



AGENDA

REGULAR JOINT MEETINGS

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CLAYTON CITY COUNCIL and OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (GHAD)

TUESDAY, MARCH 6, 2012

6:15 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 ***

March 6, 2012

6:15 P.M.

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Geller.
2. **CLOSED SESSION**
 - (a) *Government Code Section 54956.9 (b)(1), Conference with Legal Counsel. Significant Exposure to Litigation against the City. One (1) Potential Case.*

Report out of Closed Session: Mayor Geller

7:00 P.M.

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 regular meeting of February 21, 2012. ([View Here](#))
 - (b) Approve the Financial Demands and Obligations of the City. ([View Here](#))
5. **RECOGNITIONS AND PRESENTATIONS**

None.
6. **REPORTS**
 - (a) Planning Commission – Vice Chairman Keith Haydon.
 - (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

- (a) Introduction and First Reading of proposed Ordinance No. 439 amending Chapter 10.41 of the *Clayton Municipal Code* to revise the definition of recreational vehicles and make other clarifying revisions for the purpose of regulating the on-street parking of recreational vehicles within the City of Clayton. (Police Chief) ([View Here](#))

Staff recommendation: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Adopt a motion to have the City Clerk read Ordinance No. 439 by title and number only and waive further reading; and **5)** Adopt a motion to approve Ordinance No. 439 for Introduction.

9. ACTION ITEMS

- (a) Consideration of a Resolution approving the following two (2) Settlement Agreements resolving the Oakhurst Country Club Development construction defects and hillside movement-related various litigation: ([View Here](#))

1. Settlement Agreement and Partial Release of All Claims (between the City of Clayton, the Oakhurst Geological Hazard Abatement District, The Presley Companies, Presley Homes and William Lyon Homes, Inc.); and
2. Settlement Agreement, Release, and Covenant Not to Sue (between various named Plaintiffs and various named Defendants, including the City of Clayton).

(City Attorney)

Staff recommendation: Following staff report and public comment, that Council adopt the prepared Resolution.

- (b) Continued consideration of a proposal and associated details by Vice Mayor Medrano regarding allowance of up to five (5) additional public Concerts in The Grove on selected Wednesday evenings to be sponsored by the City but funded solely by private sponsors organized by the P2C Foundation. ([View Here](#)) (Vice Mayor Medrano)

Staff recommendation: Following presentation of the proposal and public comment, that Council provide policy direction regarding the request for City sponsorship and use of The Grove Park for five (5) additional concerts on a weeknight organized by the P2C Foundation.

- (c) Mayor appointment of an elected official of the City Council to serve as Clayton's representative to the Contra Costa County Delta Stakeholders' Coalition. (Mayor Geller) ([View Here](#))

Staff recommendation: Following public comment, that Mayor Geller appoint a member of the Clayton City Council to the Delta Stakeholders' Coalition.

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

11. **ADJOURNMENT** – the next regularly scheduled City Council meeting is March 20, 2012.
#

*** OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT ***

March 6, 2012

1. CALL TO ORDER AND ROLL CALL – Chairman Stratford.

2. PUBLIC COMMENTS

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

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed 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 Oakhurst Geological Hazard Abatement District Board minutes for its regular meeting of December 6, 2011. ([View Here](#))

4. PUBLIC HEARINGS - None.

5. ACTION ITEMS

- (a) Consideration of a Resolution approving the following two (2) Settlement Agreements resolving the Oakhurst Country Club Development construction defects and hillside movement-related various litigation: ([View Here](#))

1. Settlement Agreement and Partial Release of All Claims (between the City of Clayton, the Oakhurst Geological Hazard Abatement District, The Presley Companies, Presley Homes and William Lyon Homes, Inc.); and
2. Settlement Agreement, Release, and Covenant Not to Sue (between various named Plaintiffs and various named Defendants, including the Oakhurst Geological Hazard Abatement District).

(General Counsel)

Staff recommendation: Following staff report and public comment, that the Board adopt the prepared Resolution.

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

7. **ADJOURNMENT** – the next meeting of the GHAD Board of Directors will be scheduled as needed.

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

Agenda Date: 3/6/12

Agenda Item: 4(a)

TUESDAY, February 21, 2012

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, Finance Manager Merry Pelletier, City Attorney Mala Subramanian, and City Clerk Laci Jackson.
2. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.
3. **CLOSED SESSION** – None.
4. **CONSENT CALENDAR**- It was moved by Councilmember Shuey, seconded by Councilmember Stratford, to approve the Consent Calendar as amended by the submittal of benched item 4(c). (Passed; 5-0 vote).
 - (a) Approved the minutes of the regular meeting of February 7, 2012.
 - (b) Approved the minutes (City serving as the Successor Agency) of the last regular meeting of the Clayton Redevelopment Agency held on January 17, 2012.
 - (c) Approved the Financial Demands and Obligations of the City.
 - (d) Adopted Resolution 05-2012 on Water, Ecosystem Health and other issues related to the San Francisco Bay and Sacramento-San Joaquin River Delta.
5. **RECOGNITIONS AND PRESENTATIONS**
 - (a) Presentation by the Honorable Mark DeSaulnier, State Senator – 7th District, regarding the status of the State Budget and other intergovernmental matters.

Senator DeSaulnier presented information about the State Budget and current legislation he is working on and has authored.

Councilmember Shuey thanked Senator DeSaulnier for his support of the Clayton Valley Charter High School petition. He also asked the Senator to carefully look at state legislation being worked on that would allow school districts to consider the financial implications of Charter school conversions. He asserted such changes will result in the death of new charter schools in California.

Councilmember Pierce thanked the Senator for his support of regional governance issues.

Mayor Geller thanked the Senator for appearing and updating the Council on state financial issues and legislation.

6. **REPORTS**

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) The City Manager reported Accounting Technician Lynn Cupit recently announced her retirement after 20 years, so the City is looking to fill the permanent part-time position. Applications are available on the City's website and the position is open until filled.
- (d) City Council

Councilmember Shuey reported he has been working on the Charter High School's meet and confer items with the School District. He stated he had a good conversation with School District Boardmember Gary Eberhardt and is working on the Prop. 39 rental of the school facilities. He noted the Charter group needs volunteers for many committees.

Councilmember Pierce attended ABAG meetings and joint meetings with MTC. She also attended Cub Scout Pack 262's Blue and Gold dinner.

Councilmember Stratford reminded everyone the Do The Right Thing character trait of the month is "Self-Discipline."

Vice Mayor Medrano attended meetings with the school district. He stated he was happy to see Sheryl Hansen from the MDUSD Board attend the Charter High School Celebration on February 11th. He stated he serves on the Charter High School Human Resources Committee and there is indeed a need for more volunteers.

Mayor Geller stated Clayton will host the Contra Costa County Mayors' Conference on April 5th. He stated all bands are booked for The Grove Park Concert series and at the first concert on May 12th, local bands will be showcased. He stated he attended the Charter High School Celebration and noted \$4,500 was raised to help with the next steps. Councilmember Shuey noted the Charter High School is in the process of securing a line of credit for cash flow purposes but needs donations until that happens.

- (e) Other – None.

7. **PUBLIC COMMENTS**

Reney Madeiros, Reisling Court, stated she thought a pick-up truck with a camper was not included in the RV Ordinance, and if RVs were parked on the street without a permit, reasonable effort would be taken to give warning. She stated she was given a citation on January 6th which cited her truck as an RV and she went to the Police Department to ask them to help resolve the issue. She also stated she was cited for parking illegally and did not believe other cars in the court were cited for the same violation. She stated if there was a change to this Ordinance she would want to know.

Asked to respond by Mayor Geller, the Police Chief stated police officers cited all of the vehicles on the court which were parked illegally. He stated his news column in the *Clayton Pioneer* was only half complete as it was an overview to explain the Ordinance, and the actual Ordinance states pick-ups with campers used for daily

The City Attorney noted she would look into how long it would take to get a response from the Attorney General.

The City Manager clarified that an AG opinion is a different procedure than the more familiar FPPC conflicts of interest. He also noted this item could be tabled to a future meeting.

It was moved by Vice Mayor Medrano, seconded by Councilmember Pierce, to table this item to the March 6th meeting (Passed 4-0-1 vote; Geller-abstained).

(b) *Action Item of City serving as Successor Agency to the former Clayton RDA*

Consideration of a Resolution of the City acting as the Successor Agency to approve and adopt its Recognized Obligation Payment Schedule (ROPS) covering the time period from February 2012 through June 2012, pursuant to new California Redevelopment Law (ABx1 26).

The Finance Manager reviewed the ROPS and stated the amounts are prorated for the time period indicated.

The City Manager stated these are obligations entered into before the dissolution of the Clayton Redevelopment Agency, and even with dissolution prior debts and executed contracts before February 1, 2012 must be paid before that Agency can fully dissolve.

Councilmember Shuey reminded citizens the Successor Agency must ensure payment for these services and indebtedness because the City would lose money in other areas if things such as the Housing Element Implementation were not completed.

The City Manager noted on the 4th line down in the displayed ROPS, it needs to be amended to show the 5-month prorated dollar amount, and the word "land" needs to be added to the Fire Station loan line item.

Mayor Geller opened the item for public comment; there were none.

It was moved by Councilmember Stratford, seconded by Councilmember Pierce, to approve Resolution 06-2012 adopting its amended Recognized Obligation Payment Schedule (ROPS) covering the time period from February 2012 through June 2012, pursuant to new California Redevelopment Law (ABx1 26) (Passed; 5-0 vote).

(c) Determination of Mayoral appointment of the two (2) City members to the Oversight Board of the Successor Agency, pursuant to Section 34179 of the new California Redevelopment Law (ABx1 26).

The City Manager presented the staff report and stated under new state law as the Successor Agency the Mayor must appoint two representatives to a new oversight board which is composed of seven members. Two members are to be appointed by the Mayor of the community, one which can be the Mayor or anyone else. The second must be an employee of the former Agency and from the largest recognized employee bargaining unit; though the Clayton Redevelopment Agency did not have any full-time staff it did have two officers, the Executive Director (Gary Napper) and Secretary (Laci Jackson). The staff recommendation is to appoint the Agency's former Secretary from the largest unrecognized bargaining unit of the City, Laci Jackson, to the Oversight Board for this representation.

transportation are excluded from permitting requirements. He stated the language in the existing Ordinance has recently been examined for clarification purposes and will be submitted for amendment at the March 6th Council meeting.

Amy Harris stated the Clayton Valley High School band is holding a raffle fundraiser for its music trip to New York in March and tickets are on sale for \$5.

Councilmember Pierce stated the flag pole in The Grove Park donated by the Hoyer Family will be dedicated to Eldora Hoyer at 11 a.m. Saturday, February 25th.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

- (a) Consideration of a proposal and associated details by Vice Mayor Medrano regarding allowance of up to five (5) additional public Concerts in The Grove on selected Wednesday evenings held wholly by private sponsors.

Mayor Geller asked if there is a conflict of interest for Vice Mayor Medrano since this proposal is coming from and involving P2C, a foundation where Vice Mayor Medrano serves on the board?

The City Attorney stated Government Code 1090 conflict is of concern here because of the probable contractual obligations by P2C. She stated there are severe penalties and it would be best to get an Attorney General (AG) opinion on the matter before discussing this specific proposal as submitted. The City Attorney stated the Council could generically consider a proposal without the P2C Foundation being the non-profit involved.

Mayor Geller stated since this proposal would be presented by Vice Mayor Medrano and the P2C Foundation will be running and controlling the events he suggested pulling this item and waiting for the AG opinion.

Vice Mayor Medrano stated the Council could use any non-profit for running the concerts since the only reason they are needed is to obtain the alcohol permit to sell alcohol at these concerts. He stated the reason for using the P2C Foundation was to save staff time. He stated his proposal does not have any money being made by the P2C Foundation and another non-profit could be used in their place. He stated the idea behind the proposal was to bring a different night of concerts to the community and provide an opportunity for more patronage of the downtown businesses during the week. He stated he wanted to try something different and see how it works.

Councilmember Pierce stated she previously assumed this event would be run by the City and the funds would be run through the City organization.

The City Attorney stated if City staff was able to handle the finance side then this proposal would be more like a sponsorship and the City does not typically enter into contracts for those types of things. The City would be the entity for everything. However, the City cannot obtain a state ABC license to sell alcohol, as proposed

The Council discussed bringing this item back at a future meeting to allow time to iron out the issues that have arisen.

On inquiry by the Council, City Clerk Laci Jackson indicated she would be willing to serve as noted on the new Oversight Board.

For his two authorized appointments, Mayor Geller appointed himself and Laci Jackson to the new oversight board.

10. **COUNCIL ITEMS**- None.

11. **ADJOURNMENT**- On call by Mayor Geller the meeting adjourned at 8:34 p.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor



Agenda Date: 3/6/12

Agenda Item: 4b

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER 

DATE: MARCH 6, 2012

SUBJECT: INVOICE SUMMARY

RECOMMENDATION

Approve the following Invoices.

3/1/12

Cash Requirements Report

\$154,472.19

Attachments:

Cash Requirements Report dated 3/6/12 (4 pages)

City of Clayton

Cash Requirements Report

CC Meeting 3/6/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
American Fidelity Assurance Company								
American Fidelity Assurance Company	2/28/2012	1/20/2012			\$992.26	\$0.00		\$992.26
				<i>Totals for American Fidelity Assurance Company:</i>	\$992.26	\$0.00		\$992.26
Arlene H. Kikkawa-Nielsen								
Arlene H. Kikkawa-Nielsen	3/1/2012	2/29/2012	2/12	Feb. Library Volunteer Coordinator	\$820.00	\$0.00		\$820.00
				<i>Totals for Arlene H. Kikkawa-Nielsen:</i>	\$820.00	\$0.00		\$820.00
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	3/1/2012	2/17/2012	1028354	copier overage charge 1/15-2/14/12 Konica Ct	\$293.65	\$0.00		\$293.65
				<i>Totals for Caltronics Business Systems, Inc:</i>	\$293.65	\$0.00		\$293.65
CCC Fire Protection Dist.								
CCC Fire Protection Dist.	3/1/2012	2/7/2012	11-5860	Public Assembly Permit, Record #P-2011-025	\$427.50	\$0.00		\$427.50
				<i>Totals for CCC Fire Protection Dist.:</i>	\$427.50	\$0.00		\$427.50
Contra Costa Topsoil								
Contra Costa Topsoil	3/1/2012	2/6/2012	96173	45 Yards Cedar Bark - tag #96173	\$1,753.65	\$0.00		\$1,753.65
				<i>Totals for Contra Costa Topsoil:</i>	\$1,753.65	\$0.00		\$1,753.65
CR Fireline Inc								
CR Fireline Inc	3/1/2012	2/6/2012	91049	WO91469, Kitchen Knight Hood Service	\$218.28	\$0.00		\$218.28
				<i>Totals for CR Fireline Inc:</i>	\$218.28	\$0.00		\$218.28
Entek Corp								
Entek Corp	3/1/2012	2/17/2012	3566	Prep report for HVAC Systmes, library and C.	\$3,980.00	\$0.00		\$3,980.00
				<i>Totals for Entek Corp:</i>	\$3,980.00	\$0.00		\$3,980.00
Ghilotti Bros Contractors								
Ghilotti Bros Contractors	3/1/2012	2/6/2012	11415-08	Community Park Parking Lot CIP #10413	\$70,197.62	\$0.00		\$70,197.62
				<i>Totals for Ghilotti Bros Contractors:</i>	\$70,197.62	\$0.00		\$70,197.62
Health Care Dental Trust								
Health Care Dental Trust	3/1/2012	2/24/2012	2242012	Delta Dental 3/12 Premium	\$2,688.96	\$0.00		\$2,688.96
				<i>Totals for Health Care Dental Trust:</i>	\$2,688.96	\$0.00		\$2,688.96
HUB Inter of CA Ins Svc								
HUB Inter of CA Ins Svc	3/1/2012	2/22/2012	December Events	December Events, Cert. #87940 A. Jones	\$227.84	\$0.00		\$227.84
				<i>Totals for HUB Inter of CA Ins Svc:</i>	\$227.84	\$0.00		\$227.84
J & R Floor Services								
J & R Floor Services	3/1/2012	3/1/2012	FEB 2012	February Billing	\$4,880.00	\$0.00		\$4,880.00
J & R Floor Services	2/28/2012	2/1/2012	JAN 2012	January janitorial services	\$4,909.99	\$0.00		\$4,909.99
				<i>Totals for J & R Floor Services:</i>	\$9,789.99	\$0.00		\$9,789.99

City of Clayton

Cash Requirements Report

CC Meeting 3/6/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Jobs Available								
Jobs Available	3/1/2012	2/28/2012	1205007	Empl. Ad/Acct. Tech. Position <i>Totals for Jobs Available:</i>	\$227.50 \$227.50	\$0.00 \$0.00		\$227.50 \$227.50
John Deere Landscapes Inc								
John Deere Landscapes Inc	3/1/2012	1/27/2012	60172385	Allsort Pro-field prep & mound red clay	\$2,337.28	\$0.00		\$2,337.28
John Deere Landscapes Inc	3/1/2012	1/30/2012	60179031	Sprinkler Materials	\$354.91	\$0.00		\$354.91
John Deere Landscapes Inc	3/1/2012	1/30/2012	60179124	Sprinkler Wire <i>Totals for John Deere Landscapes Inc:</i>	\$10.07 \$2,702.26	\$0.00 \$0.00		\$10.07 \$2,702.26
Judith Martin								
Judith Martin	3/1/2012	2/21/2012	jmartin1	Refund Deposit End Hall rental 2/25, rec. #02 <i>Totals for Judith Martin:</i>	\$500.00 \$500.00	\$0.00 \$0.00		\$500.00 \$500.00
LarryLogic Productions								
LarryLogic Productions	3/1/2012	2/22/2012	1221	City Council Meeting 2/21/12 <i>Totals for LarryLogic Productions:</i>	\$325.00 \$325.00	\$0.00 \$0.00		\$325.00 \$325.00
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	3/1/2012	1/26/2012	4121151	1/26/2012 City Hall Controls Maint 1/12	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	3/1/2012	2/1/2012	412-1151-2	2/1/2012 City Hall Controls Maint 2/12	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	3/1/2012	1/26/2012	412-1152	Library Controls Maint. 1/12	\$150.00	\$0.00		\$150.00
Marken Mechanical Services Inc	3/1/2012	2/1/2012	412-1152-2	2/1/2012 Library Prev. maint. 2/12 <i>Totals for Marken Mechanical Services Inc:</i>	\$150.00 \$600.00	\$0.00 \$0.00		\$150.00 \$600.00
Munimatrix Systems Corp								
Munimatrix Systems Corp	3/1/2012	2/29/2012	1204020	Image Flow Software Support <i>Totals for Munimatrix Systems Corp:</i>	\$1,579.00 \$1,579.00	\$0.00 \$0.00		\$1,579.00 \$1,579.00
Neopost Leasing (Mail Finance)								
Neopost Leasing (Mail Finance)	3/1/2012	2/23/2012	N3116993	4/12 Lease Pymt. 3/25-4/24/12 <i>Totals for Neopost Leasing (Mail Finance):</i>	\$222.02 \$222.02	\$0.00 \$0.00		\$222.02 \$222.02
Pacific Nurseries								
Pacific Nurseries	3/1/2012	2/2/2012	SI-245663	Landscape material <i>Totals for Pacific Nurseries:</i>	\$2,307.41 \$2,307.41	\$0.00 \$0.00		\$2,307.41 \$2,307.41
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	3/1/2012	2/23/2012	360757	City Hall Phone Booth outside 925-672-2713 <i>Totals for Pacific Telemanagement Svc:</i>	\$73.00 \$73.00	\$0.00 \$0.00		\$73.00 \$73.00
PERMCO, Inc.								
PERMCO, Inc.	3/1/2012	2/27/2012	9664	Retainer - General Svc	\$2,642.75	\$0.00		\$2,642.75
PERMCO, Inc.	3/1/2012	2/27/2012	9665	CCWD Minor EP Inspections	\$103.75	\$0.00		\$103.75
PERMCO, Inc.	3/1/2012	2/27/2012	9666	SW Inspections 01-10 o'Meara/Johnson	\$41.50	\$0.00		\$41.50

