CITY OF CLAYTON
Founded 1857 . . Incorporated 1964

AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

***

TUESDAY, August 21, 2012

6:00 p.m.

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

Mayor: Howard Geller
Vice Mayor: Joseph A. Medrano

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

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

* CITY COUNCIL*
August 21, 2012

6:00 P.M.

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

2. **CLOSED SESSIONS**

(a) Conference with Labor Negotiator
Government Code Section 54957.6
Instructions to City-designated labor negotiator: City Manager

1. Employee Organization: Clayton Police Officers Association (CPOA).

(b) Conference with Real Property Negotiator
Government Code Section 54956.8
Real Properties: 6055 Main Street, Clayton (APNs 118-560-010 & 119-011-003)
Instructions to City Negotiator (City Manager) concerning terms and conditions.
Negotiating Party: Clayton Community Church

Report Out from 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) Information Only
1). General Resolutions for the League of California Cities' Annual Conference. (View Here)

(b) Approve the minutes of the regular meeting of July 17, 2012. (View Here)

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

(d) Adopt eleven (11) Resolutions accepting and rejecting various easements within the Diablo Pointe (aka Diablo Estates at Clayton) development, Subdivision 8719, as follows: (View Here)

1. A Resolution accepting easements dedicated to the public on the Final Map for Subdivision 8719 including public utility easements, sanitary sewer easements, storm drain easements, and emergency vehicle access easements, but rejecting the offers of dedication for the Landscape Maintenance Easements and Conservation Easements delineated thereon;

2. Five (5) Resolutions accepting various grants of easements over the property known as the "Seeno Strip" along Regency Drive and Rialto Drive including landscape maintenance easement, sanitary sewer easement, emergency vehicle access easement, storm drain easement and public utility easement;

3. Four (4) Resolutions accepting various grants of easements over portions of the lots including an access easement across lot 1 and storm drain easements on portions of Lots 6, 9 and 11; and

4. Adopt a Resolution summarily vacating the offers of dedication of a Landscape Maintenance Easement and Conservation Easements as shown on the Final Map of Subdivision 8719 in accordance with Section 8333(c) of the Streets and Highways Code as these easements have been superseded by other easements accepted above.

5. RECOGNITIONS AND PRESENTATIONS

(a) Recognition of the new Clayton Valley Charter High School Executive Director David Linzey, Executive Staff, and the CVCHS Executive Board on commencement of its inaugural 2012-13 charter school year. (View Here)

(b) Certificates of Recognition to retiring U.S. Postal Service workers of 94517: Fernando Cacerez and Tony Oliver. (View Here)

6. REPORTS

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

7. PUBLIC COMMENT ON NON - AGENDA ITEMS

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

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

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

(a) Consideration of a petition by Toll Brothers, Inc. for relief from a Condition of Approval to allow the developer the issuance of the 20th and subsequent building permits (24 total) due to the delayed conveyance of Lot 25 as a mitigation conservation parcel to a suitable land trust steward (Diablo Estates at Clayton; Subdivision 8719). (View Here)
(Community Development Director)

Staff recommendation: Following staff report and public comment, that the City Council by motion authorize staff to issue up to and including the 22nd building permit at the Diablo Estates at Clayton residential subdivision.

(b) Consideration and discussion of a request to approve the East Bay Economic Development Alliance's "Open for Business" Pledge. (View Here)
(Community Development Director)

Staff recommendation: Following staff presentation and public comment, that the City Council decline to adopt the EDA Pledge "as-is" and authorize the City Manager to communicate the City's concerns in writing to the East Bay EDA.

(c) Consideration of draft City responses to Civil Grand Jury Reports No. 1209 (City Retirement Plans) and No. 1213 (Financial Transparency). (View Here)
(City Manager)

Staff recommendation: Following staff presentation and public comment, that Council provide any modified responses and then by motion approve the letters representing the City's submittal to the Civil Grand Jury on these topics.

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

11. **ADJOURNMENT**– the next regularly scheduled City Council meeting of September 4, 2012 was cancelled. Therefore, its next regularly scheduled meeting is September 18, 2012.

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1400 K Street
Sacramento, CA 95814
ph: (916) 658-8200
fx: (916) 658-8240

Agenda Date: 8/21/12
Agenda Item: 4(a)

LEAGUE OF CALIFORNIA CITIES

www.cacities.org

Received
JUL 19 2012
City of Clayton

July 12, 2012

TO: Mayors, City Managers and City Clerks
League Board of Directors

RE: Annual Conference Resolutions Packet
Notice of League Annual Meeting

Enclosed please find the 2012 Annual Conference Resolutions Packet.

Annual Conference in San Diego. This year's League Annual Conference will be held September 5 - 7 at the San Diego Convention Center in San Diego. The conference announcement has previously been sent to all cities and we hope that you and your colleagues will be able to join us. More information about the conference is available on the League's Web site at www.cacities.org/ac. We look forward to welcoming city officials to the conference.

Annual Luncheon/Business Meeting - Friday, September 7, 12:00 p.m. The League's Annual Business Meeting will be held at the San Diego Convention Center.

Resolutions Packet. At the Annual Conference, the League will consider the five resolutions introduced by the deadline, Saturday, July 7, 2012, midnight. These resolutions are included in this packet. We request that you distribute this packet to your city council.

We encourage each city council to consider the resolutions and to determine a city position so that your voting delegate can represent your city's position on each resolution. A copy of the resolutions packet is posted on the League's website for your convenience: www.cacities.org/resolutions.

The resolutions packet contains additional information related to consideration of the resolutions at the Annual Conference. This includes the date, time and location of the meetings at which resolutions will be considered.

Voting Delegates. Each city council is encouraged to designate a voting delegate and two alternates to represent their city at the Annual Business Meeting. A letter asking city councils to designate their voting delegate and two alternates has already been sent to each city. Copies of the letter, voting delegate form, and additional information are also available at: www.cacities.org/resolutions.

Please Bring This Packet to the Annual Conference
September 5 - 7 — San Diego

I.
INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, five resolutions have been introduced for consideration by the Annual Conference and referred to the League policy committees.

POLICY COMMITTEES: Three policy committees will meet at the Annual Conference to consider and take action on resolutions referred to them. The committees are Environmental Quality, Public Safety, and Revenue & Taxation. These committees will meet on Wednesday, September 5, 2012, at the San Diego Marriott Marquis & Marina Hotel in San Diego. Please see page iii for the policy committee meeting schedule. The sponsors of the resolutions have been notified of the time and location of the meetings.

Two other policy committees ***may*** also be meeting: Administrative Services and Employee Relations. Administrative Services will meet pending League Board (July 19 & 20) action to determine whether the committee will review any November General election ballot initiatives. Employee Relations will meet if the Legislature acts on pension reform in August. If pension reform is passed, the committee will meet to discuss the details of the proposal. For now, please plan to attend the meeting at the Annual conference. If for some reason this changes, League staff will send an email notifying the committee.

