate from the gross tax increment revenue collected each year for the Agency prior to the extraction of other public taxing entities' pass-through payments and Agency debt service; and

WHEREAS, due to the failure in allocating the 2% election payments to the City of Clayton during the last twenty one (21) fiscal years, the Agency now incurs a debit obligation to the City for the principal amount owed of $501,898.64; and

WHEREAS, lump sum payment of the Agency's debit obligation could negatively impact the financial status of the Agency to perform its 5-Year Implementation Plan, achieve its mission to cure blight, and seriously disable the reserves of the Agency in the wake of a $1.966 million illegal SERAF shift by the State of California this fiscal year.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of the Clayton Redevelopment Agency that:

1. The above Recitals are true and correct facts pertaining to the omission of the Agency making 2% election payments to the City of Clayton, California since Fiscal Year 1988-89 through Fiscal Year 2008-09, in accord with Section 33676 of the *California Health and Safety Code*.

2. The Board of Directors herein acknowledges and accepts the fact the Agency does owe the City of Clayton its past 2% election payments in the principal amount of $501,898.64, and hereby wishes to correct this oversight and fulfill its monetary obligation in this regard.

3. In order to pay the debit obligation of $501,898.64 without decimation of the Agency's existing reserves and future tax increment revenue allocations, the Board of Directors does herewith adopt and order the following 4-year payment plan to satisfy its fiscal obligation:

Fiscal Year	Non-Housing	Affordable Housing	Total Funds
2010-11	$ 100,379.73	$ 25,094.93	$ 125,474.66
2011-12	$ 100,379.73	$ 25,094.93	$ 125,474.66
2012-13	$ 100,379.73	$ 25,094.93	$ 125,474.66
2013-14	$ 100,379.73	$ 25,094.93	$ 125,474.66
Totals:	**$ 401,518.92**	**$ 100,379.72**	**$ 501,898.64**

4. The Board of Directors does hereby instruct its Executive Director to notify and provide a copy of this Resolution signed by its Chairman to the City of Clayton, California as good faith evidence of action taken to fully satisfy the 2% election debit obligation of the Agency over the next four (4) fiscal years, and to transmit to the Board for consideration any future action by the City Council of Clayton to call for acceleration of this payment plan due to the City's finding of fiscal plight.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Clayton Redevelopment Agency at a regular public meeting thereof held on the 16th day of February 2010 by the following vote:

AYES: Chairman Medrano, Vice Chairperson Pierce, Boardmembers Geller, Shuey and Stratford.

NOES: None.

ABSTAIN: None.

ABSENT: None.

THE BOARD OF DIRECTORS
CLAYTON REDEVELOPMENT AGENCY

Joseph A. Medrano, Chairman

ATTEST:

Laci J. Jackson, Secretary

Agenda Date: 1-17-12

Agenda Item: 3c RDA

CITY OF CLAYTON
Founded 1857 . . Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE CHAIRPERSON AND BOARD MEMBERS

FROM: EXECUTIVE DIRECTOR

DATE: 17 JANUARY 2012

SUBJECT: RESOLUTION AMENDING AND RE-ADOPTING THE AGENCY'S "ENFORCEABLE OBLIGATION PAYMENTS SCHEDULE" (EOPS) PURSUANT TO AB1x 26 LAW

RECOMMENDATION

It is recommended the Agency Board of Directors adopt the prepared Resolution approving the Agency's amended "Enforceable Obligation Payments Schedule (EOPS) in accordance with the California Supreme Court-ruled constitutionality of AB1X 26 (the "Dissolution Act").

BACKGROUND

On 11 August 2011, the California Supreme Court agreed to review a petition challenging the constitutionality of AB1x 26 (the "Dissolution Act") and AB1x 27 (the "Voluntary Redevelopment Program Act"). The Court's order also stayed specified portions of these Redevelopment Restructuring Acts, indefinitely postponing certain provisions' implementation and effectiveness. During that period of suspension, the Clayton Redevelopment Agency was still required to prepare a list of contractual and indebtedness obligations of the Agency and to adopt and submit the "schedule" by 28 August 2011. Our Agency complied with this requirement by adopting RDA Resolution No. 03-2011 at a regular public meeting on 16 August 2011. Pursuant to the regulations available at that time, the Agency's EOPS was only effective through 31 December 2011.