City of Clayton

Cash Requirements Report

CC Meeting 3/6/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
PERMCO, Inc.	3/1/2012	2/27/2012	9667	CCC Prk Lot c/o liquidated damages analysis	\$953.12	\$0.00		\$953.12
PERMCO, Inc.	3/1/2012	2/27/2012	9668	Diablo Estates Plan Check	\$1,577.00	\$0.00		\$1,577.00
PERMCO, Inc.	3/1/2012	2/27/2012	9669	Diablo Estates Construction Inspection	\$83.00	\$0.00		\$83.00
PERMCO, Inc.	3/1/2012	2/27/2012	9670	Diablo Pointe SW Insp	\$20.75	\$0.00		\$20.75
PERMCO, Inc.	3/1/2012	2/27/2012	9671	Non Utility Construction Activity Permit Insp	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	3/1/2012	2/27/2012	9671	Non Utility Construction Activity Permit Insp	\$41.50	\$0.00		\$41.50
PERMCO, Inc.	3/1/2012	2/27/2012	9672	Clayton Road Median Re-landscape Project	\$4,129.30	\$0.00		\$4,129.30
PERMCO, Inc.	3/1/2012	2/27/2012	9673	Daffodil Hill	\$1,033.50	\$0.00		\$1,033.50
Totals for PERMCO, Inc.:					\$10,667.67	\$0.00		\$10,667.67
PG&E								
PG&E	2/28/2012	2/16/2012		Utility Services 12/22/11-2/16/12	\$461.11	\$0.00		\$461.11
PG&E	3/1/2012	2/23/2012	0024075919-1	1005 Oak Street 1/24-2/22/12	\$26.92	\$0.00		\$26.92
PG&E	2/28/2012	1/17/2012	1/12	Utility Services January Lights and Signals	\$17,559.37	\$0.00		\$17,559.37
PG&E	3/1/2012	1/24/2012	1218096005	Outdoor Lights s/s w/o Main MCR 1/24-2/2	\$96.61	\$0.00		\$96.61
PG&E	3/1/2012	1/24/2012	1218096636	Irrigation Controllers 6181 Center St. 1/24-2/2	\$110.78	\$0.00		\$110.78
PG&E	3/1/2012	2/23/2012	1266970554-8	Grove Park 6100 Main St. 1/24-2/22/12	\$100.68	\$0.00		\$100.68
PG&E	3/1/2012	1/24/2012	1322159005	Irrigation (Controllers) End-Golden Eagle Ct.	\$15.06	\$0.00		\$15.06
PG&E	3/1/2012	1/24/2012	136826005	Irrigation (Controllers) End-Golden Eagle Pl I	\$16.22	\$0.00		\$16.22
PG&E	3/1/2012	2/23/2012	1468096005	Irrigation/Lighting 1015 Diablo St. 1/24-2/22/	\$159.94	\$0.00		\$159.94
PG&E	3/1/2012	2/23/2012	1468096289-2	Irrigation/Lighting 1007 Oak St. 1/24-2/22/1	\$9.86	\$0.00		\$9.86
PG&E	3/1/2012	1/24/2012	1634569005	City Hall 5919 Clayton Rd. m1/24-2/22/12	\$1,177.32	\$0.00		\$1,177.32
PG&E	3/1/2012	2/23/2012	2009569966-4	Endavor Hall 6008 Center St. 1/24-2/22/12	\$91.16	\$0.00		\$91.16
PG&E	3/1/2012	2/23/2012	2572177359-3	Pub Wks Bldg. 6015 Clayton Rd. 1/24-2/22/	\$76.80	\$0.00		\$76.80
PG&E	3/1/2012	1/24/2012	2822177005	Downtown Clock Clayton & MCR 1/24-2/2	\$53.10	\$0.00		\$53.10
PG&E	3/1/2012	1/24/2012	3447148005	Street Lights Arterial 6502 Center St. 1/24-2/2	\$87.94	\$0.00		\$87.94
PG&E	3/1/2012	1/24/2012	3530481805	Traffic Signals Clytn & Blk Diam Tr 1/24-2/2/	\$30.21	\$0.00		\$30.21
PG&E	3/1/2012	1/24/2012	7164574253	Traffic Signals El Camino & Clytn 1/24/-2/22/	\$51.98	\$0.00		\$51.98
PG&E	3/1/2012	1/24/2012	8850591884	Irrigation (Controllers) 203 1/2 Prospector 1/24-	\$32.42	\$0.00		\$32.42
Totals for PG&E:					\$20,157.48	\$0.00		\$20,157.48
Robert & Rae Johnson								
Robert & Rae Johnson	3/1/2012	2/17/2012	90 Kelok Ct. #1	Refund Dep. Acct. Bal. Permit 27, Strmwtr I	\$928.41	\$0.00		\$928.41
Robert & Rae Johnson	3/1/2012	2/17/2012	90kelokct#2	Refund Non Strmwtr. Inspection, Permit #27	\$1,000.00	\$0.00		\$1,000.00
Totals for Robert & Rae Johnson:					\$1,928.41	\$0.00		\$1,928.41
US Bank Corp Pymt System (Cal Card)								
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Prop Rm Supplies	\$379.66	\$0.00		\$379.66
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Postage	\$59.98	\$0.00		\$59.98
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Taser Batteries	\$180.07	\$0.00		\$180.07
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Vehicle Gas	\$2,545.32	\$0.00		\$2,545.32
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Training Supplies	\$1,138.04	\$0.00		\$1,138.04
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Grove Supplies	\$51.08	\$0.00		\$51.08
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Paint & Water Supplies	\$579.25	\$0.00		\$579.25

City of Clayton

Cash Requirements Report

CC Meeting 3/6/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	WC Ford Repair	\$1,431.26	\$0.00		\$1,431.26
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Vehicle Gas	\$895.00	\$0.00		\$895.00
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	PAPA-Seminar	\$280.00	\$0.00		\$280.00
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Landscape Supplies	\$93.78	\$0.00		\$93.78
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Vehicle Supplies	\$140.19	\$0.00		\$140.19
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Landscape Fuel	\$828.72	\$0.00		\$828.72
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Landscape Rock	\$207.03	\$0.00		\$207.03
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Grove Electrical	\$33.65	\$0.00		\$33.65
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Computer Upgrade	\$660.89	\$0.00		\$660.89
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Office Supplies	\$1,146.21	\$0.00		\$1,146.21
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Afford House Ad	\$350.00	\$0.00		\$350.00
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	NYE Supplies	\$142.28	\$0.00		\$142.28
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	ICMA Dues	\$1,400.00	\$0.00		\$1,400.00
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Virus Protection	\$1,471.77	\$0.00		\$1,471.77
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Verizon-USDN	\$217.34	\$0.00		\$217.34
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	Geoconsultants	\$1,546.50	\$0.00		\$1,546.50
US Bank Corp Pymt System (Cal Card)	2/29/2012	1/23/2012	1232012	4th of July Supplies-OSH	\$30.42	\$0.00		\$30.42
Totals for US Bank Corp Pymt System (Cal Card):					<u>\$15,808.44</u>	<u>\$0.00</u>		<u>\$15,808.44</u>
Wells Fargo Bank, N.A.								
Wells Fargo Bank, N.A.	3/1/2012	2/29/2012	CLAY802LOI	Lydia Lane 3/2/12 Debt Service	\$5,649.75	\$0.00		\$5,649.75
Totals for Wells Fargo Bank, N.A.:					<u>\$5,649.75</u>	<u>\$0.00</u>		<u>\$5,649.75</u>
Western Exterminator								
Western Exterminator	2/28/2012	1/31/2012			\$334.50	\$0.00		\$334.50
Totals for Western Exterminator:					<u>\$334.50</u>	<u>\$0.00</u>		<u>\$334.50</u>
GRAND TOTALS:					\$154,472.19	\$0.00		\$154,472.19



Agenda Date: 3/16/12

Agenda Item: 8 (a)

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHIEF OF POLICE

DATE: MARCH 6, 2012

SUBJECT: CONSIDERATION OF THE INTRODUCTION AND FIRST READING OF A PROPOSED ORDINANCE AMENDING CHAPTER 10.41 OF THE CLAYTON MUNICIPAL CODE REGULATING THE ON-STREET PARKING OF RECREATIONAL VEHICLES TO REVISE THE DEFINITION OF RECREATIONAL VEHICLES

RECOMMENDATION

1) Receive the staff report; 2) Receive public comment; 3) Motion to have the City Clerk read the Ordinance No. 439 by title and number only and waive further reading; and 4) Following the City Clerk's reading, a motion to approve Ordinance No. 439 for Introduction and First Reading.

BACKGROUND

Approximately five years ago, staff started receiving an increasing number of complaints from Clayton residents about long-term RV parking on public streets. As a result, staff decided to bring this issue before the City Council, and did so on August 15, 2006 and February 20, 2007. The purpose was to facilitate public discussions by the City Council on the merits of amending the City's Recreational Vehicle (RV) Ordinance, in effect at that time, in order to effectively address long term RV parking on City streets and roads. Based on the nature of the complaints, staff believed that the callers to the Police Department considered long term parking of RV's on public streets to be a "quality of life" issue in terms of constituting neighborhood blight and deterioration.

Staff recommended an amended RV Ordinance, requiring RV parking permits that would address future RV parking complaints. After receiving the reports and conducting public

discussion on appropriate RV ordinance content, the City Council provided specific instructions, and directed staff to prepare a proposed amended RV ordinance for a future meeting. As a result, staff brought Ordinance No. 405 to the City Council on April 3, 2007 for their consideration, Introduction and First Reading of a proposed Ordinance amending Chapter 10.41 of the Clayton Municipal Code to regulate RV parking on public streets. After the Second Reading, on April 17, 2007, the City Council adopted Ordinance No. 405 amending Chapter 10.41 of the Clayton Municipal Code (CMC). The current version of Chapter 10.41 is attached to this report as Exhibit A.

In summary, Chapter 10.41 (CMC) prohibits the parking of all RV's on City streets and roads at any time, except for pick-up trucks with camper shells used as daily transportation. Chapter 10.41 (CMC) allows resident RV owners an exception by permit to park an RV on the public streets and roads directly in front of their residence for up to 72 hours to load supplies at the start of a trip and an additional 72 hours at the end of the trip. The limited parking permit is issued by the Police Department, at no cost for residents. There is no limit to the number of limited parking permits a resident can have issued to them.

RV parking permits are also issued to guests of Clayton residents, who are not residents of the City, allowing them to park an RV on public streets and roads directly in front of the host's residence for a period of time not to exceed 10 days. A fee for the "guest permit" is charged and is set from time to time by resolution of the City Council. The administrative processing for issuing temporary RV parking permits for both guests and resident RV owners is streamlined and expeditious. Since April 17, 2007, Chapter 10.41 (CMC), staff has issued 439 RV parking permits to residents at no-charge and only 14 RV permits to guests of Clayton residents, with little to no complaints.

Up to this date, Chapter 10.41 (CMC) has provided the Police Department with an effective enforcement tool that has balanced the needs of RV owners and residential neighborhood quality. Enforcement philosophy has been through an educational approach for first time violators of the permit requirement for RV parking on public streets with either verbal warnings or letters left with the unattended RV. Since June 2007, Clayton officers have issued 26 citations (approximately 5 citations per year) to unattended RVs without the required permit. The majority of contested RV parking citations have been dismissed in the interest of justice. Violators were able to demonstrate their lack of knowledge of the RV permit requirement during the hearing, and were given the benefit of doubt.

DISCUSSION

On January 17, 2012 staff received a written complaint from a concerned citizen who believes the current RV Ordinance needs to be revisited. The citizen asserts the definition of an RV, as defined in the current RV Ordinance, does not convey the City Council's original intent when the Council amended the RV Ordinance on April 17th, 2007. The citizen further contends that some people have misinterpreted what constitutes an RV as defined in Chapter 10.41 of the CMC, and are essentially storing their RVs on the public streets in violation of the RV Code. The current RV definition includes a clause as follows:

"pick-up trucks carrying a camper and used for daily transportation, are not included in this definition and do not require an RV permit." The citizen points to one primary example of an RV owner who has apparently misinterpreted the clause about pick-up trucks with campers. This particular RV owner, who lives in close proximity to the concerned citizen's residence, consistently parks her pick-up truck with a large camper shell on the public street without an RV permit, in violation of Chapter 10.41.

Prior to staff receiving this complaint, staff had prior discussions with this particular RV owner about the requirements under Chapter 10.41 (CMC). Apparently, this RV owner felt that her pick-up truck with camper shell was not included, even though the RV was not being used for transportation on a daily basis. The RV owner continued to park her pick-up truck with camper, in violation of Chapter 10.41, which resulted in her unattended RV receiving a citation. Several weeks after receiving the citation, this RV owner finally moved the RV off of the public street and onto private property behind a six-foot fence. Because the RV owner finally complied with the requirements under Chapter 10.41, the parking citation was recently dismissed. This incident seems to have illuminated a possible flaw with the RV Ordinance's current definition of what constitutes an RV.

Staff has concerns the current RV definition has the potential of future misinterpretations by the community, and asked the City Attorney to review the current RV Ordinance, focusing primarily on the current RV definition. As a result, the City Attorney amended the RV Ordinance by incorporation of additional clear and concise language into the RV definition. If approved, staff believes the modifications will greatly improve the clarity and the definition of an RV. The improved RV definition should make it difficult for persons to misinterpret the definition of an RV as defined in the proposed Chapter 10.41 (CMC). The proposed amended RV Ordinance is attached to this staff report as Exhibit B.

During the review, the City Attorney also discovered a statutory requirement, pursuant to California Vehicle Code (CVC), section 22507a, that requires the posting of signs giving notice of the parking requirements being implemented under this proposed amended RV Ordinance. Further, the CVC indicates that parking regulations under this proposed Ordinance shall not take effect until signs have been posted.

The City Attorney further advised staff that it would be prudent for the City to post signage to meet the legal sign requirement under the CVC, in order to enhance enforcement of the RV Ordinance. Staff believes the City would be able to comply with the sign requirement by installing four signs, one at each entrance to the City, in the following locations:

- Marsh Creek Road at the east City boundary with the unincorporated County area
- Clayton Road at the west City boundary with the City of Concord
- Pine Hollow Road at the west City boundary with the City of Concord
- Oakhurst Drive at the west City boundary with the City of Concord

Staff will investigate utilizing existing poles to attach the new required signs which should be approximately 2 by 3 feet in size with the following advisement and warning as follows:

NO PARKING
OF RECREATIONAL VEHICLES
(as defined by Clayton Municipal Code Section 1041.0020(A))
ON ANY PUBLIC STREET IN THE CITY OF CLAYTON
AT ANY TIME
WITHOUT A CITY-ISSUED PERMIT

Vehicles May Be Cited or Removed at Owner's Expense
Clayton Municipal Code Chapter 10.41

The City of Orinda currently prohibits oversize commercial vehicles from parking on public streets between 2am to 6am and has posted four signs at the four entrances to the city, advising citizens of the prohibited parking. The signage regarding Clayton's RV permit requirement would be similar in size and placement. A picture example Orinda's signage is attached to this staff report as Exhibit C.

FISCAL IMPACT

If the proposed ordinance is adopted, the fiscal impact to the City would be a one-time cost of approximately \$800, which is the estimated cost for the signs and installation provided by City Maintenance personnel. The cost to administer the RV Ordinance will continue to be nominal, since only 5 guest permits are issued per year on average at \$25 per permit, or \$100 total guest fee revenue. RV parking citation revenue is unknown.

- Attachments:
1. Exhibit A- Current Municipal Code Chapter 10.41 [2 pp.]
 2. Exhibit B -- Proposed Ordinance [5 pp.]
 3. Exhibit C -- Photograph of a similar required gateway "No Parking" sign
 4. Exhibit D -- Citizen request to amend Chapter 10.41 of Municipal Code [3 pp.]

EXHIBIT A

Clayton Municipal Code Chapter 10.41

RECREATIONAL VEHICLES

Sections:

10.41.010	Findings and Declaration of Intent
10.41.020	Definitions
10.41.030	Parking Prohibited on All Public Streets and Roads, including Residential Districts, at anytime
10.41.040	Exceptions by City Permit
10.41.050	Issuance of Permits
10.41.060	Long-Term Occupancy
10.41.070	Violation

10.41.010 Findings and Declaration of Intent. The City Council finds that the parking of oversized recreational vehicles on public streets can, unless controlled, constitute neighborhood blight and deterioration, impair visibility, constitute a nuisance, and is injurious to the health, safety and general welfare. Therefore except as permitted by this chapter the parking of Recreational vehicles on a public right-of-way is prohibited and is declared to constitute a public nuisance. This chapter is adopted under section 22507 and 22507.5 of the California Vehicle Code.

10.41.020 Definitions.

A. “Recreational vehicle” means any oversized vehicle which is self-propelled, motorized, and has self-contained living quarters, including a kitchen, bathroom and sleeping areas, and may be used for the transportation of people upon a street or highway, but not including any vehicle designed for travel on stationary rails or tracks. This definition also includes motor homes and travel trailers, dirt bikes, dune buggies, off-road vehicles (multi-wheeled or tracked), and boats or water-craft of any size, with or without the transporting trailer. Pick-up trucks carrying a camper and used for daily transportation are not included in this definition.

B. “Long term occupancy” means occupancy of more than ten (10) consecutive days.

10.41.030 Parking Prohibited on All Public Streets and Roads, Including Residential Districts.

Except as provided in Section 10.41.040, no person within the city may park or leave standing a recreational vehicle on any public street or road at any time.

10.41.040

Exceptions by City Permit.

A. *The parking prohibition of Section 10.41.030 does not apply to a recreational vehicle displaying a permit issued in accordance with Section 10.41.050. The seventy-two (72) hour prohibition found in California Vehicle Code section 22651 does not apply to recreational vehicles issued permits under this Chapter.*

B. A Recreational vehicle used as daily transportation may be parked overnight in recognized driveways, but not on public streets or roads.

10.41.050

Issuance of Permits.

A. Parking permits for exceptions under Section 10.41.040 shall be issued by the Police Department. No more than one permit shall be issued to each properly registered recreational vehicle for which an application is made.

B. Parking permits may be issued for a recreational vehicle owned by a City resident which is to be parked for seventy-two (72) consecutive hours or less directly in front of his/her residence for the purpose of loading or unloading before or after a trip using that recreational vehicle. Each permit will include both a 72 hour departure period and a 72 hour return period. The term "trip" does not refer to the daily use of the vehicle but instead refers to an extended overnight use of the vehicle which requires additional time to prepare the vehicle. There will be no limit to the number of parking permits issued per recreational vehicle in a calendar year. There must be at least ten days between the issuance of each permit.

C. Parking permits may be issued to a bona fide guest of a City resident who is not a City resident for parking a Recreational vehicle directly in front of host's residence for the period of time of no more than ten consecutive days. A fee for the "guest permit" will be charged which fee will be established by City Council resolution and as amended from time to time.

D. City-issued permits valid for the time period parked in the city shall be prominently displayed at all times on the dash area of the recreational vehicle or by taping the City permit to the inside of the front windshield. The permit must be clearly visible from outside the recreational vehicle.

10.41.060

Long-Term Occupancy. It shall be unlawful for a recreational vehicle to be used for long-term occupancy except when parked in an approved recreational vehicle mobile home park or on an active construction site as approved by the City. (Ord. 319, 1995)

10.41.070

Violation. Violation of this chapter is an infraction, punishable under Chapter 10.38 of this code. In addition, under Section 22651(m) of the California Vehicle Code, the City may cause to be removed at the owner's sole expense a recreational vehicle parked or left standing in violation of this chapter.