Three policy committees will ***not*** be meeting at the annual conference. These committees are: Community Services; Housing, Community & Economic Development; and Transportation, Communication, & Public Works.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 1:00 p.m. on Thursday, September 6, at the San Diego Convention Center, to consider the reports of the three policy committees regarding the five resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 12:00 p.m. on Friday, September 7, at the San Diego Convention Center.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Session of the General Assembly. This year, that deadline is 12:00 p.m., Thursday, September 6. If the petitioned resolution is substantially similar in substance to a resolution already under consideration, the petitioned resolution may be disqualified by the General Resolutions Committee.

Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: mdesmond@cacities.org or (916) 658-8224.

III.
LOCATION OF MEETINGS

Policy Committee Meetings
Wednesday, September 5, 2012
San Diego Marriott Marquis & Marina Hotel
333 W. Harbor Drive, San Diego

POLICY COMMITTEES MEETING AT ANNUAL CONFERENCE TO DISCUSS AN ANNUAL CONFERENCE RESOLUTION

9:00 a.m. – 10:30 a.m.	**Environmental Quality; Revenue and Taxation**
10:30 a.m. – 12:00 p.m.	**Public Safety**

***TENTATIVE* POLICY COMMITTEE MEETINGS AT ANNUAL CONFERENCE TO DISCUSS OTHER ISSUES**

9:00 a.m. – 10:30 a.m.	**Administrative Services**
10:30 a.m. – 12:00 p.m.	**Employee Relations**

Note: These policy committees will ***NOT*** meet at the Annual Conference:
Community Services
Housing, Community & Economic Development
Transportation, Communication & Public Works

General Resolutions Committee
Thursday, September 6, 2012, 1:00 p.m.
San Diego Convention Center

Annual Business Meeting and General Assembly Luncheon
Friday, September 7, 2012, 12:00 p.m.
San Diego Convention Center

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

Action Footnotes

* Subject matter covered in another resolution

** Existing League policy

*** Local authority presently exists

KEY TO ACTIONS TAKEN

A - Approve

D - Disapprove

N - No Action

R - Refer to appropriate policy committee for study

a - Amend

Aa - Approve as amended

Aaa - Approve with additional amendment(s)

Ra - Amend and refer as amended to appropriate policy committee for study

Raa - Additional amendments and refer

Da - Amend (for clarity or brevity) and Disapprove

Na - Amend (for clarity or brevity) and take No Action

W - Withdrawn by Sponsor

Procedural Note: Resolutions that are approved by the General Resolutions Committee, as well as all qualified petitioned resolutions, are reported to the floor of the General Assembly. In addition, League policy provides the following procedure for resolutions approved by League policy committees but *not* approved by the General Resolutions Committee:

Resolutions initially recommended for approval and adoption by all the League policy committees to which the resolution is assigned, but subsequently recommended for disapproval, referral or no action by the General Resolutions Committee, shall then be placed on a consent agenda for consideration by the General Assembly. The consent agenda shall include a brief description of the basis for the recommendations by both the policy committee(s) and General Resolutions Committee, as well as the recommended action by each. Any voting delegate may make a motion to pull a resolution from the consent agenda in order to request the opportunity to fully debate the resolution. If, upon a majority vote of the General Assembly, the request for debate is approved, the General Assembly shall have the opportunity to debate and subsequently vote on the resolution.

scientific, educational and recreational values; the California desert public land resources are threatened by adverse pressures which impair their public and natural values; the California desert is a cohesive unit posing difficult resource protection and management challenges; statutory land unit designations are necessary to protect these lands; and

WHEREAS, Senator Dianne Feinstein, author of the 1994 California Desert Protection Act has introduced legislation "California Desert Protection Act of 2011" that will set aside new land in the Mojave Desert for conservation, recreation and other purposes; and

WHEREAS, the proposed legislation will take AN ADDITIONAL 1.6 million acres of Bureau of Land Management land out of potential development, including mining exploration, by designating two new "National Monuments", one adjacent to the Mojave National Preserve which will take 1.5 million acres out of BLM multiple use in addition to 800,000 acres out of private ownership and one adjacent to the Joshua Tree National Park; and

WHEREAS, this legislation will result in just about every square inch of the desert spoken for, either for military use, national parks, wilderness and special conservation areas, Indian reservations and other types of land management (half of the lands under BLM management are protected under wilderness or special conservation area restrictions); and

WHEREAS, projects, such as California mandated solar energy development, that would disturb or destroy habitat must make up for that loss by purchasing private habitat at ratios of at least three acres for every one acre disturbed; and

WHEREAS, at that rate, even in the nation's largest county, San Bernardino, just three solar projects on federal land will require an amount of private land acquisition of 22,000 acres, or roughly 34 square miles, land will come off of the county's tax rolls and we will literally run out of mitigation land after a handful of projects; and

WHEREAS, the Federal Energy Policy Act of 2005 requires that 10,000 megawatts of renewable energy be generated on public land in the west. To meet California's mandate of having 33 percent of our energy come from renewable sources, it requires more that 20,000 megawatts of production and they are looking mainly at public lands. If we approve that much solar, the result would be a regulatory lockdown on the rest of the Desert by the Federal Fish and Wildlife Service and the State Department of Fish and Game; and

WHEREAS, the Desert Protection Act of 1994 encompassed 1.5 million acres or 2,218.4 square miles plus an additional 800,000 acres of private land or 1,250 square miles; Fort Irwin, 1,000 square miles; 29 Palms Marine Base, 931.7 square miles and they have also applied for an additional 420,000 acres in 2008, or 659.375 square miles totaling 6,059.48 square miles; and

WHEREAS, the California Desert Protection Act of 2011 will take OVER 2,300 square miles, not including the acreage of wilderness located outside any of the above mentioned areas (this total mileage would roughly encompass Rhode Island, Delaware, and Connecticut); and

WHEREAS, these public lands have long supported a range of beneficial uses and efforts have been made to protect the desert inhabitants. Let's not destroy the desert or our ability to use and enjoy it.

NOW, THEREFORE, BE IT RESOLVED, by the General Assembly of the League of California Cities assembled at the Annual Conference in San Diego, September 7, 2012, that the

4. RESOLUTION REQUESTING CONSIDERATION OF SUSPENSION OF IMPLEMENTATION OR REVISION OF THE CALIFORNIA GLOBAL WARMING SOLUTIONS ACT (AB 32 of 2006)

Source: City of Needles
Referred to: Environmental Quality Policy Committee
Recommendation to General Resolutions Committee:

WHEREAS, in 2006 the California Legislature adopted the California Global Warming Solutions Act, commonly referred to as AB 32 (Health & Safety Code §§38500 et seq.); and

WHEREAS, AB 32 aims to reduce California's greenhouse gas emissions (GHGs) to 1990 levels by 2020 (Health & Safety Code §38550) and to 80 percent below 1990 levels by 2050; and

WHEREAS, the California Air Resources Board (CARB) is the government agency charged with determining how the AB 32 goals will be reached (Health & Safety Code §38510); and