On 29 December 2011 the California Supreme Court ruled in its decision on this controversial subject that the State of California did indeed have the authority to terminate the existing redevelopment agencies in the state but did not have the constitutional authority (under Prop 22) to enact a voluntary redevelopment program (AB1X 27), which program instituted "pay to play" provisions for agencies to continue to operate if they each "paid" pre-designated amounts of money to the state in FY 2011-12 and each year thereafter.

AMENDED ENFORCEABLE OBLIGATION PAYMENTS

The Court's announcement means existing redevelopment agencies cease to exist on 01 February 2012, and thereafter "successor agencies" will become responsible to manage the expiring affairs and disposition of assets of each agency subject to a yet unformed Oversight Board.

Under the law, "enforceable obligations" of a redevelopment agency include the following financial arrangements (the EOPS of the Agency):

Bonds
Loans
Payments required by state or federal government
Obligations to employees
Judgments or settlements
Binding and legally enforceable agreements entered into before AB1x 26
Contracts for RDA administration, Successor Agency administration (new), and Oversight Board administration (new)

As the Supreme Court's ruling also extended the extermination date of redevelopment agencies an extra month (through January 2012) from the previous legislated termination date of 31 December 2011, our Agency's earlier-adopted EOPS also terminated on 31 December 2011. To ensure our Agency's contractual and indebtedness obligations will be recognized and honored for payment during this extra month, redevelopment legal counsels throughout the state (and our Special Legal Counsel Karen Tiedemann) strongly recommend our Agency re-adopt its EOPS for the balance of the remaining fiscal year (through FY 2011-12, to end on 30 June 2012).

In addition, the opportunity arises for the Agency to review its previously-adopted EOPS to determine if additional obligations should now be advanced with the finality of dissolution of the Agency. For example, the Dissolution Act requires that if an Agency had "borrowed" funds from its Low-Moderate Income (LMI) Housing Fund to make its state-mandated SERAF payments in FY 2009-10 (which action was indeed enacted by our Agency due to insufficient annual tax increment that fiscal year to pay the state's theft), that intra-agency loan must be repaid to the LMI Housing Fund using the tax increment revenues expected this fiscal year (FY 2011-12). Further, redevelopment agencies are not allowed to escalate loan repayments to its city (if such occurred) in order to retain more monies local if an annual loan repayment schedule was previously adopted (e.g., the Agency's overlooked 2% Election revenue liability due the City over a 4-year repayment schedule). These restrictions and regulations were purposely placed in the Dissolution Act so the state and other public taxing entities (i.e. public school districts, special districts) would receive as much tax monies as possible back from dissolved agencies this fiscal year to aid their fiscal plights.

Consequently, the amended EOPS submitted for Board approval has been culled for the full contractual obligations and indebtedness owed by the Agency to conform to these requirements.

Attachment: 1. EOPS Resolution [3 pp.]

Exhibit: A. Amended and Re-Adopted Enforceable Obligation Payments Schedule (EOPS) [2 pp.]

RDA RESOLUTION NO. - 2012

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON, CALIFORNIA AMENDING AND RE-ADOPTING ITS ENFORCEABLE OBLIGATION PAYMENTS SCHEDULE PURSUANT TO PART 1.8 OF THE REDEVELOPMENT LAW

THE BOARD OF DIRECTORS
Clayton Redevelopment Agency, California

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Clayton (the "City") adopted in accordance with the California Community Redevelopment Law, City Ordinance No. 243 on 20 July 1987 adopting the Redevelopment Plan for the Clayton Redevelopment Project Area (the "Redevelopment Plan"), as amended from time to time; and

WHEREAS, the Redevelopment Agency of the City of Clayton (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to said Redevelopment Law; and