EXHIBIT B

ORDINANCE NO. _439

**AN ORDINANCE AMENDING CHAPTER 10.41 OF THE CLAYTON
MUNICIPAL CODE
IN ITS ENTIRETY RELATING TO THE PARKING OF RECREATIONAL
VEHICLES**

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

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

Section 1 Amendments

Chapter 10.41 of the Clayton Municipal Code is hereby amended to read in its entirety as follows:

“Chapter 10.41

RECREATIONAL VEHICLES

Sections:

- 10.41.010 Findings and Declaration of Intent
- 10.41.020 Definitions
- 10.41.030 Parking Prohibited on All Public Streets and Roads, including Residential Districts, at anytime
- 10.41.040 Exceptions by City Permit
- 10.41.050 Issuance of Permits
- 10.41.060 Long-Term Occupancy
- 10.41.070 Violation

10.41.010 Findings and Declaration of Intent. The City Council finds that the parking of recreational vehicles on public streets can, unless controlled, create neighborhood blight, contribute to the deterioration of property values, impair visibility, constitute a nuisance, and is injurious to the public health, safety and general welfare. Therefore except as permitted by this chapter the parking of recreational vehicles on a public right-of-way is prohibited and is declared

to constitute a public nuisance. This chapter is adopted under section 22507 and 22507.5 of the California Vehicle Code.

10.41.020 Definitions.

A. "Recreational vehicle" means a vehicle that is self-propelled, motorized, or towed and designed to be slept in or lived in with facilities such as a self-contained bathroom, kitchen, or sleeping area, including, for example and without limitation, a motorhome, travel trailer, fifth wheel, camper, camper-shell or coach. The term recreational vehicle also includes dirt bikes, dune buggies, off-road vehicles (multi-wheeled or tracked), and boats or water-craft of any size, with or without the transporting trailer. The term recreational vehicle does not include pick-up trucks carrying a camper-shell and used for transportation of materials and equipment on a daily basis in connection with a licensed business, any trailer component of a commercial vehicle making pickups or deliveries of goods, wares, and merchandise from or to any building or structure located on the restricted streets or highways or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling, or construction of any building or structure upon the restricted streets or highways for which a building permit has previously been obtained, or any vehicle designed exclusively for travel on stationary rails or tracks.

B. "Long term occupancy" means occupancy of more than ten (10) consecutive days.

C. "Light maintenance" means maintenance which is incidental to the current trip, is not prohibited by Section 10.36.070, 10.36.080, 13.12.060(A), 13.12.070, and 13.12.080 of this code or any other applicable local, State or Federal law and which is completed in no more than one day between the hours of 8 am and 8 pm. Exterior washing of recreational vehicles is not permitted on impermeable surfaces including public streets or roads.

10.41.030 Parking Prohibited on All Public Streets and Roads, Including Residential Districts. Except as provided in Section 10.41.040, no person may park, leave standing or permit to remain, a recreational vehicle on any public street or road within the city at any time.

10.41.040 Exceptions by City Permit.

A. A recreational vehicle displaying a valid, unrevoked permit issued pursuant to Section 10.41.050 may be parked and left standing on a public street or road for the time period authorized by the permit.

B. A recreational vehicle used as daily transportation may be parked overnight in private driveways, but not on public streets or roads. (See Chapter 17.76 for regulations regarding storage of recreational vehicles.)

C. Nothing in this Section shall be construed as to allow the parking of recreational vehicles in any location where parking of a vehicle is otherwise prohibited.

10.41.050 Issuance of Permits.

A. An application for a parking permit to authorize the parking of a recreational vehicle pursuant to this chapter shall contain all information required and shall be submitted to the Police Department, together with an application fee and permit fee, as established from time to time by resolution of the City Council.

B. The Police Department may issue a parking permit for a recreational vehicle owned or being used by a City resident, which is to be parked by the resident for a maximum of seventy-two (72) consecutive hours along the curb line directly adjacent to his/her residence for the purpose of

enabling the resident to perform lawful light maintenance on, or load or unload, the recreational vehicle before or after a trip using the recreational vehicle. Each parking permit will include both a maximum 72 hour period before departing for the trip, and a maximum 72 hour period after returning from the trip, during which the recreational vehicle may be parked on the public street or road. The term "trip" does not refer to the daily use of the recreational vehicle but instead refers to an extended overnight use of the recreational vehicle, for which the resident requires additional time to prepare the recreational vehicle.

C. The Police Department may issue a parking permit for a recreational vehicle owned or being used by a bona fide guest of a City resident who is not a City resident, which is to be parked by the guest for a period of time not to exceed ten consecutive days along the curb line directly adjacent to the host's residence.

D. A parking permit issued pursuant to this chapter shall only be valid for the time period marked on the permit and must be prominently displayed on the dash area of the recreational vehicle or taped to the inside of the front windshield of the recreational vehicle at all times while the recreational vehicle is parked on the public street or road. If a recreational vehicle does not have a dash area or front windshield, the parking permit must be displayed in or on the recreational vehicle in a location that is clearly visible from the outside of the vehicle to a third-party observing the vehicle.

E. There is no limit to the number of parking permits that may be issued per recreational vehicle per calendar year pursuant to this chapter. However, there must be at least seven (7) calendar days between the issuance of subsequent parking permits for the same recreational vehicle. This seven (7) day period shall begin on the after the 72 hour return period set forth in the previous parking permit issued for the recreational vehicle expires.

10.41.060 Long-Term Occupancy. It shall be unlawful for a recreational vehicle to be used for long-term occupancy except when parked in an approved recreational vehicle mobile home park or on an active construction site as approved by the City.

10.41.070 Violation. A violation of this chapter shall be an infraction, punishable under Chapter 10.38 of this code. In addition, under Section 22651(n) of the California Vehicle Code, the City may cause a recreational vehicle parked or left standing in violation of this chapter to be removed at the owner's sole expense.

Section 2 **Posting of Signs**

The City shall post signs giving adequate notice of the parking regulations being implemented pursuant to this ordinance, and that recreational vehicles parked in violation of these regulations may be removed at the expense of the owner, no later than 10 days before the effective date of this ordinance. The parking regulations set forth in this ordinance shall not apply until such signs have been placed.

Section 3 **Action to Challenge This Ordinance**

Any action or proceeding to attack, review, set aside, void or annul this ordinance must be commenced and the service made on the City no later than ninety (90) days after its effective date.

Section 4 **Conflicting Ordinances Repealed**

Any ordinance or part thereof, or regulations in conflict with the provisions of this ordinance, are hereby repealed. The provisions of this ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this ordinance.

Section 5 **Severability**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase thereof be declared unconstitutional, invalid or ineffective.

Section 6 **CEQA**

The City Council finds that the adoption of this ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

Section 7 **Notice of Exemption**

The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this ordinance.

Section 8 **Effective Date and Publication**

This ordinance shall become effective thirty (30) days after its adoption by the city council. Within fifteen (15) days after the passage of the ordinance, the City Clerk shall cause a copy of the ordinance, including the names of the City Council members voting for and against it, to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on the 6th day of March 2012.

PASSED, ADOPTED AND ORDERED posted at a regular meeting of the City Council of the City of Clayton on the ____ day of _____ 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, California

Howard Geller, Mayor

ATTEST:

Laci Jackson, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO ADMINISTRATION:

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on the 4th day of October and was duly adopted and ordered posted at a regular meeting of the City Council held on

Laci Jackson, City Clerk



Clayton City Council

EXHIBIT D

City of Clayton

City Hall

6000 Heritage Trail

Clayton, CA 94517

Received

JAN 17 2012

City of Clayton

January 17, 2012

Dear Council:

I believe the City Ordinance related to Recreational Vehicles needs to be revisited, since it does not follow the original intent of the Council. When Chapter 10.41 was written, it was to address people parking their RV's for long periods of time on City streets. Citizens brought this to the Council's attention and the RV ordinance was written. It required a City issued permit for an RV which contained a bathroom, kitchen and sleep area to be parked on City streets for a limited period. Tradesmen who keep their tools in a camper shell mounted on their pickup truck were exempted.

Some people have used the "tradesmen" exemption to say they have a right to park their pickup truck on City streets with any size "camper" no matter what it contains. Attached is a copy of the first page of the current ordinance and a page with what I believe is a better "Recreational Vehicle" definition. I believe this reflects the "intent" of the original ordinance and I would like you to change the current ordinance to reflect the original intent.

Thank you for your attention to this matter.

Sincerely


Gregg Manning

cc: Mayor : Council
City Atty.
Com. Dev. Dir.
Chief of Police

703 Reisling Ct Clayton, CA 94517

cc: me


01/17/12

Chapter 10.41

RECREATIONAL VEHICLES

Sections:

10.41.010	Findings and Declaration of Intent
10.41.020	Definitions
10.41.030	Parking Prohibited on All Public Streets and Roads, including Residential Districts, at anytime
10.41.040	Exceptions by City Permit
10.41.050	Issuance of Permits
10.41.060	Long-Term Occupancy
10.41.070	Violation

10.41.010 Findings and Declaration of Intent. The City Council finds that the parking of oversized recreational vehicles on public streets can, unless controlled, constitute neighborhood blight and deterioration, impair visibility, constitute a nuisance, and is injurious to the health, safety and general welfare. Therefore except as permitted by this chapter the parking of recreational vehicles on a public right-of-way is prohibited and is declared to constitute a public nuisance. This chapter is adopted under section 22507 and 22507.5 of the California Vehicle Code.

10.41.020 Definitions.

A. "Recreational vehicle" means any oversized vehicle which is self-propelled, motorized, and has self-contained living quarters, including a kitchen, bathroom and sleeping areas, and may be used for the transportation of people upon a street or highway, but not including any vehicle designed for travel on stationary rails or tracks. This definition also includes motor homes and travel trailers, dirt bikes, dune buggies, off-road vehicles (multi-wheeled or tracked), and boats or water-craft of any size, with or without the transporting trailer. Pick-up trucks carrying a camper and used for daily transportation are not included in this definition.

B. "Long term occupancy" means occupancy of more than ten (10) consecutive days.

C. "Light maintenance" means maintenance which is incidental to the current trip, is not prohibited by Section 10.36.070, 10.36.080, 13.12.060(A), 13.12.070, and 13.12.080 or any other applicable State or Federal law and which is completed in no more than one day between the hours of 8am and 8 pm. Exterior washing of recreational vehicles is not permitted on impermeable surfaces including public streets or roads.

10.41.030

Parking Prohibited on All Public Streets and Roads, Including

Chapter 10.41

RECREATIONAL VEHICLES

Sections:

	Findings and Declaration of Intent
10.41.01	Definitions
0	Parking Prohibited on All Public Streets and Roads, including
10.41.02	Residential Districts, at anytime
0	Exceptions by City Permit
10.41.03	Issuance of Permits
0	Long- Term Occupancy
	Violation
10.41.040	
10.41.050	
10.41.060	
10.41.070	

10.41.010 Findings and Declaration of Intent. The City Council finds that the parking of oversized recreational vehicles on public streets can, unless controlled, constitute neighborhood blight and deterioration, impair visibility, constitute a nuisance, and is injurious to the health, safety and general welfare. Therefore except as permitted by this chapter the parking of recreational vehicles on a public right-of-way is prohibited and is declared to constitute a public nuisance. This chapter is adopted under section 22507 and 22507.5 of the California Vehicle Code.

10.41.020 Definitions.

A. "Recreational vehicle" **means a large vehicle that has a self contained bathroom, kitchen and beds, includes motor homes, fifth wheels and campers** and may be used for the transportation of people upon a street or highway, but not including any vehicle designed for travel on stationary rails or tracks. This definition also includes motor homes and travel trailers, **"campers"**, dirt bikes, dune buggies, off-road vehicles (multi- wheeled or tracked), and boats or water-craft of any size, with or without the transporting trailer. Pick-up trucks carrying a camper-**shell** and used for **a licensed business and** daily transportation are not included in this definition.

B. "Long term occupancy" means occupancy of more than ten (10) consecutive days.

C. "Light maintenance" means maintenance which is incidental to the current trip, is not prohibited by Section 10.36.070, 10.36.080, 13.12.060(A), 13.12.070, and 13.12.080 or any other applicable State or Federal law and which is completed in no more than one day between the hours of 8am and 8 pm. Exterior washing of recreational vehicles is not permitted on impermeable surfaces including public streets or roads.

10.41.030

Parking Prohibited on All Public Streets and Roads, Including



Agenda Date: 3/4/12
Agenda Item: 9 (a)

STAFF REPORT

Approved: _____

Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: MARCH 6, 2012

SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING TWO SETTLEMENT AGREEMENTS RESOLVING NUMEROUS LAWSUITS IN THE OAKHURST COUNTRY CLUB DEVELOPMENT

RECOMMENDATION

Approve the attached Resolution approving two settlement agreements and authorizing the Mayor to execute the agreements on behalf of the City of Clayton.

BACKGROUND

Construction Defects Lawsuits

Since 2005, there have been numerous construction defect lawsuits filed against the original builder, Presley Homes (now William Lyon Homes), and several of the construction contractors regarding its development and construction of the Oakhurst Country Club residential subdivisions. Most of these lawsuits were settled by Presley. However, several property owners refused individual settlement and were combined into a single action entitled *Lorna Belskey, et al. v. The Presley Companies, et al.* ("Belskey - Defects")

The various parties finally negotiated a Settlement Agreement and Release of All Claims for the Belskey – defects case. However, during the final negotiations, the City and the Oakhurst Geological Hazard Abatement District (GHAD) were also sued and brought into the case. The attached document entitled "Settlement Agreement and Partial Release of All Claims", negotiated between the City, the GHAD, and Presley, modifies the original settlement agreement and incorporates the results of the settlement agreement relating to the Kelok Way slope movement discussed below.

Date: March 6, 2012

Page 2 of 2

Kelok Way Slope Movement

Since 2002, the movement of the slope in the City-owned open space north of Kelok Way has been monitored and evaluated. This slope movement has generated additional lawsuits against Presley, the City, the GHAD, and several contractors for damages based upon inverse condemnation and nuisance caused by the movement in City-owned property. In addition, there have been several cross-complaints filed between Presley, the City and the GHAD.

The attached document (Attachment 2) entitled "Settlement Agreement, Release, and Covenant Not To Sue" effectively resolves the remaining lawsuits. The agreement calls for the contribution of \$1,325,000 as follows:

Presley (Lyon)	\$1,000,000
City/GHAD*	\$250,000
DMC Concrete	\$25,000
Merit Concrete	\$25,000
Rivera Company	\$25,000

*NOTE: the contribution by the City/GHAD will be made by the joint powers insurance authority, the Municipal Pooling Authority of Northern California (MPA), not from funds of the City or the GHAD.

Of these funds, \$600,000 will be paid to the property owners and \$725,000 will be used by the GHAD for the construction of dewatering wells in Kelok Way which, geologic engineers indicate, , will help stabilize the slope and minimize future movement.

FISCAL IMPACT

Approval of these settlement agreements requires a minimal direct contribution by the City to fulfill its \$5,000 self-insured deductible payment (note: the GHAD is included in the City's MPA coverage and has no additional deductible obligation). Further, it will end the payment of attorney fees and significant staff time currently being expended on these issues.

The cost of the dewatering well construction has a "not-to-exceed" limit and includes the cost of design and oversight by a separate consultant and administration by the GHAD.

CONCLUSION

Based upon the above, Staff recommends the City Council adopt the attached Resolution approving the two settlement agreements and authorizing the Mayor to execute the agreements on behalf of the City of Clayton.

Attachments: 1. Settlement Agreement and Partial Release of All Claim
 2. Settlement Agreement, Release, and Covenant Not To Sue

RESOLUTION NO. - 2012

**A RESOLUTION APPROVING TWO SETTLEMENT AGREEMENTS RELATING
TO NUMEROUS LAWSUITS CONCERNING CONSTRUCTION DEFECTS AND
LAND MOVEMENT IN THE OAKHURST COUNTRY CLUB DEVELOPMENT**

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

WHEREAS, since 2005, numerous lawsuits alleging damages caused by construction defects and land movement in City-owned open space have been filed by property owners in the Oakhurst Country Club development against the project developer, Presley Homes (now William Lyon Homes), the City, the Oakhurst Geological Hazard Abatement District (GHAD), and various contractors (the Parties); and

WHEREAS, two settlement agreements ("Agreements") entitled "Settlement Agreement and Partial Release of All Claims" and "Settlement Agreement, Release, and Covenant Not To Sue", each Agreement attached hereto and labeled as Attachment 1 and 2, respectively, and incorporated herein as if fully set forth, have been negotiated and tentatively agreed to by all of the Parties; and

WHEREAS, the Agreements resolve the outstanding lawsuits and provide for the installation of dewatering wells in Kelok Way in order to stabilize the slope movement in the City-owned open space north of Kelok Way; and

WHEREAS, City staff and legal counsels have recommended approval of the Agreements.

NOW, THEREFORE, BE IT RESOLVED the City Council of Clayton, California, does hereby adopt this Resolution approving the Agreements as noted and described above, and does hereby authorize the Mayor to execute each Agreement on behalf of the City of Clayton.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 6th day of March, 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

HOWARD GELLER, Mayor

ATTEST:

Laci Jackson, City Clerk

#

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at its regular public meeting held on March 6, 2012.

Laci J. Jackson, City Clerk

**SETTLEMENT AGREEMENT AND
PARTIAL RELEASE OF ALL CLAIMS**

I

INTRODUCTION

This Settlement Agreement (the "Agreement") is entered into by and between the CITY OF CLAYTON (hereinafter "CITY") and OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (hereinafter "GHAD") and THE PRESLEY COMPANIES, PRESLEY HOMES and WILLIAM LYON HOMES, INC. (hereinafter "LYON"). Collectively, the above parties are referred to as "the Settling Parties."

For valuable consideration as between the Settling Parties herein, this Agreement is incorporated into, modifies and controls the Settlement Agreement and Release of All Claims in the matter of *Lorna Belskey, et al. v. The Presley Companies, et al.*, Contra Costa County Superior Court Case No. C05-00837. This Settlement Agreement applies to the following cases:

1. **Daniel Katzman, et al., Plaintiffs v. City of Clayton, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-00707.
2. **Andrew Brown, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-01461.
3. **Glade Gaffney, an individual, Plaintiff v. City of Clayton, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-02677.
4. **Francis Achim, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C08-01079. The Achims are proceeding in pro per.
5. **Alan R. Brooks, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C08-00442. All plaintiffs, except Nancy Robinson Beaver, have dismissed their Complaints with prejudice.
6. **Lorna Belskey, et al., Plaintiffs v. The Presley Companies, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C05-00837. Currently, five Plaintiffs (homes) remain.

7. **Robert Sheffield, et al., Plaintiffs v. William Lyon Homes, Inc., Defendants**, Contra Costa Superior Court Case No. C07-00694.

II

THE PARTIES

The following are the parties to this Agreement and shall hereinafter be referred to as the "Settling Parties":

1. The CITY OF CLAYTON including, but not limited to, its City Council members, City Manager, employees, attorneys, experts, agents and representatives;
2. The OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT including, but not limited to, its Board members, District Manager, employees, attorneys, experts, agents and representatives;
3. WILLIAM LYON HOMES, INC., THE PRESLEY COMPANIES, PRESLEY HOMES including, but not limited to, their predecessor or successor owners or entities, past, present and future parent companies, subsidiaries, divisions, subdivisions, affiliates, related companies, general partners, limited partners, partnerships, partners, joint ventures, shareholders, investors, owners, directors, officers, employees, attorneys, experts, consultants, assigns, agents and representatives. This Agreement does not apply to any insurers of the above-named entities related to LYON.