WHEREAS, CARB's implementation of AB32 aims to reduce California's GHG emissions by 169 million metric tons of carbon dioxide equivalent (MMTCO2E) through a variety of strategies, including sector-specific regulations, market mechanisms, voluntary measures, fees, incentives and other policies and programs; and

WHEREAS, there are portions of the state that have been designated as nonattainment for the national ambient air quality standards (NAAQS) for Ozone and PM, nonattainment for state ambient air quality standards (SAAQS) for Ozone, PM, Sulfates and Hydrogen Sulfide, and identified by CARB pursuant to as overwhelmingly impacted by transported air pollution from upwind air basins; and

WHEREAS, areas designated nonattainment are mandated under the provisions of the Federal Clean Air Act (FCAA) to require pursuant to New Source Review (NSR) rules, Best Available Control Technology (BACT) and offsetting emissions reductions (Offsets) on major new or modified stationary sources of those nonattainment air pollutants and their precursors (42 U.S.C. §§7502(c)(5), 7503) regardless of whether or not the area so designated has any control or not over the pollution causing the nonattainment finding; and

WHEREAS, the United States Environmental Protection Agency (USEPA) has requested that a program be developed to implement the Prevention of Significant Deterioration (PSD) which will require additional analysis for new or modified sources of attainment pollutants including but not limited to greenhouse gases, which will also necessitate emissions reductions and BACT in some cases for attainment pollutants; and

WHEREAS, due in part to the limited number of existing sources of air pollutants and the overwhelming impact of transport some or a majority of the cities have few if any available emissions reductions available to provide such offsets; and

WHEREAS, many technologies used to attain BACT levels of air pollution control are based upon the combustion of fossil fuels which also causes emissions of GHGs; and

League of California Cities Staff Analysis on Resolution No. 4

Staff: Kyra Ross, Legislative Representative, (916) 658-8252
Committee: Environmental Quality Policy Committee

Summary:
This resolution encourages California cities to:

1.) Adopt resolutions requesting the suspension of the implementation of some, if not all, the regulations promulgated under the California Global Warming Solutions Act (AB 32) until such time as the legal and regulatory inconsistencies can be resolved;
2.) Asks cities to request the California Air Resources Board (CARB) and other applicable state agencies examine the impact of the regulations promulgated pursuant to AB 32, and for potential conflict with other existing regulations at both the State and Federal level including, but not limited to, the potential for gains in one area to jeopardize progress in another; and,
3.) Asks cities to request the CARB and other applicable state agencies examine the overall economic impact of the regulations promulgated pursuant to AB 32 and their interaction with other existing regulations with emphasis upon the potential for job and other economic activity "flight" from California; and,
4.) Asks cities to request the State to encourage the resolution of internal conflicts between and among existing Federal programs by supporting items, including but not limited to:
    a. Reopening the Federal Clean Air Act;
    b. New Source Review Reform; and,
    c. Efforts to regulate greenhouse gas emissions under a comprehensive federal program.

Background:
AB 32 passed in 2006 and requires the State to reduce greenhouse gas emissions to 1990 levels by 2020. As the implementing agency, CARB developed and passed a Scoping Plan in 2008, outlining emission reduction measures to help the state meet its statutory reduction of greenhouse gas emissions. Since 2008, a number of measures outlined in the Scoping Plan have been implemented. Measures of interest to cities include: voluntary local government 15% reduction in greenhouse gas emissions; regional transportation-related greenhouse gas targets; landfill methane control; and green building codes.

At the same time, many of California's 15 air basins are facing ongoing challenges to meeting federal air quality standards. It's important to note that regulation of air quality in California is separated into two levels of regulation. CARB regulates air pollution from cars, trucks, buses and other sources, often referred to as "mobile sources". Local air districts regulate businesses and industrial facilities. Local air districts are the bodies that regulate ozone, PM 2.5 and PM 10. Ground level ozone (ozone), more commonly referred to as smog, is a pollutant that forms on hot summer days (not to be confused with the ozone that forms in the upper atmosphere or stratosphere). Ozone is not directly emitted by one source but comes from a combination of volatile organic compounds and nitrogen oxides. In the presence of sunlight, especially on hot summer days, this mixture forms ozone. Particulate Matter (PM) is made up of fine solid or liquid such as dust, fly ash, soot, smoke, aerosols, fumes, mists, and condensing vapors. US EPA has set health based standards for particles smaller than 10 microns (PM 10) and particles smaller than 2.5 microns (PM 2.5). When these particles become airborne, they can be suspended in the air for long periods of time. Both PM 10 and PM 2.5 have been determined to cause serious adverse health effects.

According to an April 2012 report by the California Air Pollution Control Officer's Association "California's Progress Toward Clean Air":

> *Despite significant improvements, air quality remains a major source of public health concern in large metropolitan areas throughout California. The San Joaquin and South Coast Air Basin*

an inventory of greenhouse gas emissions, set appropriate reduction targets, and create greenhouse gas emission reduction action plans.

2. Smart Growth. Consistent with the League's Smart Growth policies, encourage the adoption of land use policies designed to reduce sprawl, preserve open space, and create healthy, vibrant, and sustainable communities.
3. Green Technology Investment Assistance. Support tax credits, grants, loans and other incentives to assist the public, businesses, and local agencies that invest in energy efficient equipment and technology, and fuel efficient, low emission vehicles.
4. Energy and Water Conservation and Efficiency. Encourage energy efficiency, water efficiency, and sustainable building practices in new and existing public, residential and commercial buildings and facilities. This may include using the U.S. Green Building Council's LEED program or similar systems.
5. Increase the Use of Clean Alternative Energy. Promote the use and purchase of clean alternative energy through the development of renewable energy resources, recovery of landfill methane for energy production and waste-to-energy technologies.
6. Reduction of Vehicle Emissions in Public Agency Fleets. Support the reduction of vehicle emissions through increased fuel efficiency, use of appropriate alternative fueled vehicles, and/or low emission vehicles in public agency fleets. Encourage the use of appropriate alternative fueled vehicles, and/or low emission vehicles in private fleets.
7. Climate Change Impacts. Encourage all levels of government to share information to prepare for climate change impacts.
8. Coordinated Planning. State policy should encourage and provide incentive for cities to coordinate and share planning information with neighboring cities, counties, and other governmental entities so that there are agreed upon regional blueprints and strategies for dealing with greenhouse gas emissions.
9. Water Supply for New Development. Encourage exchange of water supply information between state and local agencies, including information on the impacts of climate change on state and local water supplies.
10. Recycles Content and Green Purchasing Policies. Encourage the adoption and implementation of recycled content and green procurement policies, if fitness and quality are equal, including the adoption of an Environmental Management System and authorization of local agencies to consider criteria other than only cost in awarding contracts for services.