WHEREAS, Assembly Bill 1X 26 (the "Dissolution Act") and Assembly Bill 1X 27 (the "Alternative Redevelopment Program Act") were enacted by the State of California on June 28, 2011, to significantly modify the Community Redevelopment Law and to end the existence of or modify continued operation of redevelopment agencies throughout the state (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of these Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision means that all California redevelopment agencies are now terminated and will automatically dissolve on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, by Resolution No. 03-2011 adopted by the Agency Board of Directors at a public meeting held on 16 August 2011, the Agency duly adopted its "Enforceable Obligation Payments Schedule" (as defined in Redevelopment Law, Section 34167(d)) listing all of the Agency's enforceable obligation payments to be made by the Agency through 31 December 2011; and

WHEREAS, with dissolution of the Clayton Redevelopment Agency to now be effective 01 February 2012, the prior adopted "Enforceable Obligation Payment Schedule" (the "EOPS") of the Agency must of necessity be extended for that time period of 01 January 2012 through 30 June 2012 such that recognized obligations of the Agency will continue to be in full force and effect for payment during the additional time period beyond the EOPS' approval through 31 December 2011; and

WHEREAS, it is the further intent of the Agency to ensure that its enforceable obligation and bonded indebtedness payments shall, during this unprecedented period of confusion and legislative chaos, not become victims of inadvertent gaps of default or payment recognition between the EOPS' standing and when the first recognized obligation payment schedule (the "ROPS") has been prepared by the Agency's successor agency, certified, and approved by the successor agency's oversight board in the event of delays in the initial ROPS process.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Clayton Redevelopment Agency does hereby find the above Recitals are true and correct and have served in part, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the Board does hereby amend and herein re-adopt the Agency's Enforceable Obligation Payments Schedule (EOPS), attached hereto as "Exhibit A" and incorporated herein as if fully set forth in this Resolution.

BE IT FURTHER RESOLVED that the Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this action and Resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project. The Board therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa, California in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED that the Board authorizes and directs the Agency's Executive Director or the Executive Director's designee to: (1) post the amended and re-adopted Enforceable Obligation Payments Schedule (Exhibit A) on the Agency and City website; (2) designate an Agency representative to whom all questions related to the Enforceable Obligation Payments Schedule can be directed; and (3) to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the amended and re-adopted Enforceable Obligation Payments Schedule on behalf of the Agency.

AND BE IT FURTHER RESOLVED that this Resolution shall and does take immediate effect upon its adoption.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the City of Clayton Redevelopment Agency at a regular public meeting held on the 17th day of January 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE AGENCY BOARD OF DIRECTORS

Julie K. Pierce, Chairperson

ATTEST:

Laci J. Jackson, Secretary

# # # # #

I certify that the foregoing is a true and correct copy of the original Resolution on file in the office of the Agency Secretary of the Redevelopment Agency of the City of Clayton.

Laci J. Jackson, Secretary

EXHIBIT A

Name of Redevelopment Agency: Clayton Redevelopment Project Area

Project Area(s) All (1)