III

THE CLAIMS

The claims herein shall refer, except as otherwise set forth in this Agreement, to any and all claims or causes of action that were brought, related to the development, planning, improvement, design, construction, maintenance and ownership of all common areas, open spaces, lots and any Plaintiffs' homes related to the above-named seven lawsuits in the Oakhurst Development. In the seven above-referenced actions, LYON and the CITY/GHAD have Cross-Complaints against one another for various causes of action, including equitable indemnity, contribution, breach of contract and express indemnity. The Settling Parties wish to resolve these claims, with such limitations as are set forth below.

IV

MODIFICATIONS TO THE OVERALL BELSKEY v. PRESLEY HOMES SETTLEMENT

LYON and the CITY/GHAD agree to the following terms modifying any global Settlement Agreement between all of the parties in the above-named actions.

A. The CITY/GHAD will contribute TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) toward the BELSKEY Plaintiffs' claims payable to the BELSKEY Plaintiffs and their counsel of record. This money is solely for the alleged property damage to the Plaintiffs' homes and real property. This money will not be used for any hillside repairs.

B. The CITY/GHAD and LYON do not release each other or their respective insurers from any future liability. The CITY/GHAD and LYON agree to reserve any and all arguments and defenses concerning the interpretation of the 2003 Settlement Agreement between LYON and the CITY, the Oakhurst Country Club Development Agreement, any and all Subdivision Agreements and related Addendums and Amendments including whether or not these Agreements remain valid. Neither LYON nor the CITY/GHAD waive or release any factual or legal arguments concerning the above-referenced documents, including that the documents have expired.

C. LYON and the CITY/GHAD agree to mutually waive all claims against each other to recover past, present and future attorneys' fees and costs incurred relating to the ACHIM, BROOKS, BELSKEY, BROWN, KATZMAN, GAFFNEY and SHEFFIELD actions.

D. LYON and the CITY/GHAD agree to "stand down" on the ACHIM and BROOKS actions. LYON will take the lead in the defense of both these actions. LYON agrees to indemnify, but not defend, the CITY and GHAD for the ACHIM and BROOKS actions. The indemnity will apply except where there is a determination by a finder of fact that the liability to the ACHIMS and NANCY ROBINSON BEAVER Plaintiffs for their property damage was the "sole negligence" of the CITY/GHAD. The CITY and GHAD agree to bear their own attorneys' fees and costs for the ACHIM and BROOKS matters.

E. Lyon and the CITY/GHAD agree that all arguments and defenses as to the interpretation of the the Oakhurst Development Agreement, all Subdivision Agreements, the 2003 Settlement Agreement and Release and related written agreements between LYON and the CITY/GHAD shall remain unaffected by this Agreement.

F. Upon full funding by all settling parties to the BELSKEY settlement, GHAD will contract with Engineered Soil Repairs, Inc. (ESR) or another qualified contractor for the repairs/remediation of the "Katzman slide." The ESR contract is a fixed price contract to perform work on the hillside for a total of SIX HUNDRED THIRTY-FIVE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$635,480.00), plus an additional

cost of THIRTEEN THOUSAND THREE HUNDRED NINETY-THREE DOLLARS (\$13,393.00) if it is determined that the project is a "prevailing wage" project. Neither the CITY/GHAD nor LYON shall be responsible for any contract overages. In the event that ESR cannot or will not sign a contract for the work acceptable to the CITY or GHAD, GHAD will put out the repair work to bid using the Contract Documents prepared by Stevens, Ferrone & Bailey. The total amount of money being contributed by LYON and/or its subcontractors for the hillside repairs is SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00). In addition to the ESR (or other qualified contractor) contract price, additional fees and expenses out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) shall include expert fees paid to Stevens, Ferrone & Bailey for inspections and/or any other fees and costs associated and/or performed with the repairs including any required inspections by the CITY or GHAD. Upon full funding by all settling parties to the BELSKEY settlement, GHAD will contract with Stevens, Ferrone & Bailey. The invoices of Stevens, Ferrone & Bailey will be reviewed by the GHAD District Manager whose time will be compensated out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) in an amount NOT TO EXCEED \$5,000. ESR or another qualified contractor has agreed or will agree to pay all permitting and required GHAD inspection/bond fees. Any money not used out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) will be split between LYON HOMES and the CITY/GHAD on an 80/20 basis with eighty percent (80%) going back to LYON HOMES and twenty percent (20%) going to the CITY/GHAD. ESR or another qualified contractor has agreed or will agree to defend and indemnify LYON HOMES, the CITY and GHAD. In addition, neither LYON nor the CITY/GHAD shall be responsible for any additional costs above the fixed price contract work.

V

MISCELLANEOUS

A. LYON and the CITY/GHAD agree that they are not relying on any representations made by the other in agreeing to the settlement other than what is included in this Release Agreement. LYON HOMES and the CITY/GHAD further represent that they understand that they are dismissing their respective cross complaints against each other voluntarily and not in reliance of any representation or promise or inducement not expressed herein.

B. This AGREEMENT is the result of a compromise among the SETTLING PARTIES and shall never at any time or for any purpose be considered as an admission of liability and/or responsibility on the part of any party herein released as to this agreement, nor shall the payment of any sum of money in consideration for the execution of this AGREEMENT constitute or be construed as an admission of any liability whatsoever by any party herein released, each of which continues to deny such liability and disclaim such responsibility.

C. This Agreement and the terms of this Agreement are contractual and not a mere recital. Each Party has carefully read and understands the contents of this Agreement and signs the same as the undersigned's own free act.

D. This Agreement shall bind and be binding upon the heirs, executors, administrators and assigns of each Party.

E. Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be wholly or partially illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms or provisions of this Agreement shall not be affected thereby. Said illegal, unenforceable or invalid part, term or provision shall be deemed not to be a part of this Agreement.

F. This Agreement may be signed in counterparts which, when taken together, shall constitute the same Agreement. This document sets forth the entire Agreement between the Parties hereto. It supersedes any and all prior agreements (except as noted herein) or understandings, written or oral, among the Parties pertaining to the specific subject matter (the Belskey Settlement) of this Agreement.

G. This Agreement shall be effective as of the date it is fully executed by all of the undersigned (the "Effective Date").

H. This Agreement is the product of arms length negotiations prepared by and among the Parties and their counsel. All Parties expressly acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one Party or another. No presumption of drafting or interpretation based on drafting for or against the Parties shall apply.

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I. This Agreement is made and entered into in the State of California and shall, in all respects, be interpreted, enforced and governed by and under the laws of the State of California, without reference to choice of law rules.

WILLIAM LYON HOMES, INC.

Dated: _____, 2012.

By _____
Print Name: _____
Title: _____

CITY OF CLAYTON

Dated: _____, 2012.

By _____
Howard Geller, Mayor

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

Dated: _____, 2012.

By _____
Hank Stratford, Chairman

SETTLEMENT AGREEMENT, RELEASE, AND COVENANT NOT TO SUE

INTRODUCTION

This Settlement Agreement, Release and Covenant Not to Sue ("AGREEMENT") was effectively entered into on the 7th day of September 2011, by and between Plaintiffs Lailuma and Hamid Hossaini, William J. and Beverly J. Plambeck, Gregory S. and Phyllis O. Redmond, Debra Vanslambrook, and Amin and Nahida Zafari, and all other legal or equitable owners of the properties and all Related Persons or Entities, as defined herein, whether or not named as plaintiffs herein (herein collectively referred to as "PLAINTIFFS"), and Presley Homes, The Presley Companies and William Lyon Homes, Inc. (herein collectively referred to as "LYON"), DMC Concrete, Inc., Merit Concrete, Inc., Rivera Company, City of Clayton, and Oakhurst Geological Hazard Abatement District and all other Related Person or Entities, as defined herein.

1. DEFINITIONS

The following definitions shall apply in this AGREEMENT:

1.1 "AGREEMENT" shall mean and refer to this Settlement Agreement, Release and Covenant Not to Sue.

1.2 "PLAINTIFFS" shall mean and refer to Lailuma and Hamid Hossaini, William J. and Beverly J. Plambeck, Gregory S. and Phyllis O. Redmond, Debra Vanslambrook, and Amin and Nahida Zafari and all other current legal or equitable owners of the properties and all related person or entities whether or not named as plaintiffs herein.

1.3 "CITY" shall mean and refer to the City of Clayton.

1.4 "GHAD" shall mean and refer to the Oakhurst Geological Hazard Abatement District.

1.5 "SETTLING SUBCONTRACTORS" shall mean and refer to DMC Concrete, Inc., Merit Concrete, Inc., and Rivera Company, and all who are Related Persons.

1.6 "SETTLING PARTIES" shall mean and refer to PLAINTIFFS, LYON, DMC Concrete, Inc., Merit Concrete, Inc., Rivera Company, CITY, and GHAD.

1.7 "THE ACTION" shall mean and refer to the case filed individually by PLAINTIFFS, on or about April 25, 2005, against LYON and others, and more particularly described as follows: *Lorna Belskey, et al. v. The Presley Companies, et al.*, bearing the Contra Costa County Superior Court Case Number MSC05-00837.

1.8 “THE CROSS-ACTION” shall mean and refer to any and all cross-complaints filed in THE ACTION by any party.

1.9 “SUBJECT PROPERTIES” shall mean and refer to all right, title and interest that PLAINTIFFS have in the five (5) single-family homes, including the real property and improvements thereon located at the Falcon Ridge subdivision at the Oakhurst Country Club located in Clayton, California. Specifically, “SUBJECT PROPERTIES” are described with particularity in Exhibit “A” attached hereto and incorporated by reference.

1.10 “CITY OWNED ADJACENT LAND” shall mean and refer to the hillside slopes owned by the City and adjacent to the SUBJECT PROPERTIES. The CITY OWNED ADJACENT LAND includes primarily tract 7261, and peripherally tracts 7264 and 7263.

1.11 “RELATED PERSONS AND ENTITIES” as it pertains to LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS shall mean and refer to any and all of their past, present and future parent companies, divisions, subsidiaries, affiliates, related corporations and entities, members, stockholders, directors, officers, officials, employees, lenders, mortgage holders, predecessors, partners, joint venturers, legal representatives, agents, experts, consultants, heirs, administrators, trusts, trustees, trust beneficiaries, creditors, assignees, and each of their predecessors, successors, and assigns as to this case only and not as to any future third party claims related to the SUBJECT PROPERTIES.

1.12 “RELATED PERSONS AND ENTITIES” as it pertains to the PLAINTIFFS shall mean and refer to any and all legal and equitable owners of the SUBJECT PROPERTIES and their legal representatives, insurers, lenders, mortgage holders, agents, experts, consultants, heirs, trusts, trustees, trust beneficiaries, creditors, assignees, lessees, tenants, residents of the SUBJECT PROPERTIES, administrators and conservators, and each of their predecessors, successors and assigns.

1.13 “CLAIM” or “CLAIMS” shall mean and refer to any and all claims, demands, liabilities, causes of action of any kind, arising out of the matters alleged in the ACTION, including but not limited to strict liability, breach of implied warranty, breach of contract, negligence per se, breach of express warranty, negligence, trespass, inverse condemnation, nuisance, and all losses and damages, whether economic or non-economic, including, but not limited to, losses and damages associated with patent or latent defects, loss of compensation, property damage, indemnity, loss of use, loss of services, attorney’s fees, expert’s fees, repair costs, investigative costs, relocation costs, diminution in value claims, and any other actionable omissions, conduct or damages of any kind and nature whatsoever, whether subrogated or non-subrogated, whether in tort, contract or extracontractual, at law or in equity, actual or contingent, foreseen or unforeseen, known or unknown, past or future

1.14 "CLAIM" or "CLAIMS" specifically excludes from this Settlement Agreement: (1) Any and all CLAIMS as that term is defined herein which LYON and its respective RELATED PERSONS AND ENTITIES have or may have against any party, person, or entity other than PLAINTIFFS, SETTLING SUBCONTRACTORS and their respective RELATED PERSONS AND ENTITIES; (2) Any and all CLAIMS as that term is defined herein which LYON and its respective RELATED PERSONS AND ENTITIES have or may have pursuant to their status as named or additional insureds to the insurance policies issued to any individual or entity; (3) any and all claims for personal injury or bodily injury, which PLAINTIFFS have not alleged in the present ACTION; (4) any and all future damages arising out the maintenance of the hillside slopes adjacent to the SUBJECT PROPERTIES that are owned by the CITY and maintained by the GHAD and/or any repairs performed in the future to the hillside slopes that are unrelated to the CLAIMS released herein which are caused by the negligent acts or omissions of the CITY and GHAD occurring after the date of this Agreement.

1.15 Section 1.14 above does not apply as between LYON and the CITY and GHAD and all issues concerning claims by and between LYON and the CITY and GHAD shall be governed by a separate agreement.

2. RECITALS

2.1 On or about April 25, 2005, PLAINTIFFS filed THE ACTION against LYON claiming damages for strict liability, breach of implied warranty, breach of contract, negligence per se, breach of express warranty, negligence, and nuisance, with claims of alleged defects in the design, construction, grading and repair of the SUBJECT PROPERTIES and all component parts of the SUBJECT PROPERTIES. PLAINTIFFS also claimed damages against the CITY and GHAD for inverse condemnation and nuisance regarding the CITY OWNED ADJACENT LAND.

2.2 On or around June 30, 2005, LYON filed THE CROSS-ACTION against certain subcontractors whose work was implicated in THE ACTION and/or tendered claims to them or their representatives. Pursuant to THE CROSS-ACTION, LYON sought indemnification and contribution from THE SETTLING SUBCONTRACTORS, as well as the CITY and GHAD. The CITY and GHAD filed a CROSS ACTION against LYON seeking, among other things, indemnification.

2.3 On or about September 7, 2011, a settlement was reached between PLAINTIFFS, LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS for a total of \$1,325,000. \$725,000 of the settlement funds will be used by GHAD to perform a dewatering repair of the hillside. No settlement funds from the CITY or GHAD shall be used for hillside repairs. GHAD agrees to be the contracting party for the hillside repair and the construction management oversight contracts.

2.4 The SETTLING PARTIES desire and intend by this AGREEMENT to now settle, finally and completely, all claims, demands, actions, causes of action and obligations, known or unknown, relating to drainage, grading, foundation, concrete,

geotechnical and all below-ground soils, including allegations of faulty soil compaction, adjacent landslides, faulty existing underlying soils and expansive soils resulting in soil movement and damage to the structures, concrete slabs, flatwork and foundation defects including any and all resulting damages associated with and arising from the ACTION or CROSS ACTION. All issues by and between LYON and the CITY and GHAD shall be governed by a separate agreement.

2.5 Upon approval of this Agreement and full funding of the settlement by all SETTLING PARTIES, GHAD will contract with Engineered Soil Repair, Inc. ("ESR") or another qualified contractor to install dewatering wells on CITY OWNED ADJACENT LAND. Upon approval of this Agreement and full funding by all SETTLING PARTIES, GHAD will retain Steven, Ferrone & Bailey Engineering Company, Inc. to inspect, manage and supervise the construction.

2.6 This AGREEMENT does not modify, diminish, or release the CITY or GHAD from any duty or obligation to maintain the CITY OWNED ADJACENT LAND.

3. PAYMENT AND ASSIGNMENT

3.1 Settlement Payments. The total amount to be collectively paid to PLAINTIFFS by LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS, pursuant to the settlement reached between SETTLING PARTIES is \$600,000.00. The remaining payments (excluding all funds from the CITY and GHAD) are to be used for payment of the hillside repairs and construction management oversight expenses or costs.

3.2 The settlement contributions are broken down as follows:

LYON	\$1,000,000
CITY and GHAD	\$250,000
DMC Concrete	\$25,000
Merit Concrete	\$25,000
Rivera Company	\$25,000

3.3 ASSIGNMENT. In exchange for the monetary contribution of LYON, PLAINTIFFS agree to assign to LYON any all claims they may have against any NON-SETTLING PARTY, known or unknown, including, but not limited to equitable and implied indemnity rights.

3.4 In exchange for the settlement amount described above, PLAINTIFFS shall dismiss any and all CLAIMS in THE ACTION and/or arising from or related to the

SUBJECT PROPERTIES, with prejudice, as to LYON, the SETTLING SUBCONTRACTORS, the CITY, and GHAD.

3.5 All Parties agree that the settlement amount described above was made in good faith in accord with Code of Civil Procedure sections 877 and 877.6.

3.6 All Settlement Payments due PLAINTIFFS shall be forwarded to plaintiffs' counsel by December 1, 2011 for SETTLING PARTIES. Timing of settlement payments by LYON and/or LYON's carriers is governed by a separate agreement between PLAINTIFFS and LYON. Settlement checks shall be made payable to the "Milstein Adelman Client Trust Account" (Federal Tax ID No. 95-4598207) and delivered to PLAINTIFFS' counsel.

3.7 Each party shall be responsible to pay only their contribution to the total settlement amount and shall not be responsible or liable for any other party's settlement contribution.

4. RELEASES

4.1 PLAINTIFFS' Release. For and in consideration of the settlement amount as described in Paragraph 3 of this AGREEMENT, and the other representations and promises contained herein, and except as otherwise set forth herein, PLAINTIFFS, individually and collectively, and on behalf of their RELATED PERSONS AND ENTITIES, do hereby fully and finally settle, release, acquit and forever discharge, in the broadest possible manner, LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS and their respective RELATED PERSONS AND ENTITIES, of and from all CLAIMS in the action, as defined herein, which arose out of or are connected in any way with the SUBJECT PROPERTIES and/or the CITY OWNED ADJACENT LAND, and are not specifically excluded herein. Conditioned upon the promises made herein, this AGREEMENT may be pled as a full and complete defense to any action or other proceeding by which any PLAINTIFF pursues any of the CLAIMS released herein, as well as a basis for abatement of, or injunction against, such action or other proceeding.

4.2 LYON and SETTLING SUBCONTRACTORS' Releases. For and in consideration of the Release of PLAINTIFFS, as described herein, and the other representations and promises contained herein, and except as otherwise set forth herein, LYON and SETTLING SUBCONTRACTORS, on their own behalf and on behalf of their respective RELATED PERSONS AND ENTITIES, do hereby fully and finally settle, release, acquit and forever discharge, in the broadest possible manner, each other and their respective RELATED PERSONS AND ENTITIES, of all CLAIMS made by PLAINTIFFS in THE ACTION and the associated CROSS-ACTION, as defined herein, which arose out of or are connected in any way with the SUBJECT PROPERTIES, except for any claim brought in the future by an individual or entity not a named party to these proceedings. Conditioned upon fulfillment of the promises made herein, this AGREEMENT may be pled as a full and complete defense to any action or other

proceeding by which LYON or any SETTLING SUBCONTRACTOR pursues any of the CLAIMS released herein, as well as a basis for abatement of, or injunction against, such action or other proceeding.

4.3. The specific terms of the ongoing relationship and release of claims between LYON and the CITY and GHAD shall be governed by a separate agreement.

4.4 WAIVER OF CIVIL CODE SECTION 1542. PLAINTIFFS acknowledge and understand that there is a risk that, subsequent to the execution of this AGREEMENT, they may accrue, obtain, incur, suffer or sustain CLAIMS which in some conceivable way arise out of, are caused by, are connected with or related to SETTLING PARTIES, the SUBJECT PROPERTIES, and/or the CITY OWNED LAND and that such CLAIMS may be unknown and unanticipated at the time this AGREEMENT is signed, or are not presently capable of being ascertained. PLAINTIFFS further acknowledge that there is a risk that any CLAIMS as are known or should be known may become more serious than they now expect or anticipate. Nevertheless, PLAINTIFFS hereby expressly waive all rights they may have in such unknown and unexpected consequences or results, unless such rights are specifically excluded herein. **PLAINTIFFS acknowledge that they have had the benefit of or opportunity to consult with counsel, understand the import of California Civil Code section 1542 and expressly waive the protection of Civil Code section 1542,** which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of the executing the release which, if known by him or her must have materially affected his or her settlement with the debtor.