Additionally, the League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

Finally, the League's Strategic Priorities for 2012, as adopted by the League Board of Directors, include:

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:
1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

WHEREAS, Counties and the State have statutory responsibility and power to conduct their audits, while cities do not currently have clear legal standing to demand access to court records for purposes of conducting audits in a thorough and transparent manner which further shrouds the understanding of when and how revenue is distributed; and

WHEREAS, in December 2011 at the request of the Glendora Police Department the Los Angeles Superior Court conducted a sample audit of 15 Glendora Police Department-issued citations from 2010. The results of the sample audit revealed the City of Glendora received about 12% ($253) of the $2,063 in paid fines for the 12 of the 15 citations submitted. Three (3) of the citations in the audit were sent to collection or warrants. Based on those results, the city received an average of $21, while the State and County received an average of $172 for each of the 12 citations. The percentage breakdown for the city was 12.25% as compared to the State and County's share of 86.75%; and

WHEREAS, issuing a typical vehicle code violation citation can involve up to an hour of the issuing officer's time and the time of a records clerk tasked with entering citations into the database costing approximately $82 per hour. If the citation is challenged the cost increases another $135 to cover the cost of court time and handling of the notices associated with such an appeal. Therefore, the cost incurred to issue a citation currently is between $82 and $217, while the sample audit reveals the city is receiving about $21 in cost recovery; and

WHEREAS, officials with Superior Court openly admit that similar results would be expected for almost every jurisdiction in the State issuing citations due to the complexity and "Priority of Distribution" they must follow from the State of California. "Priority Distribution" is triggered when a court reduces a fine for a citation. This process prohibits Judges from reducing penalty assessments and thus the only discretion Judges have in reducing fines, fees and costs is to reduce the base fine, or city portion, of the total fine. This process has a significant impact on the amount of money cities issuing the citation will receive. Rarely is the reduction in the fine taken from other stakeholders. Cities are one of the lowest priorities on the distribution list and often find themselves receiving significantly less share-or no share after deducting State and County fees and surcharges; and now there let it be

RESOLVED by the General Assembly of the League of California Cities, assembled in San Diego on September 7, 2012, that the League of California Cities calls upon the State Legislature and Governor to:

1. Create an efficient system to provide cities with a clear authority to audit the distribution of fines, fees, assessments and administrative costs for criminal and traffic violations;

2. Enact legislation that changes the "Priority Distribution" mandate so cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations; and

3. That any reduction in fines, fees, assessments or costs should be equally distributed from the total fine imposed, not just from the city base fine.

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Background Information on Resolution No. 1

Source: City of Glendora

League of California Cities Staff Analysis on Resolution No. 1

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916) 658-8214
Committee: Public Safety Policy Committee

Staff: Dan Carrigg, Legislative Representative, (916) 658-8222
Committee: Revenue and Taxation Policy Committee

Summary:
This Resolution urges the League of California Cities, through legislative or administrative means, to clarify the authority for cities to audit the distribution of court imposed fines, fees, penalty assessments and administrative costs for criminal and traffic violations.

It also urges the League to seek legislative changes to the "Priority Distribution" statutory formula so that cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations. The current statutory formula allows reductions to the base fine but maintains the same level of penalty assessments, based upon the full penalty charge.

Finally, any reductions that may occur in fines, fees, assessments or costs determinations should be equally distributed from the total fine imposed, not just from the city base fine.

This Resolution raises several policy questions:
1) Should cities have the authority to request audits and receive reports from a county or the state on the local share of revenue resulting from criminal and traffic violation penalties?

2) Should cost-recovery be a driving factor in setting monetary penalties for criminal or traffic violations?

3) Should reductions (as ordered by a judge) to the fines owed by violators be taken just out of the base fine, or should the base fine and related penalty assessments be reduced proportionately?

Background:
In California, criminal offenders may have additional penalty assessments made to their base fines. These penalty assessments are based on the concept of an "abusers fee," in which those who break certain laws will help finance programs related to decreasing those violations. For example, drug and alcohol offenses and domestic violence offenses are enhanced by special assessments on fines that directly fund county programs designed to prevent the violations. All other criminal offenses and traffic violations are subject to penalty assessments that are used to fund specific state programs.

According to the Resolution sponsor, the City of Glendora, the court-ordered collection of penalty fines and additional assessments, as well as the subsequent revenue distribution, is a complex system where few audits are conducted to determine if cities are receiving their share of collections. The current system makes it practically impossible for cities to effectively administer and manage public funds that are generated by cities.

The League recently held in-depth policy discussions related to audit authority in light of the misconduct charges against the City of Bell in 2011. The League convened a technical working group to review audit legislation and administrative efforts by the State Controller's Office. Following the work of this group, the League Board adopted principles supporting transparent, accurate financial and performance information. (See "Existing Policy" section below.) However, these principles did not address expanding cities' audit authority over the state, counties, or other public agencies.

Lastly, in most instances when the legislature takes into consideration a fine increase, be it for manufacturer product responsibility or criminal acts, the legislature focuses on how the increased fine will alter behavior, not on recovering the costs of enforcing that violation.

Fiscal Impact:
Unknown. Potential additional revenue received by cities, if any, would vary based on total citations issued and collected.

Existing League Policy:
Related to this Resolution, existing policy offers:

- Cities and the League should continue to emphasize efficiency and effectiveness, encouraging and assisting cities to achieve the best possible use of city resources.
- The League supports efforts to preserve local authority and accountability for cities, state policies must ensure the integrity of existing city revenue sources for all cities, including the city share and situs allocation, where applicable, of property tax, sales tax, vehicle license fee, etc.

Audit Principles Adopted by the League Board

- Given the State already has substantial authority to examine local government financial practices, and recognizes the significant resources required by auditors and local governments to complete audits, additional authority should only be granted to a State agency when there are documented insufficiencies in its existing authority.

- Governmental financial audits and performance audits ensure financial integrity and promote efficient, effective and accountable local government.

- Transparent, accurate financial and performance information is necessary for citizens to have confidence that their interests are being served, and for decision makers to be accountable for ensuring that public funds are spent appropriately and effectively.

- Public trust is inspired when auditors perform their work with independence, objectivity and integrity, remaining free from personal, external and organizational impairments to that independence, both in fact and in appearance.

- Public confidence in government is maintained and strengthened when financial and performance information is collected, managed and reported in accordance with nationally recognized professional accounting and auditing standards.

The League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:
1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

3. Requests the League advocate for additional and more permanent funding for Internet Crimes Against Children Task Forces (ICAC) statewide.

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Background Information on Resolution No. 2

Source: San Diego County Division

Background:
Technology has brought significant changes to our society over the past two decades. While most have had a positive effect on our quality of life, many have threatened the safety and well-being of our young children.

The internet has made victimization of children much easier than ever before. Today, pedophiles can network with one another online, encourage one another to commit crimes against children, and share tips on evading law enforcement. Worse yet, they often use the internet – social media sites, in particular – to find and prey on young children. Many times, these innocent children are lured away from their homes by these perpetrators and never seen again.

The internet has also significantly increased the availability of child pornography. More than 6.5 million child abuse images are being shared via the internet today. Before this technology was in place, the number of photos available numbered in the few hundreds.

While some see viewing child pornography as a "victimless crime," nothing could be further from the truth. One study showed that 98 percent of convicted child pornographers had molested children before being captured (Butner Redux Study, 2006).