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

Amended-Readopted January 17, 2012

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments By Month Jan	Feb	Mar	Apr	May	June	Total
1)	City Loan 12/1/1990	Diamond Terrace Investors	Senior Living Facility	400,000.00	200,000.00						200,000.00	$ 200,000.00
2)	1996 Tax Allocation Bonds Series A	US Bank	Bonds issued to fund non-housing projects	1,682,220.00	724,993.75		724,993.75					$ 724,993.75
3)	1999 Tax Allocation Bonds	US Bank	Bonds issued to fund non-housing projects	5,175,000.00	121,360.00		121,360.00					$ 121,360.00
4)	City Loan on 6/17/1999	City of Clayton	Loan for Fire Station land	475,000.00	400,786.00				200,393.00		200,393.00	$ 400,786.00
5)	RDA liability 1988-2009	City of Clayton	2% Election payments per Section 33676	376,423.98	125,475.00	20,913.00	20,913.00	20,913.00	20,913.00	20,913.00	20,910.00	$ 125,475.00
6)	Intra-Agency Loan on 5/19/10	Clayton RDA LMI Housing	Loan for S.E.R.A.F. payment	592,412.00	592,412.00	88,862.00	88,862.00	88,862.00	88,862.00	88,862.00	88,861.00	$ 533,171.00
7)	Contract for Consulting Services	Thales Consulting	RDA State Controller's Report 2010-11	5,400.00	1,800.00			1,800.00				$ 1,800.00
8)	Contract for Consulting Services	Cropper Accountancy	RDA Audit 2010-11	12,372.00	4,124.00			4,124.00				$ 4,124.00
9)	Contract for Consulting Services	NBS Local Gov't Solution	Arbitrage Reporting	8,700.00	2,900.00							$ -
10)	Contract for Consulting Services	US Bank	Paying Agent Fee	16,095.00	5,365.00							$ -
11)	Contract for Consulting Services	Raney Planning	Housing Element Implementation	35,294.00	35,294.00	7,500.00	5,000.00	3,000.00	3,000.00	3,000.00	3,000.00	$ 24,500.00
12)	Contract for Consulting Services	Raney Planning	Housing Element Implementation EIR	119,450.00	-							$ -
13)	Contract for Consulting Services	Goldfarb&Lipman/ Turner/ BB&K	Legal advice	45,000.00	15,000.00	-	-	-	-	-	-	$ -
14)	Successor Agency & Oversight Bd admin	City of Clayton	Admin for Agency's Operations	1,200,000.00	400,000.00	33,333.33	33,333.33	33,333.33	33,333.33	33,333.33	33,333.35	$ 200,000.00
15)	Contract for Consulting Services	Seifel Consulting	RDA Opt In Consultant	4,000.00	4,000.00							$ -
16)	Contract for Services	Valley Yellow Pages	Contract Advertisment for Rental Property	4,074.00	4,074.00			2,458.50				$ 2,458.50
17)	Contract for Services	Clayton Pioneer	Affordable Housing Advertisement	900.00	300.00	300.00						$ 300.00
18)	Contract for Services	Bay Area News Group	Legal Notices	600.00	200.00	200.00						$ 200.00
	Totals - This Page			$ 10,152,940.98	$ 2,638,083.75	$ 151,108.33	$ 994,462.08	$ 154,490.83	$ 346,501.33	$ 146,108.33	$ 546,497.35	$ 2,339,168.25
	Totals - Page 2			$ -	$ -	$ -	$ -	$ -	$ -		$ -	$ -
	Totals - Page 3			$ -	$ -	$ -	$ -	$ -	$ -		$ -	$ -
	Totals - Page 4			$ -	$ -	$ -	$ -	$ -	$ -		$ -	$ -
	Totals - Other Obligations			$ 5,096,881.51	$ 1,142,731.17	$ -	$ -	$ -	$ 1,088,244.61		$ 54,486.56	$ 1,142,731.17
	Totals - All Pages			$ 15,249,822.49	$ 3,780,814.92	$ 151,108.33	$ 994,462.08	$ 154,490.83	$ 1,434,745.94	$ 146,108.33	$ 600,983.91	$ 3,481,899.42

* This amended Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than February 1, 2012. It is valid through 6/30/12
Recognized Obligation Payment Schedule (ROPS), must be prepared by the Successor Agency by March 8, 2012.

** Include only payments to be made after the adoption of the EOPS.

Name of Redevelopment Agency: Clayton Redevelopment Project Area

Project Area(s) All

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169 (*)

	Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month: Jan	Feb	Mar	Apr	May	June	Total
1)	Section 33676 Payments	Comm College	Payments per former CRL 33676	165,986.00	38,411.00				36,490.45		1,920.55	$ 38,411.00
2)	Section 33676 Payments	County Supt Schools	Payments per former CRL 33676	34,589.00	8,004.00				7,603.80		400.20	$ 8,004.00
3)	Section 33676 Payments	County Res Consv	Payments per former CRL 33676	583.00	135.00				128.25		6.75	$ 135.00
4)	Section 33676 Payments	City of Clayton	Payments per former CRL 33676	217,813.00	50,404.00				47,883.80		2,520.20	$ 50,404.00
5)	Pass Through Agreement	County	Payments per former CRL 33401	3,276,204.00	713,409.00				677,738.55		35,670.45	$ 713,409.00
6)	Pass Through Agreement	Flood Control Dist	Payments per former CRL 33401	6,579.00	1,522.00				1,445.90		76.10	$ 1,522.00
7)	Pass Through Agreement	Library	Payments per former CRL 33401	261,912.00	1,299.00				1,234.05		64.95	$ 1,299.00
8)	Pass Through Agreement	County Fire	Payments per former CRL 33401	472,825.00	109,417.00				103,946.15		5,470.85	$ 109,417.00
9)	Pass Through Agreement	County	Payments per former CRL 33401/AB860	501,390.51	167,130.17				158,773.66		8,356.51	$ 167,130.17
10)	Statutory Payments	County	Property Tax Administrative Cost	159,000.00	53,000.00				53,000.00			$ 53,000.00
11)												$ -
												$ -
	Totals - This Page			$ 5,096,881.51	$ 1,142,731.17	$ -	$ -	$ -	$ 1,088,244.61		$ 54,486.56	$ 1,142,731.17
	Totals - Page 2			$ -	$ -	$ -	$ -	$ -	$ -		$ -	$ -
	Totals - Page 3			$ -	$ -	$ -	$ -	$ -	$ -		$ -	$ -
	Totals - Page 4			$ -	$ -	$ -	$ -	$ -	$ -		$ -	$ -
	Totals - Other Obligations			$ -	$ -	$ -	$ -	$ -	$ -		$ -	$ -
	Grand total - All Pages			$ 5,096,881.51	$ 1,142,731.17	$ -	$ -	$ -	$ 1,088,244.61		$ 54,486.56	$ 1,142,731.17

* **This Enforceable Obligation Payment Schedule (EOPS) is to be adopted by the redevelopment agency no later than late August. It is valid through 12/31/11. It is the basis for the Preliminary Draft Recognized Obligation Payment Schedule (ROPS), which must be prepared by the dissolving Agency by 9/30/11. (The draft ROPS must be prepared by the Successor Agency by 11/30/11.) If an agency adopts a continuation ordinance per ABX1 27, this EOPS will not be valid and there is no need to prepare a ROPS.**

** **Include only payments to be made after the adoption of the EOPS.**

MINUTES
CLAYTON FINANCING AUTHORITY
REGULAR MEETING
JANUARY 18, 2011

Agenda Date: 1-17-12

Agenda Item: 4a FIN

1. **CALL TO ORDER AND ROLL CALL** - the meeting was called to order by President Shuey at 9:11 p.m. in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road. Board Directors present: President Shuey, Vice President Geller, Board Members Medrano, and Pierce. Board Director absent: Boardmember Stratford. Staff members present: Executive Director, Secretary, and Legal Counsel.

2. **CLOSED SESSION** – None.

3. **PUBLIC COMMENTS** – None.

4. **CONSENT CALENDAR – It was moved by Boardmember Pierce, seconded by Boardmember Medrano, to approve the Consent Calendar as submitted (Passed; 4-0 vote).**

(a) Approved the minutes of the regular meeting of January 5, 2010

(b) Approved the Clayton Financing Authority Annual Report for Calendar Year 2010.

5. **ACTION ITEMS** - None.

6. **BOARD ITEMS** – None.

7. **ADJOURNMENT**- On call by President Shuey the meeting adjourned at 9:12 p.m.

Respectfully submitted,

Laci J. Jackson, Secretary

Approved by
Clayton Finance Authority Board of Directors

Howard Geller, President

Agenda Date: 1-17-12

* CLAYTON FINANCING AUTHORITY * Agenda Item: 4b FIN

ANNUAL REPORT

TO: HONORABLE PRESIDENT AND BOARD OF DIRECTORS

FROM: EXECUTIVE DIRECTOR

MEETING DATE: 17 JANUARY 2012

SUBJECT: ANNUAL REPORT FOR 2011

RECOMMENDATION

It is recommended the Board of Directors receive and approve for file the Clayton Financing Authority Annual Report for 2011.

BACKGROUND

On 04 December 1990, the City Council of Clayton, California adopted Resolution No. 120-90, which created the Clayton Financing Authority via a joint exercise of powers agreement. This Financing Authority was initially established to allow redevelopment tax allocation bonds to be sold at a more favorable negotiation basis versus a public basis. This Financing Authority is registered with the State of California Controller's Office and is subject to the laws pertaining to special districts. As a legal, separate public entity, the Authority is required to file an Annual Report with the State of California [ref. Section 26909, *CA Government Code*].