PLAINTIFFS hereby specifically waive any and all rights and benefits that could accrue under this section or any successor statute, unless such rights are specifically excluded herein. SETTLING PARTIES acknowledge that this AGREEMENT would not be made without such a waiver

5. CONFIDENTIALITY AND COVENANT NOT TO PUBLISH

5.1 PLAINTIFFS, and their attorneys, experts and all those associated with them, agree to refrain from disclosing, advertising, or publicizing in any way, including but not limited to, via newspapers, magazines, jury verdicts publications, law firm marketing brochures or materials, television, radio, newsletters, the Internet, or other publications, the amounts to be paid or received separately, individually or collectively by SETTLING PARTIES, the total amount of the Settlement Payments, except as specifically set forth herein.

5.2 SETTLING PARTIES hereby acknowledge that substantial work has been performed by their legal counsel, agents, representatives, expert witnesses and/or

consultants, at the express direction of the SETTLING PARTIES, related to the prosecution and/or defense of THE ACTION and THE CROSS-ACTION, a defined herein. Such work includes, but is not limited to, tests, reports, studies, examinations, inspections and research and analyses regarding, among other things, the SUBJECT PROPERTIES. SETTLING PARTIES hereby expressly assume responsibility for an ownership of such work performed by their legal counsel, agents, representatives, expert witnesses and/or consultants, and, pursuant to the terms of this AGREEMENT, SETTLING PARTIES shall take all appropriate steps to ensure such work, as defined herein, shall remain confidential. For instance, SETTLING PARTIES shall advise their legal counsel, agents, representatives, expert witnesses and/or consultants, who have performed such work at their express direction related to the prosecution and/or defense of THE ACTION and THE CROSS-ACTION, that such work shall remain confidential.

5.3 Notwithstanding this AGREEMENT, nothing in this AGREEMENT will prohibit, narrow, or abrogate the PLAINTIFFS' obligations to comply with disclosure requirements of the State of California related to or regarding the SUBJECT PROPERTIES. However, in making any and all necessary disclosures, the PLAINTIFFS shall not reveal the monetary terms of this AGREEMENT, except PLAINTIFFS may indicate that all applicable CLAIMS relating to the original construction and repairs of the SUBJECT PROPERTIES have been fully released by them under California law and that the release runs with the land and is applicable to subsequent purchasers of the SUBJECT PROPERTIES.

5.4 LYON and SETTLING SUBCONTRACTORS agree that, except as set forth herein, they also shall not disclose the Settlement Payments provided to PLAINTIFFS pursuant to this AGREEMENT. However, LYON and SETTLING SUBCONTRACTORS may share any of the terms of this AGREEMENT with their RELATED PERSONS AND ENTITIES as needed in the ordinary course of conducting their business.

5.5 Nothing in this AGREEMENT will prohibit the explanation of settlement terms in pleading filed with the Contra Costa Superior Court, including but not limited to, motions for good faith settlement. However, SETTLING PARTIES agree that any such pleadings, declarations, and other papers filed with the Court in this regard shall be treated as confidential materials and will not be provided or referenced in any way, shape or form to anyone, including, but not limited to, newspapers, magazines, jury verdict publications, law firm marketing brochures, television, radio, newsletters, the Internet, any publication, and etc. except as required for said pleadings and proceedings or as ordered by Court. Further, to the extent that a SETTLING PARTY must file any part of this AGREEMENT with the Court, the SETTLING PARTY doing so may only file those portion of this AGREEMENT that are necessary for the motion or pleading. The CITY and GHAD as public entities must make public this AGREEMENT upon execution pursuant to California law.

5.6 Nothing in this AGREEMENT shall prohibit disclosure to third parties to the extent necessary to comply with applicable laws, or for financial planning or tax purposes to financial advisors.

6. REPRESENTATIONS

SETTLING PARTIES make the following material representations with the understanding that each of them enters into this AGREEMENT in reliance upon each of these representations and that, without these representations, none of them would enter into this AGREEMENT:

6.1 SETTling PARTIES intend that the terms and conditions of this AGREEMENT, and the AGREEMENT as a whole, shall be binding upon them, and their RELATED PERSONS AND ENTITIES, and are intended by SETTling PARTIES to run with the land, as to the SUBJECT PROPERTIES, pursuant to applicable California law. A memorandum of settlement or other similar document shall be executed before a notary public by PLAINTIFFS and delivered to counsel for LYON with this AGREEMENT for recordation as to each of the SUBJECT PROPERTIES, and all parties shall cooperate and take all steps necessary to ensure recordation of a memorandum of settlement. An exemplar copy of the memorandum of settlement is attached hereto and incorporated by reference as "Exhibit B".

6.2 PLAINTIFFS and/or signatories hereto represent that they own the SUBJECT PROPERTIES and that they have not sold, transferred, conveyed, or assigned any interest therein which may affect the final and full resolutions of all CLAIMS. PLAINTIFFS represent that there are no other legal or equitable owners who should sign this AGREEMENT and that all such owners have been identified and are signatories to this AGREEMENT. PLAINTIFFS represent that the SUBJECT PROPERTIES are not currently in escrow, nor is any sale related to the SUBJECT PROPERTIES pending.

6.3 PLAINTIFFS and signatories hereto represent that they have not sold, transferred, conveyed, assigned, hypothecated and/or subrogated any of the CLAIMS released herein.

6.4 PLAINTIFFS and signatories hereto represent that they have standing to sue herein as the real parties-in-interest as to THE ACTION.

6.5 SETTling PARTIES have selected and retained their own attorneys, experts and consultants to inspect, analyze and advise them regarding the nature, extent and cause of the CLAIMS. SETTling PARTIES acknowledge that all of the terms and provisions of this AGREEMENT have been explained to them by their legal counsel. SETTling PARTIES further represent that they understand and accept all of the terms and provisions of this AGREEMENT voluntarily and not in reliance of any representation or promise or inducement not expressed herein.

6.6 Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter in this AGREEMENT on behalf of the SETTLING PARTY for whom he or she purports to sign.

7. AGREEMENT NOT TO PROSECUTE

PLAINTIFFS shall never commence or prosecute any action, and hereby expressly agree not to assist in any way, shape or form in the commencement or prosecution of any action against LYON, the CITY, GHAD, or SETTLING SUBCONTRACTORS, in law or equity, based upon, arising from or in any way connected to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND, based upon the CLAIMS released herein, or upon said parties' acts or omissions relating to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND at any time up to and including the effective date of this AGREEMENT. Pursuant to this Paragraph, in addition to the other representations made in this AGREEMENT (including but not limited to Paragraph 5) PLAINTIFFS and their RELATED PERSONS AND ENTITIES agree not to provide such assistance in the prosecution or commencement of any action against LYON or SETTLING SUBCONTRACTORS by disclosing work performed by their legal counsel, agents, representatives, expert witnesses and/or consultants, based upon, arising from or in any way connected to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND and the CLAIMS related thereto, unless required by law or ordered by court.

This AGREEMENT may be pled as a full and complete defense to any action or other proceeding, as a basis for abatement of, or injunction against such action.

8. HOLD HARMLESS

8.1 PLAINTIFFS will hold harmless LYON, the CITY, and GHAD and its officers, directors, shareholders, agents, representatives, predecessors, successors, assigns, affiliated and related entities and all persons acting by, through, under or in concert with it from any loss, claim, action, expense, demand, subrogation or cause of action of any kind or character whatsoever brought by or on behalf of any past, present or future owner(s) of the SUBJECT PROPERTY relating to any released CLAIM which is the subject matter of this Agreement, unless specifically excluded herein.

8.2 PLAINTIFFS acknowledge that in consideration of the promises and agreements contained herein, LYON, and SETTLING SUBCONTRACTORS and the RELATED PARTIES AND ENTITIES bear no responsibility whatsoever as to redesign, repair, remediation, corrective work and/or maintenance performed or not performed on the SUBJECT PROPERTIES. All such responsibility is fully and completely assumed by PLAINTIFFS only, and PLAINTIFFS agree to hold LYON, the SETTLING SUBCONTRACTORS, the CITY, GHAD and their RELATED PARTIES AND ENTITIES harmless of and from any past, present or future claims related to the failure to undertake repairs, deficient for defective repairs, and/or any other claim related to or

arising out of the redesign, repair, remediation, corrective work and/or maintenance performed or not performed on the SUBJECT PROPERTIES.

9. INDEMNIFICATION FOR FAILURE TO DISCLOSE

9.1 PLAINTIFFS agree to fully comply with California law relating to the duty to disclose conditions of a residence upon the sale or transfer of same.

9.2 PLAINTIFFS further agree to hold LYON, the SETTLING SUBCONTRACTORS, and the CITY and GHAD harmless, should they be sued, for any failure and/or alleged failure of PLAINTIFFS to disclose conditions of their residences and matters raised in connection with the released CLAIMS herein, as required pursuant to California law, relating to the SUBJECT PROPERTIES.

10. WARRANTY OF AUTHORIZED SIGNATORIES

Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this AGREEMENT on behalf of the party for whom he or she purports to sign.

11. PROTECTION AGAINST SUBROGATION OR SUBSEQUENT CLAIMS

PLAINTIFF represents and warrants that it has not initiated, nor concluded, nor is it aware of, nor will it make any other claims for property damage, based upon the CLAIMS released herein and involving the SUBJECT PROPERTY.

12. WARRANTY REGARDING NON-ASSIGNMENT OR TRANSFER OF CLAIMS

PLAINTIFF hereby represents and warrants that the homeowner has not subrogated their rights to any and all CLAIMS involved in THE ACTION, and it is the sole and rightful owner of all those rights, title, and interest in the settlement proceeds and every claim and other matter which it releases herein and has not heretofore assigned or otherwise transferred any interest in any claim which it may have against the parties to this AGREEMENT, any entity released or discharged pursuant to this AGREEMENT, or the settlement proceeds.

13. COMPROMISE

This AGREEMENT is the result of a compromise among the SETTLING PARTIES and shall never at any time or for any purpose be considered as an admission of liability and/or responsibility on the part of any party herein released, nor shall the payment of any sum of money in consideration for the execution of this AGREEMENT

constitute or be construed as an admission of any liability whatsoever by any party herein released, each of which continues to deny such liability and disclaim such responsibility.

14. ATTORNEY FEES

The SETTLING PARTIES acknowledge and agree that each of them will bear their own costs, expenses and attorney fees arising out of and /or connected with the CLAIMS, the negotiation, drafting, and execution of this AGREEMENT, and all matters arising out of or connected therewith except that in the event any action is brought by any party hereto to enforce this AGREEMENT, the prevailing party shall be entitled to reasonable attorney fees and costs in addition to all other relief to which that party or those parties may be entitled, including without limitation, attorney fees and costs incurred if this Agreement must be enforced in Bankruptcy proceedings. The issue of attorney fees and costs by and between LYON and the CITY and GHAD shall be governed by separate agreement.

15. SEVERABILITY

If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable for whatever reason, the remaining provisions not so declared shall nevertheless, continue in full force and effect, without being impaired in any manner whatsoever. In addition, if any party to this AGREEMENT fails or refuses to sign said AGREEMENT, the AGREEMENT will continue to have full force and effect and will be binding upon the remaining parties to the AGREEMENT.

16. CONSTRUCTION OF AGREEMENT

This AGREEMENT is the product of negotiation and preparation by and among the SETTLING PARTIES and their respective attorneys. The SETTLING PARTIES therefore expressly acknowledge and agree that this AGREEMENT shall not be deemed prepared or drafted by one party or another, or its attorneys, and will be construed accordingly.

17. PERSONS BOUND AND BENEFITED

Except as limited and/or excluded herein, this AGREEMENT shall be binding upon and inure to the benefit of SETTLING PARTIES, any and all legal or equitable owners of the SUBJECT PROPERTY, their principals, agents, employees, attorneys, representatives, predecessors, successors in interest, beneficiaries, respective insurance carriers, heirs, successors in interest, agents, employees, servants, principals, assigns, assignors, officers, directors, stockholders, partners, representatives, parent corporations, subsidiary corporations, sister corporations, affiliate corporations, subsequent corporations, partnerships, limited partnerships, joint ventures, executors, grantors,

associates, adjusters, affiliates, including but not limited to all RELATED PERSONS AND ENTITIES, as that term is defined herein.

18. INTEGRATION/MODIFICATION

18.1 This AGREEMENT constitutes the entire AGREEMENT between the SETTLING PARTIES relating to the settlement of all CLAIMS arising out of THE ACTION, THE CROSS-ACTION and the facts set forth in the recitals to this AGREEMENT. All prior or contemporaneous agreements, understandings, representations and statements, whether oral or written, and whether by a party or such party's legal counsel, are integrated into the AGREEMENT. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the parties hereto relating to the subject matter of this AGREEMENT which are not fully expressed herein. Notwithstanding the above, the ongoing relationship between William Lyon Homes and the CITY and GHAD shall be governed by a separate agreement.

18.2 No modification, waiver, amendment, discharge or change of this AGREEMENT shall be valid unless it is in writing and is signed by the party against whom enforcement of such modification, waiver, amendment discharge or change is, or may be, sought.

19. GOVERNING LAW

This AGREEMENT shall be interpreted in accordance with and governed by the laws of the State of California.

20. EFFECTIVE DATE

The parties hereto deem this Agreement to be immediately effective as of the date this Agreement was entered into on

21. RIGHT TO INDEPENDENT COUNSEL.

SETTLING PARTIES acknowledge and represent that they have had the right to and benefit of consultation with independent legal counsel and expert consultants. SETTLING PARTIES further acknowledge and represent that in evaluating, finalizing and executing this AGREEMENT, they are not relying on anything other than the advice of their independent legal counsel and/or expert consultants. SETTLING PARTIES have read and understand the entirety of this AGREEMENT, and have been advised as to the legal effects of this AGREEMENT, as to, for example, their rights and obligations hereunder, and hereby willingly and voluntarily agree to every single term of this AGREEMENT.

22. EXECUTION OF AGREEMENT

This AGREEMENT may be executed in multiple counterparts, such that when the executed signature pages are taken together they shall constitute the entire AGREEMENT. SETTling PARTIES shall execute this AGREEMENT. If a SETTling PARTY is unable to sign this AGREEMENT, due to its dissolution, insolvency, liquidation, receivership or similar disability, the SETTling PARTY's attorney of record in THE ACTION may execute this AGREEMENT on behalf of said party. If the SETTling PARTY's attorney is unable or unwilling to execute this AGREEMENT, SETTling PARTIES stipulate that the Court Clerk or other qualified individual appointed by the Court is hereby authorized to sign the AGREEMENT on behalf of said party. True photocopies of signatures shall be deemed as effective as original signatures.

23. COPY ADMISSIBLE

In any action or proceeding relating to this AGREEMENT, SETTling PARTIES stipulate that a copy of this AGREEMENT may be admissible to the same extent as the original AGREEMENT unless the exceptions set forth in California Evidence Code section 1511 are found to be applicable.

24. CAPTIONS AND INTERPRETATIONS

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this AGREEMENT or any provision hereof.

IN WITNESS THEREOF, the parties enter into and date this Agreement:

PLAINTIFFS' SIGNATURES (pages 13 through 14)

DATED: _____

LAILUMA HOSSAINI

BY: _____

ITS: _____

DATED: _____

HAMID HOSSAINI

BY: _____

ITS: _____

DATED: _____

WILLIAM J. PLAMBECK

BY: _____

ITS: _____

DATED: _____

BEVERLY J. PLAMBECK

BY: _____

ITS: _____

DATED: _____

GREGORY S. REDMOND

BY: _____

ITS: _____

DATED: _____

PHYLLIS O. REDMOND

BY: _____

ITS: _____

DATED: _____

DEBRA VANSLAMBROOK

BY: _____

ITS: _____

DATED: _____

AMIN ZAFARI

BY: _____

ITS: _____

DATED: _____

NAHIDA ZAFARI

BY: _____

ITS: _____

DATED: _____

WILLIAM LYON HOMES, INC.

BY: _____

ITS: _____

DATED: _____

CITY OF CLAYTON

BY: _____

ITS: _____

DATED: _____

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

BY: _____

ITS: _____

DATED: _____

DMC CONCRETE, INC.

BY: _____

ITS: _____

DATED: _____

RIVERA COMPANY

BY: _____

ITS: _____

DATED: _____

MERIT CONCRETE, INC.

BY: _____

ITS: _____

Agenda Date: 3/6/12

Agenda Item: 9 (b)

City of Clayton

Wednesday Night Summer Concert Series

2012



Objective

The City of Clayton with the support of the Passport to Communities Foundation is looking to bring concerts to 5 Wednesday nights during the summer of 2012.

Our objective for the Wednesday night concert series is to help local businesses by getting residents out of their homes and spending time in town on a weeknight when our local businesses tend to have less foot traffic. We are hoping people will shop Clayton before and/or after the Wednesday night concerts as well as learn more about new and old businesses in Clayton through promotional opportunities provided by the concert series.

Execution

We plan to build off of the already successful Saturday night concert series by utilizing some of the processes and procedures already set in place. While we plan to build from the Saturday concert series the Wednesday night concerts will have its own feel and flavor. The Saturday night concerts have been successful, but having additional concerts on Wednesday nights that will probably have fewer people attending, allows us to try new things that may or may not benefit the Saturday night concerts as well.

It is important to try new things. Some may work and some may not but you have to be open to trying them out to see. Having the Wednesday concerts organized by a different group also helps foster different ideas and approaches to accomplishing the same goals as the Saturday concerts. A fun evening for the residents of Clayton while helping support local businesses and being self-sustaining.

How to Pay for Concerts

The start-up costs and concert expenses for the 2012 Wednesday Night Concert Series will be guaranteed by the P2C Foundation. The P2C Foundation will guarantee all the costs of the 2012 concert series with the expectation that the majority of costs will be recouped through sponsorships from local businesses, selling reserved seating, selling Clayton Merchandise and selling alcohol. If sales are equal to or more than needed to cover the expenses, the P2C Foundation will still donate a minimum of \$1000 to the concert series. The additional revenues above expenses will be carried over for next year's Wednesday Concerts.

Revenue

Sponsorships - \$6,000.00

We plan on selling 10 sponsorships to local business for \$500 each plus \$1,000 from the P2C Foundation. This works out to a cost of \$100 per concert for each business to reach 500 to 1500 people at each concert while also having their company logo on flyers and advertising throughout the city as well as displayed and recognized at each concert. A copy of the Sponsorship benefits flyer is attached.

VIP Seating - \$1,250.00

We will be setting aside an area that can hold up to 100 people for reserve seating. The cost for reserve seating will be \$10 per concert or if prepaid for all five concerts \$40.00. We are estimating low to be very conservative. We are estimating only 25 prepaid passes for the 5 concerts and 25 single concert passes. The single concert passes work out to 5 a concert for those who get their late and want a seat closer to the band and near the alcohol tent. The businesses who sponsor the concert receive two passes for each concert. We believe we can sell additional one day concert passes to some of the restaurants to use as a promotion for having dinner at their establishment on the night of the concert so their guest can have a nice dinner and not have to rush to get a space before the concert. But we have not included these additional sales in our estimate.

Clayton Merchandise Sales - \$1,000.00

We plan on having one booth to sell Clayton Merchandise and to also have promotional materials for each of the 10 business sponsors at this booth. The plan is to have various items including blankets, acrylic wine glasses, low rise chairs, sweaters and a few other items with a Clayton and/or Concert Series logo on each item. The price of each item will be our cost plus \$10 to go towards the concerts. Our goal is to sell 20 items per concert for a total of 100 items. The P2C Foundation will arrange and cover expenses and will be reimbursed from sales. The P2C Foundation will not receive any compensation or financial benefit from sales at the concerts.