Additionally, these images can never be completely eradicated from the internet once they are placed online. Therefore, victims continue to suffer the irrevocable damage of knowing their horrific photos are being viewed over and over again for sexual gratification by pedophiles.

Many believe these horrendous crimes happen mostly in other countries. Sadly, the United States is the number one producer and consumer of child pornography in the world, and American children are the primary victims. More than 624,000 child pornography users have been identified nationwide and thousands of these reside in San Diego County.

While the internet is exploited by these predators to harm children, it ironically is the same tool used by law enforcement to track down and arrest these criminals.

Your help is urgently needed to secure resources for this effort, increase public awareness, work to support tougher laws and educate others on this critical issue. While San Diego has one of the nation's 61 ICAC task forces, its six trained investigators are overwhelmed with cases due to funding shortfalls.

With your help, these predators can be taken off the street and our children will be safer. Here is what needs to be done:

Change state law. The current "wobbler" (misdemeanor and felony) wording should be eliminated. All child pornography charges should be made a straight felony.

Strengthen sentencing. State sentencing on child pornography cases needs to be more in line with

The Internet Crimes Against Children (ICAC) Program was created to help federal, state and local law enforcement agencies enhance their investigative responses to offenders who use the internet, online communication systems, or computer technology to sexually exploit children. The program is funded by the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention. The program is a national network of 61 coordinated task forces representing over 3,000 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in proactive investigations, forensic investigations, and criminal prosecutions.

In FY 2009, ICAC Program received $25 million under the Omnibus Appropriation Act to support ICAC task forces, training, and technical assistance. The ICAC Program received an additional $50 million through the **American Reinvestment and Recovery Act** to support ICAC task forces, training, technical assistance, and research. In each of the past two fiscal years, the program received $30 million nationally.

Existing California law addresses the policy area extensively in the areas of solicitation, pornography, and harassment with additional penalties often levied when the victim is a minor less than 14 years of age. Internet-based crimes against minors have been a popular topic in recent legislative proposals especially as new web-based technology is brought into the market. Legislation has included both increased penalties and greater protections or remedies for victims.

Fiscal Impact:
Unknown. No direct fiscal impact to city general funds.

Existing League Policy:
Related to this Resolution, existing policy offers:
The League believes that the children of California must be recognized as our state's most valuable resource. Their development, education, and well-being are key to our state's future. Further, it is essential that each child have the support needed to become a productive citizen in the world of the 21st Century.

The League supports the promotion of public safety through stiffer penalties for violent offenders.

The League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:
1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

3) Build Strong Partnerships for a Stronger Golden State: Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.

>>>>>>>>>>

emergency preparedness programs that promote creating a family plan, that includes provisions for supplies of food and water, in the promotion of self-reliance, with the ultimate goal of creating "disaster resilient" cities.

Background:
This resolution was brought to the Public Safety Policy Committee by that committee's Emergency and Disaster Preparedness Subcommittee to create a clear statement of support for emergency response, management, and recovery efforts as a community. While the League has extensive policy that supports related activities, there is no explicit statement of support in the existing policy or guiding principles.

In addition, numerous articles in *Western City Magazine*, the League's monthly publication, have featured case studies and best practices about emergency response and disaster preparedness. This topic has been a key component of the Public Safety Committee's work program for the last five years.

Fiscal Impact:
Unknown. This Resolution does not seek to create new requirements for the League or cities. Possible costs to cities that take steps to educate community members about disaster preparedness could be off-set by future limited damage and loss of life or injury due to those preparedness efforts.

Existing League Policy:
Related to this Resolution, existing policy provides:
The League supports the 2-1-1 California telephone service as a non- emergency, human and community services and disaster information resource.

The League supports "Good Samaritan" protections that include both medical and non-medical care when applicable to volunteer emergency, law enforcement, and disaster recovery personnel. The League also supports providing "Good Samaritan" protections to businesses that voluntarily place automated external defibrillators (AEDs) on their premises to reduce barriers to AED accessibility

The League supports activities to develop and implement statewide integrated public safety communication systems that facilitate interoperability and other shared uses of public safety spectrum with local state and federal law enforcement, fire, emergency medical and other public safety agencies.

The League supports a single, efficient, performance-based state department (the California Emergency Management Agency) to be responsible for overseeing and coordinating emergency preparedness, response, recovery and homeland security activities.

The League supports disaster recovery legislation that includes mitigation for losses experienced by local government.

The League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:
1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

Agenda Date: 8/21/12

Agenda Item: 4(b)

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

TUESDAY, July 17, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:16 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, and Councilmembers Shuey. Councilmembers absent: Councilmembers Pierce and Stratford. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, City Engineer Rick Angrisani, and City Clerk Laci Jackson.

2. **JOINT CLOSED SESSION** – Mayor Geller announced the following purpose for Closed Session and then adjourned into a Joint Closed Session at 6:16 p.m. with the GHAD Board of Directors:

(a) Conference with Legal Counsel
Government Code Section 54956.9 (a)
Pending Litigation: *Katzman, et al. v. City of Clayton, et al.* Coordinated Cases Master/C07-01461/C07-00707, Superior Court, Contra Costa Co.

Report Out from Closed Session 7:00 p.m.: Mayor Geller stated the Council received information form legal counsels and had taken no reportable action.

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

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

(a) Approved the minutes of the regular meeting of July 3, 2012.

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

(c) Adopted Resolution 37-2012 ordering the annual levy of a Special Tax within the High Street Permanent Road Division (Fund 217) for FY 2012-2013.

(d) Adopted Resolution 38-2012 ordering the annual levy of a Special Tax within the Oak Street Permanent Road Division (Fund 218) for FY 2012-2013.

(e) Adopted Resolution 39-2012 authorizing the levy of annual assessments for the Lydia Lane Sewer Assessment District in FY 2012-2013.

(f) Adopted Resolution 40-2012 authorizing the levy of annual assessments for the Oak Street Sewer Assessment District in FY 2012-2013.

(g) Adopted Resolutions 41-2012 and 42-2012 accepting an Access Easement Deed and a Deed of Development Rights over portions of Lots 1 through 25, inclusive, in Subdivision 8719, Diablo Pointe (aka Diablo Estates at Clayton; off Rialto Drive).

5. RECOGNITIONS AND PRESENTATIONS

(a) Mayor Geller read the Proclamation declaring August 11th and 12th as "Relay for Life: Fight back against Cancer Days" in Clayton. Event volunteers from the American Cancer Society accepted the Proclamation.

6. REPORTS

(a) Planning Commission – Commissioner Sandy Johnson reported on the July 10th Planning Commission meeting. The Commission reviewed a Use Permit application for a change in an AT&T wireless antenna on private property. The Commission requested additional information to be brought back regarding acoustical noise, to determine if there will be excessive noise. The Commission welcomed Dave Bruzzone, and Commissioner Johnson thanked the Council for her reappointment to a two-year term.

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

(c) The City Manager reported the City's Successor Agency returned $1.547 million to the County for distribution back to taxing entities, a requirement by the State, but did so under protest. He stated staff hopes there will be remedial legislation about this fiscal requirement.