The By-Laws of the Clayton Financing Authority require an annual meeting at the same place immediately following the completion of the first Clayton City Council meeting held in January of each year. Article VIII of the Joint Powers Agreement requires the Board to adopt an annual budget for the Financing Authority and to report on activities of the Authority during the proceeding calendar year.

2011 ACTIVITY REPORT

In Calendar Year 2011, the Clayton Financing Authority met once and conducted corresponding activity as summarized below:

1. 18 January 2011 Meeting
   The Board approved minutes from its meeting on 05 January 2010 and adopted its Annual Report for 2010.

FINANCIAL REPORT

A. All Authority debt, demands and other fiscal obligations were paid in full and on time. The Authority did not enact an annual budget in Year 2011 as no routine expenses, administrative overhead or inter-agency expenses were charged against the Authority by the Clayton Redevelopment Agency or the City of Clayton.

B. As a result of the Authority's sale of title to its one acre commercial real property on 31 October 2006 to Endashiian, LLC in the amount of $800,815 (for subsequent development of the Longs Drugs Store, now CVS/Pharmacy, located at the southwest corner of the Center Street and Clayton Road intersection), the Authority holds cash proceeds from the sale of this land. As of 30 June 2011 the current cash value is $749,517 (includes posted interest earnings on 30 June 2011 of $17,877).

In FY 2007-08 the Board transferred $170,000 from this account to assist the City in completing necessary and desired picnic and play apparatus improvements at Clayton Community Park (CIP Nos. 10385 & 10407).

The Board of Directors has full discretion as to the ultimate disposition of these funds.

C. In November 1997, the Clayton Financing Authority issued $7,160,000 in Special Tax Revenue Refunding Bonds. These bonds were used primarily to purchase a series of special tax bonds issued by the City of Clayton to refinance the City's $6,435,000 original aggregate principal amount of Community Facilities District No. 1990-1 [original] Special Tax Bonds issued in December 1990, and which had an outstanding balance of $6,295,000 at the time of refunding issuance. The original Special Tax Bonds were issued to finance a portion of the construction of a public middle school (i.e. Diablo View Middle School) and site preparation of adjacent playing fields (i.e. Clayton Community Park). These obligations are secured by annual special taxes levied on taxable real properties within the specified Community Facilities District (CFD) of the Oakhurst Development (1,358 parcels). The bonds are a non-City obligation.

These bonds were refinanced by Board action in May 2007 to obtain a lower interest rate resulting in lower annual payments for the CFD's real property owners, with ultimate sale occurring on 07 June 2007 in the face amount of $5,060,000. The information herein is dated as of 30 June 2011:

The outstanding principal of the 2007 Special Tax Revenue Refunding Bonds as of 30 June 2011 is $4,225,000 (reduced from $4,500,000 last year). A comparison of the trend line in delinquent dollars and land owners within the specified District for the Tax Year is outlined below:

Tax Year	Delinquency Rate	Delinquency Amount
2010-2011	1.71%	$12,207.31
2009-2010	2.60%	$14,404.71
2008-2009	2.39%	$18,998
2007-2008	1.15%	$12,043.60
2006-2007	2.98%	$16,099.14
2005-2006	0.98%	$ 5,309.24

As of 31 October 2011 there were no delinquent taxpayers responsible for five percent (5%) or more of the total special taxes levied, the issuance threshold requiring stricter Board intervention and foreclosure action. The most current listing of delinquencies amounts to thirty-seven (37) accounts (2.72% of the total number of assessed parcels). City staff and NBS monitor the delinquency status regularly with Reminder Letters as well as Demand Letters sent as appropriate to delinquent property owners to remind them of their financial obligation.

The required Reserve Fund has a balance of $251,984.15 (as of 30 June 2011) which is sufficiently funded to address actual and all nominal delinquencies. Therefore, no projected draw on Reserves is necessary at this time. The total assessed value of all parcels within the District subject to this Special Tax is $620.6 million (as of 01 January 2011), the same overall value as in 2009 yet a decline of approximately seven percent (7%) from assessed value posted for 2008.

D. It is recommended the Board not create an annual budget for 2012 due to *de minimus* activity required of the Authority in this calendar year.

Respectfully submitted,

Gary A. Napper
Executive Director