Alcohol - \$2,500.00

Our plan is to allow people to bring their own alcohol to the concerts just like on Saturday nights but we believe a group of residents will prefer to not have to bring their own alcohol and would prefer to purchase it at the concert knowing that the funds raised benefit the concert series. Our plan is to get two cases of wine donated for each concert. We plan on selling a glass of wine for \$5.00 for a 4 ounce pour. With that we can get 144 glasses from two cases. We also plan on having one keg of beer at each concert or purchase cases of beer and sell each beer for \$5.00 each. We also plan on having pre-made mixed Margaritas for \$5.00 each as well. However, we only anticipate on selling 100 drinks per concert as we believe many people will still bring their own, there will be fewer people at the Wednesday concerts than Saturday and most people have to work on Thursday so they will consume less alcohol.

Expenses

Bands - \$2,500.00

We will be using local bands that want to play at the concerts and will bring their fans to come support them and the concerts. Many of these bands just want to have a good time, build their resume and help the Clayton community so are willing to play for less than many of the bands on Saturday night concerts.

Music Tech - \$2,500.00

We will contract with a music technician that is very experienced and filled in for one concert last year. One of the better sounding concerts and he has agreed to provide his services for \$500 a night. Weeknight rates are less than weekend rates.

Advertising - \$1,500.00

This is the estimate we are using for advertising, banner and flyers.

Police - \$1,000.00

Maintenance - \$200.00

ASCAP Fee - \$100.00

Janitorial Supplies - \$375.00

We took these numbers by dividing last year's Saturday night concert costs by ten than multiplying by 5

ABC Permit for Concerts - \$125.00

Cost for ABC Permits for 5 concerts.

Alcohol / Supplies - \$750.00

Cost for alcohol, plastic cups, soap, water, hand towels.

Misc. - \$500

We are adding an additional \$500 for miscellaneous supplies just to be conservative. The Saturday concert series miscellaneous expenses were lower than \$500.

Summary

We have been very conservative on our estimate of revenue and expenses. We have a dedicated team who are enthusiastic to run the Wednesday night concert series. We believe this is a perfect opportunity to try a weeknight concert series with no financial risk to the city and the opportunity to try new ideas without an impact to the successful Saturday night concert series.

Attachments:

Income & Expense sheet

Sponsorship Promotional flyer

VIP Seating Pass

Park Diagram with Booths and Reserved Seating area

Email from ABC approving of sale of alcohol in park

10

Revenue:

<u>Sponsors:</u>	
P2C Foundation	\$ 1,000.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
	\$ 500.00
Sub Total:	\$ 6,000.00

25 x \$40	\$ 1,000.00
25 x \$10	\$ 250.00
Subtotal:	\$ 1,250.00

100 x \$10	\$ 1,000.00
------------	-------------

500 x \$5	\$ 2,500.00
-----------	-------------

Total: \$ 10,750.00

Clayton Wednesday Night Summer Concert Series

Advertising & Promotional Opportunity

The City of Clayton with the support of the Passport to Communities Foundation is looking to bring concerts to 5 Wednesday nights during the summer of 2012.

Our objective for the Wednesday night concert series is to help local businesses by getting residents out of their homes and spending time in town on a weeknight when our local businesses tend to have less foot traffic. We are hoping people will shop Clayton before and/or after the Wednesday night concerts as well as learn more about new and old businesses in Clayton through promotional opportunities provided by the concert series.

We are looking for donations from local businesses to pay for the concert series.

For a \$500 donation you will receive the following promotional opportunity at each of the five Wednesday night concerts:

- Your company logo on a banner that will be displayed at all 5 concerts
- Your company recognized and announced as a sponsor before and after each of the 5 concerts
- Any promotion you may be offering will be announced
- Your company logo on any advertising done for the Wednesday night concerts
- Display your company promotional material at a booth selling Clayton Merchandise
- Two VIP passes for each concert for a reserved seating area at concert (\$100 value)

We anticipate between 500 and 1500 people at each concert. We anticipate 90% or more to be local Clayton residents. Your \$500 donation works out to \$100 per concert to reach 500 to 1500 people with the message that you are bringing these Wednesday night concerts to them for free. Without your support we will not have these concerts. We are only looking for 10 corporate sponsors in addition to the Passport to Communities Foundation. This opportunity is on a first come basis.



The P2C Foundation



a passport to communities

The P2C Foundation



a passport to communities

Clayton Grove Concerts

Summer Series

V.I.P.

Pass

Maresi's Chophouse

Wednesday Nights

2012

"Together We Can Make A Difference In Our Community"

Clayton Grove Concerts

Summer Series

V.I.P.

Pass

Pavilion Bar & Grill

Wednesday Nights

2012

"Together We Can Make A Difference In Our Community"

The P2C Foundation



a passport to communities

The P2C Foundation



a passport to communities

Clayton Grove Concerts

Summer Series

V.I.P.

Pass

Clayton Club Saloon

Wednesday Nights

2012

"Together We Can Make A Difference In Our Community"

Clayton Grove Concerts

Summer Series

V.I.P.

Pass

Oakhurst Country Club

Wednesday Nights

2012

"Together We Can Make A Difference In Our Community"



The area identified is only for example purposes.

Joe Medrano

From: Bailey, David@ABC <David.Bailey@abc.ca.gov>
Sent: Wednesday, February 15, 2012 8:52 AM
To: joe@claytoncouncil.com
Subject: FW: Clayton Concerts in the Park
Attachments: Map of Grove Park.pdf

Good afternoon Joe,

The concept you've described below is certainly feasible. As discussed, the City itself cannot be licensed, however a non-profit group [501(c)(3)] can make application for a one-day license to cover the event. Unless specifically conditioned otherwise, there is nothing from a statutory perspective that would prohibit the one-day licensee from continuing to allow event participants to bring their own alcoholic beverages. The one-day licensee should be cautioned though that they will ultimately be responsible for the conduct of these individuals; as well as any open alcoholic beverages that are being removed from the designated event area. The same concerns relative to the removal of open containers of alcoholic beverages from the event area would also apply to the Saturday night events currently taking place. If you have any other questions, feel free to give me a call.

David H. Bailey
District Administrator
Oakland District Office
510-622-8603

From: Joe Medrano [<mailto:joe@claytoncouncil.com>]
Sent: Tuesday, February 07, 2012 1:34 PM
To: Berry, Anthony@ABC
Subject: Clayton Concerts in the Park

Tony,

Thank you for taking the time to speak with me today. Per our conversation, here is what we are looking for confirmation on.

The City of Clayton would like to hold 5 Wednesday night concerts sometime between May and September 2012. The concerts would be held in our downtown Grove Park. I have attached a picture of the park. I have put a red rectangle around the park that fits in a small square block. As you can see the park is very small and easy to monitor.

For these concerts the city will allow people to bring and consume their own alcohol for the concert series. We would like to add the ability to also sell alcohol at these events. We want people to have the option to either bring their own alcohol or purchase from the City or other 501(c)3 non-profit. Because the park is so small we would like people who purchase alcohol to be able to sit anywhere in the park amongst those who brought their own. The alcohol would be contained within the park.

Background – We have had 10 concerts each summer for the past 3 years on Saturday nights and have allowed people to bring their own alcohol for all of these events, which most if not all attendees do bring their own alcohol. We have never had a problem with allowing alcohol consumption during the Saturday concerts which run about 2 ½ hours.

We are wanting to add 5 Wednesday concerts to help bring people downtown to support our local businesses during the week when they are slower. The Wednesday concerts will also run about 2 ½ hours. We need the concerts to be self-sustaining and by allowing people the option to bring their own alcohol or buy from the event we believe a portion of

people will buy instead of bringing their own knowing that the proceeds go to helping support the concert series. Because the concerts are on Wednesdays nights we also anticipate less consumption of alcohol then is consumed on our Saturday concerts because most people will have to be at work on Thursday. Clayton's unemployment rate is only 2.5%

What I would like is an email from you confirming it is ok for us to sell alcohol at the event and allow people who purchase alcohol to be mixed in with people who bring their own alcohol and not require a separate seating area.

Please confirm with an email back to me as soon as possible so I may report back to the rest of our city council.

Thank you,
Joe

Joseph A. Medrano, ARM, CWCA
Vice Mayor
City of Clayton
P: 925-673-2210
F: 925 673-2212
E: joe@claytoncouncil.com

PLEASE NOTE:

This E-Mail message and any documents accompanying this transmission may contain privileged and/or confidential information and is intended solely for the addressee(s) named above. If you are not the intended addressee/recipient, you are hereby notified that any use of, disclosure, copying, distribution, or reliance on the contents of this E-Mail information is strictly prohibited and may result in legal action against you. Please reply to the sender advising of the error in transmission and immediately delete/destroy the message and any accompanying documents. Thank you.

Agenda Date: 3/4/12

Agenda Item: 9(c)



Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 06 MARCH 2012

**SUBJECT: MAYORAL APPOINTMENT OF CLAYTON REPRESENTATIVE
CONTRA COSTA COUNTY DELTA STAKEHOLDERS' COALITION**

RECOMMENDATION

It is recommended, following public comment and Council input, that Mayor Geller appoint one of the members of the Clayton City Council to the newly-formed Contra Costa County Delta Stakeholders' Coalition.

BACKGROUND

In effort coordinated by Contra Costa County and supported by the Contra Costa County Mayors' Conference at its February 2012 meeting, the Clayton City Council took action at its 21 February 2012 public meeting to support the articulated efforts and goals to defend Bay-Delta related issues at regional forums and statewide symposiums. By adopting City Resolution No. 05-2012 (copy attached as Attachment 1), the City Council further authorized its mayor to appoint a member of the Clayton City Council to participate and represent Clayton's interests and concerns on a newly-constituted "Contra Costa County Delta Stakeholders' Coalition".

ACTION REQUESTED

With Council adoption of the Resolution at its last meeting, it is recommended Mayor Geller appoint a member of the Clayton City Council to this Delta Stakeholders' Coalition.

FISCAL IMPACT

According to County staff, there is no membership fee or cost associated with joining or participating in the Contra Costa County Delta Stakeholders' Coalition except expenses associated with attendance at its periodic meetings (e.g. vehicle fuel).

Attachment: 1. City Resolution No. 05-2012 [2 pp.]

RESOLUTION NO. 05- 2012

**A RESOLUTION REGARDING WATER, ECOSYSTEM HEALTH AND
OTHER ISSUES RELATED TO THE SAN FRANCISCO BAY AND THE
SACRAMENTO - SAN JOAQUIN RIVER DELTA**

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

WHEREAS, the San Francisco Bay and the Sacramento-San Joaquin River Delta (“the Delta”) are at risk from many factors and the State is proposing large-scale changes to water conveyance through and around the Delta to address state-wide water supply needs, changes to the Delta ecosystem to address declining ecosystem health and fish populations, changes to land use authority within the Delta, and changes to water rights, statewide water management and many other aspects related to the Delta that will impact the areas in and around the Delta; and

WHEREAS, each city and town in Contra Costa County (the “County”) will be adversely impacted by planned actions in the Delta through reduction in water quality and health of the San Francisco Bay-Delta and the resulting increase in stormwater (NPDES) permit requirements causing further increased local unfunded mandated expenses; and

WHEREAS, the Delta stakeholders believe there is value in developing an initiative on issues concerning the Delta, its watershed and greater San Francisco Bay/Delta estuary; and

WHEREAS, the Delta stakeholders wish to collectively articulate the issues and interests from the perspective of the Delta region itself, from the people who call the Delta home and best understand the tremendous resource the Delta represents; and

WHEREAS, the Delta stakeholders recognize the efforts and value of the Delta Counties Coalition and a need for joint action and advocacy on Delta-related issues, and have identified mutual interests;

WHEREAS, this Resolution is to be effective upon passage by the Cities, Towns, Contra Costa County Board of Supervisors and other interested parties within Contra Costa County, including Special Districts and other organizations and agencies, both public and private, hereinafter collectively referred to as “Delta Stakeholders”.

NOW, THEREFORE, BE IT RESOLVED the City Council of Clayton, California, as a Delta Stakeholder, does hereby adopt this Resolution for the purpose of articulating mutual interests on Bay-Delta issues. Furthermore, the Delta Stakeholders resolve to work together to defend Bay-Delta related interests at a regional perspective and to use their unified voice to advocate on behalf of local government in available forums at all levels, consistent with the following principles of mutual interest:

1. **Local Government Authority.** Recognition of the authority and responsibility given to local government related to land use, urban and agricultural water supply, waste water treatment and recycling, water resource development, flood management, public health and safety, economic development and sustainable growth, agricultural stability, recreation, and environmental protection.

2. **Delta Ecosystem.** Protection and restoration of a healthy sustainable Delta ecosystem including adequate water quality, inflows and outflow, and water supply, to support fisheries, wildlife and habitat in perpetuity.

3. **Existing System Reliability.** Support immediate improvements to the existing Through-Delta Conveyance and improvements to protect key regionally important infrastructure, such as trans-Delta aqueducts, as part of a complete strategy for the State's water management and to ensure reliability of the existing water supply system.

4. **Delta Outflows.** Ensure adequate Delta outflows to San Francisco Bay to support fisheries, wildlife, habitat, water quality and other beneficial uses.

5. **Regional Self-Sufficiency.** Incorporation of sustainable approaches for improved water supply, water quality and reliability through the overarching principle of regional self-sufficiency to reduce reliance on exports from the Delta and reduce the current impacts on the Bay-Delta ecosystem.

6. **Delta Area Communities.** Protect the economic viability of industry, recreation, tourism, and agriculture, and the ongoing vitality of communities throughout the Delta and immediately adjacent to the Delta, and along the shoreline of the greater San Francisco Bay-Delta.

7. **Fair Representation.** Represent and include local government in any new governance structures for the Delta.

8. **Flood Protection.** Support funding and implementation of urban and non-urban flood protection, at the appropriate level of protection, through rehabilitation, improvement and maintenance of flood control levees and structures.

BE IT FURTHER RESOLVED the City Council does hereby authorize a Mayoral-appointed member of the Clayton City Council to participate in the Contra Costa County Delta Stakeholders' Coalition who will report back periodically to the City Council regarding progress and status of the Delta Stakeholders' Coalition.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 21st day of February, 2012 by the following vote:

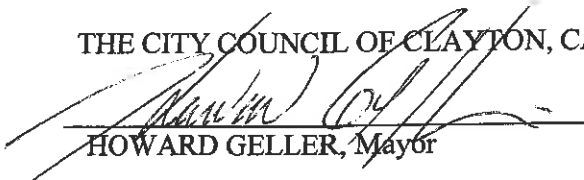
AYES: Mayor Geller, Vice Mayor Medrano, Councilmembers Pierce, Shuey and Stratford.

NOES: None.

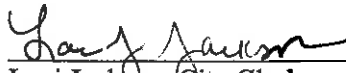
ABSTAIN: None.

ABSENT: None.

THE CITY COUNCIL OF CLAYTON, CA

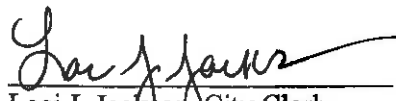

HOWARD GELLER, Mayor

ATTEST:


Laci Jackson, City Clerk

#####

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at its regular public meeting held on February 21, 2012.


Laci J. Jackson, City Clerk

**MINUTES
REGULAR MEETING
OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (GHAD)**

December 6, 2011

1. **CALL TO ORDER AND ROLL CALL** – the meeting was called to order by Chairman Stratford at 8:08 p.m. Boardmembers present: Chairman Stratford, Vice Chairman Medrano, Boardmembers Geller, Pierce, and Shuey. Staff present: City Manager Napper, General Legal Counsel Subramanian, and Secretary Jackson.

2. **PUBLIC COMMENTS** - None.

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

(a) Approved the minutes from the regular meetings of July 19, 2011, August 22, 2011, October 18, 2011, and November 1, 2011.

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

(a) Nominations and election of Chair.

Chairman Stratford opened nominations.

It was moved by Boardmember Pierce, seconded by Boardmember Geller, to nominate Hank Stratford for the position of Chairman. No other nominations were received. Chairman Stratford called for the vote and the nomination passed (5-0 vote).

(b) Nominations and election of Vice Chair.

Chairman Stratford opened nominations for Vice Chair.

It was moved by Boardmember Shuey, seconded by Boardmember Geller, to nominate Joe Medrano for the position of Vice Chairman. No other nominations were received. Chair Stratford called for the vote to elect Joe Medrano as Vice Chair and the nomination passed (5-0 vote).

6. **BOARD ITEMS** – limited to requests and directives for future meetings.
None.

7. **ADJOURN**- on call by Chairman Stratford the meeting adjourned at 8:09 p.m.

Respectfully submitted,

Laci J. Jackson, Secretary

Approved by the Board of Directors
Geological Hazard Abatement District

Hank Stratford, Chairman



Agenda Date: 3/6/12
Agenda Item: 5 (a)

GHAD STAFF REPORT

TO: HONORABLE CHAIRPERSON AND BOARD MEMBERS

FROM: RICK ANGRISANI, DISTRICT MANAGER

DATE: MARCH 6, 2012

SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING TWO SETTLEMENT AGREEMENTS RESOLVING NUMEROUS LAWSUITS IN THE OAKHURST COUNTRY CLUB DEVELOPMENT

RECOMMENDATION

Approve the attached Resolution approving two settlement agreements and authorizing the Chairman to execute the agreements on behalf of the Oakhurst Geological Hazard Abatement District (GHAD).

BACKGROUND

The Board, seated as the City Council, has earlier received the details of these two settlement agreements. For purpose of this recommended action, it is assumed the Clayton City Council adopted a Resolution approving the agreements and authorizing the Mayor to execute the agreements on behalf of the City of Clayton.

As the GHAD is a party in both of these agreements, the Board must also adopt its own Resolution approving the agreements and authorizing the Chairman to execute them on behalf of the GHAD.

FISCAL IMPACT

As explained earlier during the City Council meeting, there will be no fiscal impact to the GHAD. Further, it will end the payment of attorney fees and staff time currently being expended on these issues.

Subject: Resolution Approving Lawsuit Settlement Agreements

Date: March 6, 2012

Page 2 of 2

CONCLUSION

Based upon the above, Staff recommends the Board of Directors adopt the attached Resolution approving the two settlement agreements and authorizing the Chairman to execute the agreements on behalf of the GHAD.

Attachments: 1. Settlement Agreement and Partial Release of All Claims
 2. Settlement Agreement, Release, and Covenant Not To Sue

RESOLUTION NO. - 2012

**A RESOLUTION APPROVING TWO SETTLEMENT AGREEMENTS RELATING
TO NUMEROUS LAWSUITS CONCERNING CONSTRUCTION DEFECTS AND
LAND MOVEMENT IN THE OAKHURST COUNTRY CLUB DEVELOPMENT**

**THE BOARD OF DIRECTORS
Oakhurst Geological Hazard Abatement District
City of Clayton, California**

WHEREAS, since 2005, numerous lawsuits alleging damages caused by construction defects and land movement in City-owned open space have been filed by property owners in the Oakhurst Country Club development against the project developer, Presley Homes (now William Lyon Homes), the City, the Oakhurst Geological Hazard Abatement District (GHAD), and various contractors (the Parties); and

WHEREAS, two settlement agreements ("Agreements") entitled "Settlement Agreement and Partial Release of All Claims" and "Settlement Agreement, Release, and Covenant Not To Sue", each Agreement attached hereto and labeled as Attachment 1 and 2, respectively, have been negotiated and tentatively agreed to by all of the Parties; and

WHEREAS, the Agreements resolve the outstanding lawsuits and provide for the installation of dewatering wells in Kelok Way in order to stabilize the slope movement in the City-owned open space north of Kelok Way; and

WHEREAS, City staff and legal counsels have recommended approval of the Agreements;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Oakhurst Geological Hazard Abatement District does hereby adopt this Resolution approving the Agreements as noted and described above, and does hereby authorize the Chairman to execute each Agreement on behalf of the GHAD.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Oakhurst Geological Hazard Abatement District at a regular public meeting thereof held on the 6th day of March, 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE BOARD OF DIRECTORS OF GHAD

ATTEST:

HANK STRATFORD, Chairman

Laci Jackson, City Clerk

#

I hereby certify that the foregoing resolution was duly and regularly passed by the Board of Directors of the Oakhurst Geological Hazard Abatement District at its regular public meeting held on March 6, 2012.