(d) City Council

Vice Mayor Medrano attended the Concert in The Grove last Thursday, and attended a TRANSPAC meeting for Councilmember Pierce.

Councilmember Shuey reported the Charter High School staff and volunteers have been working hard and spent last weekend repainting the high school's multi-use room. He noted on Saturday July 28th from 8am-12pm the school is hosting a campus beautification day and anyone who wants to help is invited to participate.

Mayor Geller attended the Contra Costa Water District opening of the Los Vaqueros expanded Reservoir. He attended the Mayors' Conference where they discussed AB 1484 and the requirement for certain cities to return money to the State. The City Manager noted that anyone who did not return the money in the exact amount was subject to a 10% penalty immediately and interest for every month the payment was not received. He stated the City received the email after hours Monday and payment was due Thursday by 1 p.m.

Mayor Geller noted the last Concert in The Grove produced $1,823 in donations.

Councilmember Shuey also stated he attended the Thursday night concert and it was a smaller crowd but it was great to see people downtown on a weeknight and lining up at local businesses to buy food.

(e) Other – None.

7. PUBLIC COMMENTS – None.

8. PUBLIC HEARINGS

a) Public Hearing on the proposed levy of annual assessments on real properties in the Street Lighting Assessment District for FY 2012-2013, pursuant to Streets and Highways Code 18070 and CA Government Code 54954.6, and result of the Proposition 218 ballot for initial assessment of the 24 residential lots in Subdivision 8719 (Diablo Pointe/Estates).

The City Engineer presented the staff report. He stated the assessment levy rate has stayed the same since 1996, and this pays for street lights in residential neighborhoods. He stated notices for parcels in Diablo Pointe were mailed to the property owners informing them about the public meeting of 21st and tonight's Public Hearing for balloting of the initial rates in the Assessment District for Diablo Pointe parcels.

Mayor Geller opened the Public Hearing at 7:25 p.m., no public comments were offered, and closed the Public Hearing at 7:26 p.m.

Mayor Geller requested the City Clerk tabulate the votes on the Diablo Pointe ballot election for its real properties' assessment in the Street Lighting Assessment District and declare the vote thereof. The City Clerk tabulated the ballots and stated the assessment passed with no majority protest.

It was moved by Councilmember Shuey, seconded by Vice Mayor Medrano, to adopt the Resolution 43-2012 declaring the lack of majority protest and setting the annual street lighting real property assessments for FY 2012-2013 (Passed; 3-0 vote).

9. ACTION ITEMS

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

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).

The City Attorney presented the staff report and stated there are two settlement agreements in front of the Council tonight to resolve lawsuits in a residential subdivision over slope movement. The City and GHAD's portion of the settlement is $250,000 and is being paid by the Municipal Pooling Authority less the City's $5,000 deductible. The other settlement agreement is between the City, GHAD, and Lyon Homes (formerly Presley Homes) who completed construction of work on the hillside for the subdivision. She noted John Broghammer, Special Legal Counsel for the City and GHAD, is present in the audience in case there are questions. Staff recommends the Council approve the two settlement agreements.

Dan Katzman, resident, asked when the dewatering work will be completed? The City Engineer responded the vertical drilling will begin by middle of August, and the work completed by first of October.

Dan Brown, resident asked if citizens in that neighborhood should he be dislocated or unable to get home each night? The City Engineer responded the Contractor has been directed to maintain public access.

Councilmember Shuey clarified this settlement is arising out of the construction of homes where homeowners sued to make repairs. He stated staff has done a very good job and had excellent counsel in shepherding us through a very tedious process. He stated it is unfortunate the City gets into situations with this but stated there are assurances from the majority of the experts this outcome is the best we can get for the money being paid for the remedial work and private property damages. He stated the City has taken this very seriously and done everything they can to protect homeowners, the City, and its taxpayers.

It was moved by Vice Mayor Medrano, seconded by Councilmember Shuey, to adopt Resolution 44-2012 approving the two (2) Settlement Agreements resolving the Oakhurst Country Club Development construction defects and hillside movement-related various litigation:

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). (Passed; 3-0 vote).**

(b) Consider a Resolution establishing new fees and adjusting existing fees in the City Master Fee Schedule for certain user-benefit City services and rental of City facilities and parks in FY 2012-13.

The Assistant to the City Manager stated this is an annual review for update to the City's fee schedule. She noted there is no direct fee for credit card payments allowed so an additional 0.2% has been added to all fees to incorporate the costs for payment by credit card. In total there is a 2.3% increase in fees. She noted the youth sports fields' rental fees would remain unchanged and there are two new fees, a $158 review fee for the Reasonable accommodation Administrative Review, and a $500 deposit for the Reasonable Accommodation Planning Commission review.

No public comments were received.

It was moved by Vice Mayor Medrano, seconded by Councilmember Shuey to adopt Resolution 45-2012 setting City fee rates for FY 2012-13 (Passed; 3-0 vote).

(c) *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 3rd Recognized Obligation Payment Schedule (ROPS) covering the time period from January 2013 through June 2013, pursuant to California Redevelopment Law (ABx1 26 and AB 1484).

The City Manager stated for this item the Council is seated as the Successor Agency. He stated Successor Agencies are now legal public entities by AB 1484 and in the future will and require a separate agenda. He stated the Successor Agency must retire its debt and the ROPS III is for the time period January 2013-June 2013. This must be adopted locally and sent to the Department of Finance by September 1st. He stated for this time

period $381,378 will be incurred for eligible debt service and obligations. He stated after approval staff will constitute a meeting of the Oversight Board to approve the ROPS III.

No public comments were received.

It was moved by Vice Mayor Medrano, seconded by Councilmember Shuey, to adopt Resolution 46-2012 approving the ROPS III (Passed; 3-0 vote).

10. **COUNCIL ITEMS** – None.

11. **ADJOURNMENT**– On call by Mayor Geller the meeting adjourned at 7:42 p.m.