Laci J. Jackson, Secretary

**SETTLEMENT AGREEMENT AND
PARTIAL RELEASE OF ALL CLAIMS**

I

INTRODUCTION

This Settlement Agreement (the "Agreement") is entered into by and between the CITY OF CLAYTON (hereinafter "CITY") and OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (hereinafter "GHAD") and THE PRESLEY COMPANIES, PRESLEY HOMES and WILLIAM LYON HOMES, INC. (hereinafter "LYON"). Collectively, the above parties are referred to as "the Settling Parties."

For valuable consideration as between the Settling Parties herein, this Agreement is incorporated into, modifies and controls the Settlement Agreement and Release of All Claims in the matter of *Lorna Belskey, et al. v. The Presley Companies, et al.*, Contra Costa County Superior Court Case No. C05-00837. This Settlement Agreement applies to the following cases:

1. **Daniel Katzman, et al., Plaintiffs v. City of Clayton, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-00707.
2. **Andrew Brown, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-01461.
3. **Glade Gaffney, an individual, Plaintiff v. City of Clayton, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C07-02677.
4. **Francis Achim, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C08-01079. The Achims are proceeding in pro per.
5. **Alan R. Brooks, et al., Plaintiffs v. The Presley Company, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C08-00442. All plaintiffs, except Nancy Robinson Beaver, have dismissed their Complaints with prejudice.
6. **Lorna Belskey, et al., Plaintiffs v. The Presley Companies, et al., Defendants**, and related cross-actions, Contra Costa Superior Court Case No. C05-00837. Currently, five Plaintiffs (homes) remain.

7. **Robert Sheffield, et al., Plaintiffs v. William Lyon Homes, Inc., Defendants**, Contra Costa Superior Court Case No. C07-00694.

II

THE PARTIES

The following are the parties to this Agreement and shall hereinafter be referred to as the "Settling Parties":

1. The CITY OF CLAYTON including, but not limited to, its City Council members, City Manager, employees, attorneys, experts, agents and representatives;
2. The OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT including, but not limited to, its Board members, District Manager, employees, attorneys, experts, agents and representatives;
3. WILLIAM LYON HOMES, INC., THE PRESLEY COMPANIES, PRESLEY HOMES including, but not limited to, their predecessor or successor owners or entities, past, present and future parent companies, subsidiaries, divisions, subdivisions, affiliates, related companies, general partners, limited partners, partnerships, partners, joint ventures, shareholders, investors, owners, directors, officers, employees, attorneys, experts, consultants, assigns, agents and representatives. This Agreement does not apply to any insurers of the above-named entities related to LYON.

III

THE CLAIMS

The claims herein shall refer, except as otherwise set forth in this Agreement, to any and all claims or causes of action that were brought, related to the development, planning, improvement, design, construction, maintenance and ownership of all common areas, open spaces, lots and any Plaintiffs' homes related to the above-named seven lawsuits in the Oakhurst Development. In the seven above-referenced actions, LYON and the CITY/GHAD have Cross-Complaints against one another for various causes of action, including equitable indemnity, contribution, breach of contract and express indemnity. The Settling Parties wish to resolve these claims, with such limitations as are set forth below.

IV

MODIFICATIONS TO THE OVERALL BELSKEY v. PRESLEY HOMES SETTLEMENT

LYON and the CITY/GHAD agree to the following terms modifying any global Settlement Agreement between all of the parties in the above-named actions.

A. The CITY/GHAD will contribute TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) toward the BELSKEY Plaintiffs' claims payable to the BELSKEY Plaintiffs and their counsel of record. This money is solely for the alleged property damage to the Plaintiffs' homes and real property. This money will not be used for any hillside repairs.

B. The CITY/GHAD and LYON do not release each other or their respective insurers from any future liability. The CITY/GHAD and LYON agree to reserve any and all arguments and defenses concerning the interpretation of the 2003 Settlement Agreement between LYON and the CITY, the Oakhurst Country Club Development Agreement, any and all Subdivision Agreements and related Addendums and Amendments including whether or not these Agreements remain valid. Neither LYON nor the CITY/GHAD waive or release any factual or legal arguments concerning the above-referenced documents, including that the documents have expired.

C. LYON and the CITY/GHAD agree to mutually waive all claims against each other to recover past, present and future attorneys' fees and costs incurred relating to the ACHIM, BROOKS, BELSKEY, BROWN, KATZMAN, GAFFNEY and SHEFFIELD actions.

D. LYON and the CITY/GHAD agree to "stand down" on the ACHIM and BROOKS actions. LYON will take the lead in the defense of both these actions. LYON agrees to indemnify, but not defend, the CITY and GHAD for the ACHIM and BROOKS actions. The indemnity will apply except where there is a determination by a finder of fact that the liability to the ACHIMS and NANCY ROBINSON BEAVER Plaintiffs for their property damage was the "sole negligence" of the CITY/GHAD. The CITY and GHAD agree to bear their own attorneys' fees and costs for the ACHIM and BROOKS matters.

E. Lyon and the CITY/GHAD agree that all arguments and defenses as to the interpretation of the the Oakhurst Development Agreement, all Subdivision Agreements, the 2003 Settlement Agreement and Release and related written agreements between LYON and the CITY/GHAD shall remain unaffected by this Agreement.

F. Upon full funding by all settling parties to the BELSKEY settlement, GHAD will contract with Engineered Soil Repairs, Inc. (ESR) or another qualified contractor for the repairs/remediation of the "Katzman slide." The ESR contract is a fixed price contract to perform work on the hillside for a total of SIX HUNDRED THIRTY-FIVE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$635,480.00), plus an additional

cost of THIRTEEN THOUSAND THREE HUNDRED NINETY-THREE DOLLARS (\$13,393.00) if it is determined that the project is a "prevailing wage" project. Neither the CITY/GHAD nor LYON shall be responsible for any contract overages. In the event that ESR cannot or will not sign a contract for the work acceptable to the CITY or GHAD, GHAD will put out the repair work to bid using the Contract Documents prepared by Stevens, Ferrone & Bailey. The total amount of money being contributed by LYON and/or its subcontractors for the hillside repairs is SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00). In addition to the ESR (or other qualified contractor) contract price, additional fees and expenses out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) shall include expert fees paid to Stevens, Ferrone & Bailey for inspections and/or any other fees and costs associated and/or performed with the repairs including any required inspections by the CITY or GHAD. Upon full funding by all settling parties to the BELSKEY settlement, GHAD will contract with Stevens, Ferrone & Bailey. The invoices of Stevens, Ferrone & Bailey will be reviewed by the GHAD District Manager whose time will be compensated out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) in an amount NOT TO EXCEED \$5,000. ESR or another qualified contractor has agreed or will agree to pay all permitting and required GHAD inspection/bond fees. Any money not used out of the SEVEN HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$725,000.00) will be split between LYON HOMES and the CITY/GHAD on an 80/20 basis with eighty percent (80%) going back to LYON HOMES and twenty percent (20%) going to the CITY/GHAD. ESR or another qualified contractor has agreed or will agree to defend and indemnify LYON HOMES, the CITY and GHAD. In addition, neither LYON nor the CITY/GHAD shall be responsible for any additional costs above the fixed price contract work.

V

MISCELLANEOUS

A. LYON and the CITY/GHAD agree that they are not relying on any representations made by the other in agreeing to the settlement other than what is included in this Release Agreement. LYON HOMES and the CITY/GHAD further represent that they understand that they are dismissing their respective cross complaints against each other voluntarily and not in reliance of any representation or promise or inducement not expressed herein.

B. This AGREEMENT is the result of a compromise among the SETTLING PARTIES and shall never at any time or for any purpose be considered as an admission of liability and/or responsibility on the part of any party herein released as to this agreement, nor shall the payment of any sum of money in consideration for the execution of this AGREEMENT constitute or be construed as an admission of any liability whatsoever by any party herein released, each of which continues to deny such liability and disclaim such responsibility.

C. This Agreement and the terms of this Agreement are contractual and not a mere recital. Each Party has carefully read and understands the contents of this Agreement and signs the same as the undersigned's own free act.

D. This Agreement shall bind and be binding upon the heirs, executors, administrators and assigns of each Party.

E. Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be wholly or partially illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms or provisions of this Agreement shall not be affected thereby. Said illegal, unenforceable or invalid part, term or provision shall be deemed not to be a part of this Agreement.

F. This Agreement may be signed in counterparts which, when taken together, shall constitute the same Agreement. This document sets forth the entire Agreement between the Parties hereto. It supersedes any and all prior agreements (except as noted herein) or understandings, written or oral, among the Parties pertaining to the specific subject matter (the Belskey Settlement) of this Agreement.

G. This Agreement shall be effective as of the date it is fully executed by all of the undersigned (the "Effective Date").

H. This Agreement is the product of arms length negotiations prepared by and among the Parties and their counsel. All Parties expressly acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one Party or another. No presumption of drafting or interpretation based on drafting for or against the Parties shall apply.

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I. This Agreement is made and entered into in the State of California and shall, in all respects, be interpreted, enforced and governed by and under the laws of the State of California, without reference to choice of law rules.

WILLIAM LYON HOMES, INC.

Dated: _____, 2012.

By _____
Print Name: _____
Title: _____

CITY OF CLAYTON

Dated: _____, 2012.

By _____
Howard Geller, Mayor

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

Dated: _____, 2012.

By _____
Hank Stratford, Chairman

SETTLEMENT AGREEMENT, RELEASE, AND COVENANT NOT TO SUE

INTRODUCTION

This Settlement Agreement, Release and Covenant Not to Sue ("AGREEMENT") was effectively entered into on the 7th day of September 2011, by and between Plaintiffs Lailuma and Hamid Hossaini, William J. and Beverly J. Plambeck, Gregory S. and Phyllis O. Redmond, Debra Vanslambrook, and Amin and Nahida Zafari, and all other legal or equitable owners of the properties and all Related Persons or Entities, as defined herein, whether or not named as plaintiffs herein (herein collectively referred to as "PLAINTIFFS"), and Presley Homes, The Presley Companies and William Lyon Homes, Inc. (herein collectively referred to as "LYON"), DMC Concrete, Inc., Merit Concrete, Inc., Rivera Company, City of Clayton, and Oakhurst Geological Hazard Abatement District and all other Related Person or Entities, as defined herein.

1. DEFINITIONS

The following definitions shall apply in this AGREEMENT:

1.1 "AGREEMENT" shall mean and refer to this Settlement Agreement, Release and Covenant Not to Sue.

1.2 "PLAINTIFFS" shall mean and refer to Lailuma and Hamid Hossaini, William J. and Beverly J. Plambeck, Gregory S. and Phyllis O. Redmond, Debra Vanslambrook, and Amin and Nahida Zafari and all other current legal or equitable owners of the properties and all related person or entities whether or not named as plaintiffs herein.

1.3 "CITY" shall mean and refer to the City of Clayton.

1.4 "GHAD" shall mean and refer to the Oakhurst Geological Hazard Abatement District.

1.5 "SETTLING SUBCONTRACTORS" shall mean and refer to DMC Concrete, Inc., Merit Concrete, Inc., and Rivera Company, and all who are Related Persons.

1.6 "SETTLING PARTIES" shall mean and refer to PLAINTIFFS, LYON, DMC Concrete, Inc., Merit Concrete, Inc., Rivera Company, CITY, and GHAD.

1.7 "THE ACTION" shall mean and refer to the case filed individually by PLAINTIFFS, on or about April 25, 2005, against LYON and others, and more particularly described as follows: *Lorna Belskey, et al. v. The Presley Companies, et al.*, bearing the Contra Costa County Superior Court Case Number MSC05-00837.

1.8 “THE CROSS-ACTION” shall mean and refer to any and all cross-complaints filed in THE ACTION by any party.

1.9 “SUBJECT PROPERTIES” shall mean and refer to all right, title and interest that PLAINTIFFS have in the five (5) single-family homes, including the real property and improvements thereon located at the Falcon Ridge subdivision at the Oakhurst Country Club located in Clayton, California. Specifically, “SUBJECT PROPERTIES” are described with particularity in Exhibit “A” attached hereto and incorporated by reference.

1.10 “CITY OWNED ADJACENT LAND” shall mean and refer to the hillside slopes owned by the City and adjacent to the SUBJECT PROPERTIES. The CITY OWNED ADJACENT LAND includes primarily tract 7261, and peripherally tracts 7264 and 7263.

1.11 “RELATED PERSONS AND ENTITIES” as it pertains to LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS shall mean and refer to any and all of their past, present and future parent companies, divisions, subsidiaries, affiliates, related corporations and entities, members, stockholders, directors, officers, officials, employees, lenders, mortgage holders, predecessors, partners, joint venturers, legal representatives, agents, experts, consultants, heirs, administrators, trusts, trustees, trust beneficiaries, creditors, assignees, and each of their predecessors, successors, and assigns as to this case only and not as to any future third party claims related to the SUBJECT PROPERTIES.

1.12 “RELATED PERSONS AND ENTITIES” as it pertains to the PLAINTIFFS shall mean and refer to any and all legal and equitable owners of the SUBJECT PROPERTIES and their legal representatives, insurers, lenders, mortgage holders, agents, experts, consultants, heirs, trusts, trustees, trust beneficiaries, creditors, assignees, lessees, tenants, residents of the SUBJECT PROPERTIES, administrators and conservators, and each of their predecessors, successors and assigns.

1.13 “CLAIM” or “CLAIMS” shall mean and refer to any and all claims, demands, liabilities, causes of action of any kind, arising out of the matters alleged in the ACTION, including but not limited to strict liability, breach of implied warranty, breach of contract, negligence per se, breach of express warranty, negligence, trespass, inverse condemnation, nuisance, and all losses and damages, whether economic or non-economic, including, but not limited to, losses and damages associated with patent or latent defects, loss of compensation, property damage, indemnity, loss of use, loss of services, attorney’s fees, expert’s fees, repair costs, investigative costs, relocation costs, diminution in value claims, and any other actionable omissions, conduct or damages of any kind and nature whatsoever, whether subrogated or non-subrogated, whether in tort, contract or extracontractual, at law or in equity, actual or contingent, foreseen or unforeseen, known or unknown, past or future

1.14 "CLAIM" or "CLAIMS" specifically excludes from this Settlement Agreement: (1) Any and all CLAIMS as that term is defined herein which LYON and its respective RELATED PERSONS AND ENTITIES have or may have against any party, person, or entity other than PLAINTIFFS, SETTLING SUBCONTRACTORS and their respective RELATED PERSONS AND ENTITIES; (2) Any and all CLAIMS as that term is defined herein which LYON and its respective RELATED PERSONS AND ENTITIES have or may have pursuant to their status as named or additional insureds to the insurance policies issued to any individual or entity; (3) any and all claims for personal injury or bodily injury, which PLAINTIFFS have not alleged in the present ACTION; (4) any and all future damages arising out the maintenance of the hillside slopes adjacent to the SUBJECT PROPERTIES that are owned by the CITY and maintained by the GHAD and/or any repairs performed in the future to the hillside slopes that are unrelated to the CLAIMS released herein which are caused by the negligent acts or omissions of the CITY and GHAD occurring after the date of this Agreement.

1.15 Section 1.14 above does not apply as between LYON and the CITY and GHAD and all issues concerning claims by and between LYON and the CITY and GHAD shall be governed by a separate agreement.

2. RECITALS

2.1 On or about April 25, 2005, PLAINTIFFS filed THE ACTION against LYON claiming damages for strict liability, breach of implied warranty, breach of contract, negligence per se, breach of express warranty, negligence, and nuisance, with claims of alleged defects in the design, construction, grading and repair of the SUBJECT PROPERTIES and all component parts of the SUBJECT PROPERTIES. PLAINTIFFS also claimed damages against the CITY and GHAD for inverse condemnation and nuisance regarding the CITY OWNED ADJACENT LAND.

2.2 On or around June 30, 2005, LYON filed THE CROSS-ACTION against certain subcontractors whose work was implicated in THE ACTION and/or tendered claims to them or their representatives. Pursuant to THE CROSS-ACTION, LYON sought indemnification and contribution from THE SETTLING SUBCONTRACTORS, as well as the CITY and GHAD. The CITY and GHAD filed a CROSS ACTION against LYON seeking, among other things, indemnification.

2.3 On or about September 7, 2011, a settlement was reached between PLAINTIFFS, LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS for a total of \$1,325,000. \$725,000 of the settlement funds will be used by GHAD to perform a dewatering repair of the hillside. No settlement funds from the CITY or GHAD shall be used for hillside repairs. GHAD agrees to be the contracting party for the hillside repair and the construction management oversight contracts.

2.4 The SETTLING PARTIES desire and intend by this AGREEMENT to now settle, finally and completely, all claims, demands, actions, causes of action and obligations, known or unknown, relating to drainage, grading, foundation, concrete,

geotechnical and all below-ground soils, including allegations of faulty soil compaction, adjacent landslides, faulty existing underlying soils and expansive soils resulting in soil movement and damage to the structures, concrete slabs, flatwork and foundation defects including any and all resulting damages associated with and arising from the ACTION or CROSS ACTION. All issues by and between LYON and the CITY and GHAD shall be governed by a separate agreement.

2.5 Upon approval of this Agreement and full funding of the settlement by all SETTLING PARTIES, GHAD will contract with Engineered Soil Repair, Inc. ("ESR") or another qualified contractor to install dewatering wells on CITY OWNED ADJACENT LAND. Upon approval of this Agreement and full funding by all SETTLING PARTIES, GHAD will retain Steven, Ferrone & Bailey Engineering Company, Inc. to inspect, manage and supervise the construction.

2.6 This AGREEMENT does not modify, diminish, or release the CITY or GHAD from any duty or obligation to maintain the CITY OWNED ADJACENT LAND.

3. PAYMENT AND ASSIGNMENT

3.1 Settlement Payments. The total amount to be collectively paid to PLAINTIFFS by LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS, pursuant to the settlement reached between SETTLING PARTIES is \$600,000.00. The remaining payments (excluding all funds from the CITY and GHAD) are to be used for payment of the hillside repairs and construction management oversight expenses or costs.

3.2 The settlement contributions are broken down as follows:

LYON	\$1,000,000
CITY and GHAD	\$250,000
DMC Concrete	\$25,000
Merit Concrete	\$25,000
Rivera Company	\$25,000

3.3 ASSIGNMENT. In exchange for the monetary contribution of LYON, PLAINTIFFS agree to assign to LYON any all claims they may have against any NON-SETTLING PARTY, known or unknown, including, but not limited to equitable and implied indemnity rights.

3.4 In exchange for the settlement amount described above, PLAINTIFFS shall dismiss any and all CLAIMS in THE ACTION and/or arising from or related to the

SUBJECT PROPERTIES, with prejudice, as to LYON, the SETTLING SUBCONTRACTORS, the CITY, and GHAD.

3.5 All Parties agree that the settlement amount described above was made in good faith in accord with Code of Civil Procedure sections 877 and 877.6.

3.6 All Settlement Payments due PLAINTIFFS shall be forwarded to plaintiffs' counsel by December 1, 2011 for SETTLING PARTIES. Timing of settlement payments by LYON and/or LYON's carriers is governed by a separate agreement between PLAINTIFFS and LYON. Settlement checks shall be made payable to the "Milstein Adelman Client Trust Account" (Federal Tax ID No. 95-4598207) and delivered to PLAINTIFFS' counsel.