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

Agenda Date: 8/21/12

Agenda Item: 4(c)

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: August 21, 2012

SUBJECT: INVOICE SUMMARY

RECOMMENDATION **Approve the following Invoices.**

8/17/12	Cash Requirements Report	$224,222.41
8/17/12	Invoices Paid in Advance of Meeting	$595,860.77
	(i.e.: CalPERS Health $27,376.89	
	CalPERS Retirement – 3 pay periods $69,205.50	
	US Bank RDA Debt Service Pmt. - $407,134.82)	

TOTAL REQUEST **$820,083.18**

Attachments:
Cash Requirements Report dated 8/17/12 (7 pages)
Invoices Paid in Advance Report dated 8/17/12 (7 pages)
ALL Invoices for 8/21/12 City Council Approval dated 8/17/12 (15 pages)

City of Clayton
Cash Requirements Report
City Council 8/21/12

unpaid

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Access One								
Access One	8/21/2012	8/2/2012	1282637	July Long Distance	$45.62	$0.00		$45.62
				Totals for Access One:	*$45.62*	*$0.00*		*$45.62*
American Fidelity Assurance Company								
American Fidelity Assurance Company	8/21/2012	8/1/2012	777795A	July Billing	$975.59	$0.00		$975.59
				Totals for American Fidelity Assurance Company:	*$975.59*	*$0.00*		*$975.59*
Apache Signs								
Apache Signs	8/21/2012	7/16/2012	7/16	10"decals for cars	$90.00	$0.00		$90.00
				Totals for Apache Signs:	*$90.00*	*$0.00*		*$90.00*
Apex Carpet And Upholstery Cleaning								
Apex Carpet And Upholstery Cleaning	8/17/2012	7/17/2012	2063	Library Carpet Cleaning	$1,300.00	$0.00		$1,300.00
Apex Carpet And Upholstery Cleaning	8/21/2012	8/3/2012	2068	carpets cleaned City Hall/Police Stn/Exercise I	$500.00	$0.00		$500.00
				Totals for Apex Carpet And Upholstery Cleaning:	*$1,800.00*	*$0.00*		*$1,800.00*
Arlene H. Kikkawa-Nielsen								
Arlene H. Kikkawa-Nielsen	8/21/2012	8/6/2012	August 2012	Library Volunteer Coordinator August 2012	$900.00	$0.00		$900.00
				Totals for Arlene H. Kikkawa-Nielsen:	*$900.00*	*$0.00*		*$900.00*
AT&T/ CalNet 2								
AT&T/ CalNet 2	8/17/2012	7/8/2012	3558549	Phone services 6/22-7/21/12	$1,321.44	$0.00		$1,321.44
				Totals for AT&T/ CalNet 2:	*$1,321.44*	*$0.00*		*$1,321.44*
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	8/21/2012	7/25/2012	0284679-IN	Diamondback safety glasses	$103.09	$0.00		$103.09
Bay Area Barricade Serv.	8/21/2012	8/7/2012	0284539-IN	safety vests	$645.60	$0.00		$645.60
				Totals for Bay Area Barricade Serv.:	*$748.69*	*$0.00*		*$748.69*
Bay Area News Group-East Bay								
Bay Area News Group-East Bay	8/21/2012	7/31/2012	00000524193	Classified Ad - Election	$151.40	$0.00		$151.40
				Totals for Bay Area News Group-East Bay:	*$151.40*	*$0.00*		*$151.40*
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	8/21/2012	8/4/2012	683340	July Services	$8,000.00	$0.00		$8,000.00
				Totals for Best Best & Kreiger LLP:	*$8,000.00*	*$0.00*		*$8,000.00*
CCC Assessor's Office								
CCC Assessor's Office	8/21/2012	8/7/2012	8/7/12	2012-2013 Clayton Parcel Tax Rolls (Electr	$170.00	$0.00		$170.00
				Totals for CCC Assessor's Office:	*$170.00*	*$0.00*		*$170.00*
CCC General Services (Traffic)								
CCC General Services (Traffic)	8/21/2012	7/23/2012	4626	June Traffic Signal Maint.	$1,250.81	$0.00		$1,250.81
CCC General Services (Traffic)	8/21/2012	6/21/2012	4593	May Traffic Signal Maint	$3,361.87	$0.00		$3,361.87

City of Clayton
Cash Requirements Report
City Council 8/21/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
				Totals for CCC General Services (Traffic):	*$4,612.68*	*$0.00*		*$4,612.68*
CCC Information Technology								
CCC Information Technology	8/21/2012	8/9/2012	7626	Data Processing Services for July 2012	$72.38	$0.00		$72.38
				Totals for CCC Information Technology:	*$72.38*	*$0.00*		*$72.38*
CCC Library								
CCC Library	8/21/2012	7/23/2012	Q4 11/12	Additional Hours of Service FY 11/12 Q4	$5,052.47	$0.00		$5,052.47
				Totals for CCC Library:	*$5,052.47*	*$0.00*		*$5,052.47*
CCC Office of the Sheriff, Forensic Services Division								
CCC Office of the Sheriff, Forensic Se	8/21/2012	7/13/2012	CLPD-1206	June Billings Clayton PD	$900.00	$0.00		$900.00
				Totals for CCC Office of the Sheriff, Forensic Services Division:	*$900.00*	*$0.00*		*$900.00*
CCC Police Chiefs' Assoc.								
CCC Police Chiefs' Assoc.	8/21/2012	7/16/2012	12-01	FY 2012/2013 CCC Police Chief's Associati	$650.00	$0.00		$650.00
				Totals for CCC Police Chiefs' Assoc.:	*$650.00*	*$0.00*		*$650.00*
Chase Electronics								
Chase Electronics	8/21/2012	8/1/2012	123940	Parts/Labor Radar Trailer	$106.75	$0.00		$106.75
				Totals for Chase Electronics:	*$106.75*	*$0.00*		*$106.75*
Cheyenne Electric Inc.								
Cheyenne Electric Inc.	8/21/2012	7/20/2012	7/20	Repair water fall feature pump	$1,508.00	$0.00		$1,508.00
				Totals for Cheyenne Electric Inc.:	*$1,508.00*	*$0.00*		*$1,508.00*
City of Concord								
City of Concord	8/21/2012	8/3/2012	29397	Dispatch services August 2012	$13,285.00	$0.00		$13,285.00
				Totals for City of Concord:	*$13,285.00*	*$0.00*		*$13,285.00*
Clean Street								
Clean Street	8/21/2012	7/31/2012	68021	July Sweep Fee	$3,500.00	$0.00		$3,500.00
				Totals for Clean Street:	*$3,500.00*	*$0.00*		*$3,500.00*
Contra Costa Tractor Mobile Svc								
Contra Costa Tractor Mobile Svc	8/21/2012	7/26/2012	015627	service call PTO - hyd pump & rear seal	$2,743.21	$0.00		$2,743.21
				Totals for Contra Costa Tractor Mobile Svc:	*$2,743.21*	*$0.00*		*$2,743.21*
Contra Costa Water Dist.								
Contra Costa Water Dist.	8/21/2012	8/9/2012	B Series	irrigation 6/6/12-8/7/12	$37,266.29	$0.00		$37,266.29
				Totals for Contra Costa Water Dist.:	*$37,266.29*	*$0.00*		*$37,266.29*
CR Fireline Inc								
CR Fireline Inc	8/21/2012	7/27/2012	92992	Semi-Annual Sprinkler Insp./Test City Hall	$310.00	$0.00		$310.00
CR Fireline Inc	8/21/2012	7/27/2012	92993	Semi-Annual Sprinkler Insp./Test Endeavor H	$310.00	$0.00		$310.00
CR Fireline Inc	8/21/2012	7/27/2012	92994	Semi-Annual Sprinkler Insp./Test Library	$310.00	$0.00		$310.00