3.7 Each party shall be responsible to pay only their contribution to the total settlement amount and shall not be responsible or liable for any other party's settlement contribution.

4. RELEASES

4.1 PLAINTIFFS' Release. For and in consideration of the settlement amount as described in Paragraph 3 of this AGREEMENT, and the other representations and promises contained herein, and except as otherwise set forth herein, PLAINTIFFS, individually and collectively, and on behalf of their RELATED PERSONS AND ENTITIES, do hereby fully and finally settle, release, acquit and forever discharge, in the broadest possible manner, LYON, the CITY, GHAD, and the SETTLING SUBCONTRACTORS and their respective RELATED PERSONS AND ENTITIES, of and from all CLAIMS in the action, as defined herein, which arose out of or are connected in any way with the SUBJECT PROPERTIES and/or the CITY OWNED ADJACENT LAND, and are not specifically excluded herein. Conditioned upon the promises made herein, this AGREEMENT may be pled as a full and complete defense to any action or other proceeding by which any PLAINTIFF pursues any of the CLAIMS released herein, as well as a basis for abatement of, or injunction against, such action or other proceeding.

4.2 LYON and SETTLING SUBCONTRACTORS' Releases. For and in consideration of the Release of PLAINTIFFS, as described herein, and the other representations and promises contained herein, and except as otherwise set forth herein, LYON and SETTLING SUBCONTRACTORS, on their own behalf and on behalf of their respective RELATED PERSONS AND ENTITIES, do hereby fully and finally settle, release, acquit and forever discharge, in the broadest possible manner, each other and their respective RELATED PERSONS AND ENTITIES, of all CLAIMS made by PLAINTIFFS in THE ACTION and the associated CROSS-ACTION, as defined herein, which arose out of or are connected in any way with the SUBJECT PROPERTIES, except for any claim brought in the future by an individual or entity not a named party to these proceedings. Conditioned upon fulfillment of the promises made herein, this AGREEMENT may be pled as a full and complete defense to any action or other

proceeding by which LYON or any SETTLING SUBCONTRACTOR pursues any of the CLAIMS released herein, as well as a basis for abatement of, or injunction against, such action or other proceeding.

4.3. The specific terms of the ongoing relationship and release of claims between LYON and the CITY and GHAD shall be governed by a separate agreement.

4.4 WAIVER OF CIVIL CODE SECTION 1542. PLAINTIFFS acknowledge and understand that there is a risk that, subsequent to the execution of this AGREEMENT, they may accrue, obtain, incur, suffer or sustain CLAIMS which in some conceivable way arise out of, are caused by, are connected with or related to SETTLING PARTIES, the SUBJECT PROPERTIES, and/or the CITY OWNED LAND and that such CLAIMS may be unknown and unanticipated at the time this AGREEMENT is signed, or are not presently capable of being ascertained. PLAINTIFFS further acknowledge that there is a risk that any CLAIMS as are known or should be known may become more serious than they now expect or anticipate. Nevertheless, PLAINTIFFS hereby expressly waive all rights they may have in such unknown and unexpected consequences or results, unless such rights are specifically excluded herein. PLAINTIFFS acknowledge that they have had the benefit of or opportunity to consult with counsel, understand the import of California Civil Code section 1542 and expressly waive the protection of Civil Code section 1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of the executing the release which, if known by him or her must have materially affected his or her settlement with the debtor.

PLAINTIFFS hereby specifically waive any and all rights and benefits that could accrue under this section or any successor statute, unless such rights are specifically excluded herein. SETTLING PARTIES acknowledge that this AGREEMENT would not be made without such a waiver

5. CONFIDENTIALITY AND COVENANT NOT TO PUBLISH

5.1 PLAINTIFFS, and their attorneys, experts and all those associated with them, agree to refrain from disclosing, advertising, or publicizing in any way, including but not limited to, via newspapers, magazines, jury verdicts publications, law firm marketing brochures or materials, television, radio, newsletters, the Internet, or other publications, the amounts to be paid or received separately, individually or collectively by SETTLING PARTIES, the total amount of the Settlement Payments, except as specifically set forth herein.

5.2 SETTLING PARTIES hereby acknowledge that substantial work has been performed by their legal counsel, agents, representatives, expert witnesses and/or

consultants, at the express direction of the SETTLING PARTIES, related to the prosecution and/or defense of THE ACTION and THE CROSS-ACTION, a defined herein. Such work includes, but is not limited to, tests, reports, studies, examinations, inspections and research and analyses regarding, among other things, the SUBJECT PROPERTIES. SETTLING PARTIES hereby expressly assume responsibility for an ownership of such work performed by their legal counsel, agents, representatives, expert witnesses and/or consultants, and, pursuant to the terms of this AGREEMENT, SETTLING PARTIES shall take all appropriate steps to ensure such work, as defined herein, shall remain confidential. For instance, SETTLING PARTIES shall advise their legal counsel, agents, representatives, expert witnesses and/or consultants, who have performed such work at their express direction related to the prosecution and/or defense of THE ACTION and THE CROSS-ACTION, that such work shall remain confidential.

5.3 Notwithstanding this AGREEMENT, nothing in this AGREEMENT will prohibit, narrow, or abrogate the PLAINTIFFS' obligations to comply with disclosure requirements of the State of California related to or regarding the SUBJECT PROPERTIES. However, in making any and all necessary disclosures, the PLAINTIFFS shall not reveal the monetary terms of this AGREEMENT, except PLAINTIFFS may indicate that all applicable CLAIMS relating to the original construction and repairs of the SUBJECT PROPERTIES have been fully released by them under California law and that the release runs with the land and is applicable to subsequent purchasers of the SUBJECT PROPERTIES.

5.4 LYON and SETTLING SUBCONTRACTORS agree that, except as set forth herein, they also shall not disclose the Settlement Payments provided to PLAINTIFFS pursuant to this AGREEMENT. However, LYON and SETTLING SUBCONTRACTORS may share any of the terms of this AGREEMENT with their RELATED PERSONS AND ENTITIES as needed in the ordinary course of conducting their business.

5.5 Nothing in this AGREEMENT will prohibit the explanation of settlement terms in pleading filed with the Contra Costa Superior Court, including but not limited to, motions for good faith settlement. However, SETTLING PARTIES agree that any such pleadings, declarations, and other papers filed with the Court in this regard shall be treated as confidential materials and will not be provided or referenced in any way, shape or form to anyone, including, but not limited to, newspapers, magazines, jury verdict publications, law firm marketing brochures, television, radio, newsletters, the Internet, any publication, and etc. except as required for said pleadings and proceedings or as ordered by Court. Further, to the extent that a SETTLING PARTY must file any part of this AGREEMENT with the Court, the SETTLING PARTY doing so may only file those portion of this AGREEMENT that are necessary for the motion or pleading. The CITY and GHAD as public entities must make public this AGREEMENT upon execution pursuant to California law.

5.6 Nothing in this AGREEMENT shall prohibit disclosure to third parties to the extent necessary to comply with applicable laws, or for financial planning or tax purposes to financial advisors.

6. REPRESENTATIONS

SETTLING PARTIES make the following material representations with the understanding that each of them enters into this AGREEMENT in reliance upon each of these representations and that, without these representations, none of them would enter into this AGREEMENT:

6.1 SETTLING PARTIES intend that the terms and conditions of this AGREEMENT, and the AGREEMENT as a whole, shall be binding upon them, and their RELATED PERSONS AND ENTITIES, and are intended by SETTLING PARTIES to run with the land, as to the SUBJECT PROPERTIES, pursuant to applicable California law. A memorandum of settlement or other similar document shall be executed before a notary public by PLAINTIFFS and delivered to counsel for LYON with this AGREEMENT for recordation as to each of the SUBJECT PROPERTIES, and all parties shall cooperate and take all steps necessary to ensure recordation of a memorandum of settlement. An exemplar copy of the memorandum of settlement is attached hereto and incorporated by reference as "Exhibit B".

6.2 PLAINTIFFS and/or signatories hereto represent that they own the SUBJECT PROPERTIES and that they have not sold, transferred, conveyed, or assigned any interest therein which may affect the final and full resolutions of all CLAIMS. PLAINTIFFS represent that there are no other legal or equitable owners who should sign this AGREEMENT and that all such owners have been identified and are signatories to this AGREEMENT. PLAINTIFFS represent that the SUBJECT PROPERTIES are not currently in escrow, nor is any sale related to the SUBJECT PROPERTIES pending.

6.3 PLAINTIFFS and signatories hereto represent that they have not sold, transferred, conveyed, assigned, hypothecated and/or subrogated any of the CLAIMS released herein.

6.4 PLAINTIFFS and signatories hereto represent that they have standing to sue herein as the real parties-in-interest as to THE ACTION.

6.5 SETTLING PARTIES have selected and retained their own attorneys, experts and consultants to inspect, analyze and advise them regarding the nature, extent and cause of the CLAIMS. SETTLING PARTIES acknowledge that all of the terms and provisions of this AGREEMENT have been explained to them by their legal counsel. SETTLING PARTIES further represent that they understand and accept all of the terms and provisions of this AGREEMENT voluntarily and not in reliance of any representation or promise or inducement not expressed herein.

6.6 Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter in this AGREEMENT on behalf of the SETTLING PARTY for whom he or she purports to sign.

7. AGREEMENT NOT TO PROSECUTE

PLAINTIFFS shall never commence or prosecute any action, and hereby expressly agree not to assist in any way, shape or form in the commencement or prosecution of any action against LYON, the CITY, GHAD, or SETTLING SUBCONTRACTORS, in law or equity, based upon, arising from or in any way connected to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND, based upon the CLAIMS released herein, or upon said parties' acts or omissions relating to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND at any time up to and including the effective date of this AGREEMENT. Pursuant to this Paragraph, in addition to the other representations made in this AGREEMENT (including but not limited to Paragraph 5) PLAINTIFFS and their RELATED PERSONS AND ENTITIES agree not to provide such assistance in the prosecution or commencement of any action against LYON or SETTLING SUBCONTRACTORS by disclosing work performed by their legal counsel, agents, representatives, expert witnesses and/or consultants, based upon, arising from or in any way connected to the SUBJECT PROPERTIES and/or CITY OWNED ADJACENT LAND and the CLAIMS related thereto, unless required by law or ordered by court.

This AGREEMENT may be pled as a full and complete defense to any action or other proceeding, as a basis for abatement of, or injunction against such action.

8. HOLD HARMLESS

8.1 PLAINTIFFS will hold harmless LYON, the CITY, and GHAD and its officers, directors, shareholders, agents, representatives, predecessors, successors, assigns, affiliated and related entities and all persons acting by, through, under or in concert with it from any loss, claim, action, expense, demand, subrogation or cause of action of any kind or character whatsoever brought by or on behalf of any past, present or future owner(s) of the SUBJECT PROPERTY relating to any released CLAIM which is the subject matter of this Agreement, unless specifically excluded herein.

8.2 PLAINTIFFS acknowledge that in consideration of the promises and agreements contained herein, LYON, and SETTLING SUBCONTRACTORS and the RELATED PARTIES AND ENTITIES bear no responsibility whatsoever as to redesign, repair, remediation, corrective work and/or maintenance performed or not performed on the SUBJECT PROPERTIES. All such responsibility is fully and completely assumed by PLAINTIFFS only, and PLAINTIFFS agree to hold LYON, the SETTLING SUBCONTRACTORS, the CITY, GHAD and their RELATED PARTIES AND ENTITIES harmless of and from any past, present or future claims related to the failure to undertake repairs, deficient for defective repairs, and/or any other claim related to or

arising out of the redesign, repair, remediation, corrective work and/or maintenance performed or not performed on the SUBJECT PROPERTIES.

9. INDEMNIFICATION FOR FAILURE TO DISCLOSE

9.1 PLAINTIFFS agree to fully comply with California law relating to the duty to disclose conditions of a residence upon the sale or transfer of same.

9.2 PLAINTIFFS further agree to hold LYON, the SETTLING SUBCONTRACTORS, and the CITY and GHAD harmless, should they be sued, for any failure and/or alleged failure of PLAINTIFFS to disclose conditions of their residences and matters raised in connection with the released CLAIMS herein, as required pursuant to California law, relating to the SUBJECT PROPERTIES.

10. WARRANTY OF AUTHORIZED SIGNATORIES

Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this AGREEMENT on behalf of the party for whom he or she purports to sign.

11. PROTECTION AGAINST SUBROGATION OR SUBSEQUENT CLAIMS

PLAINTIFF represents and warrants that it has not initiated, nor concluded, nor is it aware of, nor will it make any other claims for property damage, based upon the CLAIMS released herein and involving the SUBJECT PROPERTY.

12. WARRANTY REGARDING NON-ASSIGNMENT OR TRANSFER OF CLAIMS

PLAINTIFF hereby represents and warrants that the homeowner has not subrogated their rights to any and all CLAIMS involved in THE ACTION, and it is the sole and rightful owner of all those rights, title, and interest in the settlement proceeds and every claim and other matter which it releases herein and has not heretofore assigned or otherwise transferred any interest in any claim which it may have against the parties to this AGREEMENT, any entity released or discharged pursuant to this AGREEMENT, or the settlement proceeds.

13. COMPROMISE

This AGREEMENT is the result of a compromise among the SETTLING PARTIES and shall never at any time or for any purpose be considered as an admission of liability and/or responsibility on the part of any party herein released, nor shall the payment of any sum of money in consideration for the execution of this AGREEMENT

constitute or be construed as an admission of any liability whatsoever by any party herein released, each of which continues to deny such liability and disclaim such responsibility.

14. ATTORNEY FEES

The SETTLING PARTIES acknowledge and agree that each of them will bear their own costs, expenses and attorney fees arising out of and /or connected with the CLAIMS, the negotiation, drafting, and execution of this AGREEMENT, and all matters arising out of or connected therewith except that in the event any action is brought by any party hereto to enforce this AGREEMENT, the prevailing party shall be entitled to reasonable attorney fees and costs in addition to all other relief to which that party or those parties may be entitled, including without limitation, attorney fees and costs incurred if this Agreement must be enforced in Bankruptcy proceedings. The issue of attorney fees and costs by and between LYON and the CITY and GHAD shall be governed by separate agreement.

15. SEVERABILITY

If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable for whatever reason, the remaining provisions not so declared shall nevertheless, continue in full force and effect, without being impaired in any manner whatsoever. In addition, if any party to this AGREEMENT fails or refuses to sign said AGREEMENT, the AGREEMENT will continue to have full force and effect and will be binding upon the remaining parties to the AGREEMENT.

16. CONSTRUCTION OF AGREEMENT

This AGREEMENT is the product of negotiation and preparation by and among the SETTLING PARTIES and their respective attorneys. The SETTLING PARTIES therefore expressly acknowledge and agree that this AGREEMENT shall not be deemed prepared or drafted by one party or another, or its attorneys, and will be construed accordingly.

17. PERSONS BOUND AND BENEFITED

Except as limited and/or excluded herein, this AGREEMENT shall be binding upon and inure to the benefit of SETTLING PARTIES, any and all legal or equitable owners of the SUBJECT PROPERTY, their principals, agents, employees, attorneys, representatives, predecessors, successors in interest, beneficiaries, respective insurance carriers, heirs, successors in interest, agents, employees, servants, principals, assigns, assignors, officers, directors, stockholders, partners, representatives, parent corporations, subsidiary corporations, sister corporations, affiliate corporations, subsequent corporations, partnerships, limited partnerships, joint ventures, executors, grantors,

associates, adjusters, affiliates, including but not limited to all RELATED PERSONS AND ENTITIES, as that term is defined herein.

18. INTEGRATION/MODIFICATION

18.1 This AGREEMENT constitutes the entire AGREEMENT between the SETTLING PARTIES relating to the settlement of all CLAIMS arising out of THE ACTION, THE CROSS-ACTION and the facts set forth in the recitals to this AGREEMENT. All prior or contemporaneous agreements, understandings, representations and statements, whether oral or written, and whether by a party or such party's legal counsel, are integrated into the AGREEMENT. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the parties hereto relating to the subject matter of this AGREEMENT which are not fully expressed herein. Notwithstanding the above, the ongoing relationship between William Lyon Homes and the CITY and GHAD shall be governed by a separate agreement.

18.2 No modification, waiver, amendment, discharge or change of this AGREEMENT shall be valid unless it is in writing and is signed by the party against whom enforcement of such modification, waiver, amendment discharge or change is, or may be, sought.

19. GOVERNING LAW

This AGREEMENT shall be interpreted in accordance with and governed by the laws of the State of California.

20. EFFECTIVE DATE

The parties hereto deem this Agreement to be immediately effective as of the date this Agreement was entered into on

21. RIGHT TO INDEPENDENT COUNSEL.

SETTLING PARTIES acknowledge and represent that they have had the right to and benefit of consultation with independent legal counsel and expert consultants. SETTLING PARTIES further acknowledge and represent that in evaluating, finalizing and executing this AGREEMENT, they are not relying on anything other than the advice of their independent legal counsel and/or expert consultants. SETTLING PARTIES have read and understand the entirety of this AGREEMENT, and have been advised as to the legal effects of this AGREEMENT, as to, for example, their rights and obligations hereunder, and hereby willingly and voluntarily agree to every single term of this AGREEMENT.

22. EXECUTION OF AGREEMENT

This AGREEMENT may be executed in multiple counterparts, such that when the executed signature pages are taken together they shall constitute the entire AGREEMENT. SETTling PARTIES shall execute this AGREEMENT. If a SETTling PARTY is unable to sign this AGREEMENT, due to its dissolution, insolvency, liquidation, receivership or similar disability, the SETTling PARTY's attorney of record in THE ACTION may execute this AGREEMENT on behalf of said party. If the SETTling PARTY's attorney is unable or unwilling to execute this AGREEMENT, SETTling PARTIES stipulate that the Court Clerk or other qualified individual appointed by the Court is hereby authorized to sign the AGREEMENT on behalf of said party. True photocopies of signatures shall be deemed as effective as original signatures.

23. COPY ADMISSIBLE

In any action or proceeding relating to this AGREEMENT, SETTling PARTIES stipulate that a copy of this AGREEMENT may be admissible to the same extent as the original AGREEMENT unless the exceptions set forth in California Evidence Code section 1511 are found to be applicable.

24. CAPTIONS AND INTERPRETATIONS

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this AGREEMENT or any provision hereof.

IN WITNESS THEREOF, the parties enter into and date this Agreement:

PLAINTIFFS' SIGNATURES (pages 13 through 14)

DATED: _____

LAILUMA HOSSAINI

BY: _____

ITS: _____

DATED: _____

HAMID HOSSAINI

BY: _____

ITS: _____

DATED: _____

WILLIAM J. PLAMBECK

BY: _____

ITS: _____

DATED: _____

BEVERLY J. PLAMBECK

BY: _____

ITS: _____

DATED: _____

GREGORY S. REDMOND

BY: _____

ITS: _____

DATED: _____

PHYLLIS O. REDMOND

BY: _____

ITS: _____

DATED: _____

DEBRA VANSLAMBROOK

BY: _____

ITS: _____

DATED: _____

AMIN ZAFARI

BY: _____

ITS: _____

DATED: _____

NAHIDA ZAFARI

BY: _____

ITS: _____

DATED: _____

WILLIAM LYON HOMES, INC.

BY: _____

ITS: _____

DATED: _____

CITY OF CLAYTON

BY: _____

ITS: _____

DATED: _____

OAKHURST GEOLOGICAL HAZARD
ABATEMENT DISTRICT

BY: _____

ITS: _____

DATED: _____

DMC CONCRETE, INC.

BY: _____

ITS: _____

DATED: _____

RIVERA COMPANY

BY: _____

ITS: _____

DATED: _____

MERIT CONCRETE, INC.

BY: _____

ITS: _____