City of Clayton
Cash Requirements Report
City Council 8/21/12

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
				Totals for CR Fireline Inc:	*$930.00*	*$0.00*		*$930.00*
Cropper Accountancy Corp								
Cropper Accountancy Corp	8/21/2012	7/31/2012	643	Audit - bank recon/Blackbaud	$3,250.00	$0.00		$3,250.00
				Totals for Cropper Accountancy Corp:	*$3,250.00*	*$0.00*		*$3,250.00*
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	8/21/2012	8/7/2012	14659648	Konica contract 25079777	$431.68	$0.00		$431.68
				Totals for De Lage Landen Financial Services, Inc.:	*$431.68*	*$0.00*		*$431.68*
Globalstar LLC								
Globalstar LLC	8/21/2012	7/16/2012	1000000004036135	close date 7/16/12	$43.59	$0.00		$43.59
				Totals for Globalstar LLC:	*$43.59*	*$0.00*		*$43.59*
Goldfarb & Lipman								
Goldfarb & Lipman	8/21/2012	8/16/2012	105713	July Fees	$1,200.50	$0.00		$1,200.50
				Totals for Goldfarb & Lipman:	*$1,200.50*	*$0.00*		*$1,200.50*
Hammons Supply Company								
Hammons Supply Company	8/21/2012	7/5/2012	72903	Supplies	$541.14	$0.00		$541.14
Hammons Supply Company	8/21/2012	8/3/2012	73419	12" plastic dust	$16.83	$0.00		$16.83
				Totals for Hammons Supply Company:	*$557.97*	*$0.00*		*$557.97*
Harun Simbirdi								
Harun Simbirdi	8/21/2012	8/7/2012	8/6/12	CERT Web Page Expenses	$55.97	$0.00		$55.97
				Totals for Harun Simbirdi:	*$55.97*	*$0.00*		*$55.97*
Health Care Dental Trust								
Health Care Dental Trust	8/21/2012	8/7/2012	September 2012	September Dental	$2,822.49	$0.00		$2,822.49
				Totals for Health Care Dental Trust:	*$2,822.49*	*$0.00*		*$2,822.49*
ICMA Retirement Corporation								
ICMA Retirement Corporation	8/17/2012	7/6/2012	10981	Plan fee billed quarterly 7/1/12-9/30/12	$125.00	$0.00		$125.00
				Totals for ICMA Retirement Corporation:	*$125.00*	*$0.00*		*$125.00*
J & R Floor Services								
J & R Floor Services	8/21/2012	8/1/2012	8/1/12	July Services	$4,880.00	$0.00		$4,880.00
				Totals for J & R Floor Services:	*$4,880.00*	*$0.00*		*$4,880.00*
John Deere Landscapes Inc								
John Deere Landscapes Inc	8/17/2012	6/28/2012	61818181	misc cust repair	$302.02	$0.00		$302.02
John Deere Landscapes Inc	8/17/2012	7/13/2012	62016947	turf gold	$171.33	$0.00		$171.33
				Totals for John Deere Landscapes Inc:	*$473.35*	*$0.00*		*$473.35*
LarryLogic Productions								
LarryLogic Productions	8/17/2012	7/18/2012	1263	city council meeting 7/17/12	$325.00	$0.00		$325.00

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
				Totals for LarryLogic Productions:	*$325.00*	*$0.00*		*$325.00*
Local Government Consultants								
Local Government Consultants	8/21/2012	8/1/2012	123	State Mandated Cost/1st Pmt for FY 2012/201	$1,050.00	$0.00		$1,050.00
				Totals for Local Government Consultants:	*$1,050.00*	*$0.00*		*$1,050.00*
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	8/21/2012	8/1/2012	412-1152-8	Library Maint 8/12	$150.00	$0.00		$150.00
Marken Mechanical Services Inc	8/21/2012	8/1/2012	412-1151-8	City Hall Maint 8/12	$150.00	$0.00		$150.00
Marken Mechanical Services Inc	8/21/2012	7/23/2012	312-15700	Gorunded compressor on condensing unit #1	$3,190.00	$0.00		$3,190.00
Marken Mechanical Services Inc	8/21/2012	7/23/2012	112-15834	change out failed condensor motor on CU-1	$635.99	$0.00		$635.99
Marken Mechanical Services Inc	8/21/2012	5/22/2012	112-15600	repair thermostat	$335.00	$0.00		$335.00
Marken Mechanical Services Inc	8/21/2012	5/30/2012	112-15600-1	VAV problems	$1,265.92	$0.00		$1,265.92
				Totals for Marken Mechanical Services Inc:	*$5,726.91*	*$0.00*		*$5,726.91*
Martell Water Systems, Inc.								
Martell Water Systems, Inc.	8/17/2012	7/17/2012	19182	service call 7/11/12	$202.50	$0.00		$202.50
				Totals for Martell Water Systems, Inc.:	*$202.50*	*$0.00*		*$202.50*
Muir/ Diablo Occupation Medicine								
Muir/ Diablo Occupation Medicine	8/17/2012	7/10/2012	185626	Dansie, Lynn	$77.00	$0.00		$77.00
				Totals for Muir/ Diablo Occupation Medicine:	*$77.00*	*$0.00*		*$77.00*
Municipal Pooling Authority								
Municipal Pooling Authority	8/17/2012	7/20/2012	P1203	Property coverage premium 2012/2013	$9,096.00	$0.00		$9,096.00
Municipal Pooling Authority	8/17/2012	7/17/2012	ER-1203	ERMA Premium 2012-2013	$9,382.00	$0.00		$9,382.00
Municipal Pooling Authority	8/21/2012	8/9/2012	8/2012	August LTD	$1,254.18	$0.00		$1,254.18
Municipal Pooling Authority	8/21/2012	8/9/2012	S2Q1203	Kuwitzky Medicare Tax Withheld	$67.69	$0.00		$67.69
Municipal Pooling Authority	8/21/2012	8/13/2012	G1203	Workers' comp work alternative participants 1	$733.00	$0.00		$733.00
				Totals for Municipal Pooling Authority:	*$20,532.87*	*$0.00*		*$20,532.87*
Neopost (add postage)								
Neopost (add postage)	8/21/2012	7/19/2012	7/19	Neopost Postage added	$300.00	$0.00		$300.00
				Totals for Neopost (add postage):	*$300.00*	*$0.00*		*$300.00*
Neopost Leasing (Mail Finance)								
Neopost Leasing (Mail Finance)	8/21/2012	7/24/2012	N3426764	Lease 8/25/12-9/24/12	$222.02	$0.00		$222.02
				Totals for Neopost Leasing (Mail Finance):	*$222.02*	*$0.00*		*$222.02*
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	8/17/2012	7/25/2012	422122	Phone booth August, 2012	$73.00	$0.00		$73.00
				Totals for Pacific Telemanagement Svc:	*$73.00*	*$0.00*		*$73.00*
PERMCO, Inc.								
PERMCO, Inc.	8/21/2012	8/13/2012	9806	Retainer - General Svcs.	$3,844.50	$0.00		$3,844.50

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
PERMCO, Inc.	8/21/2012	8/13/2012	9807	Diablo Pointe Plan Check	$394.25	$0.00		$394.25
PERMCO, Inc.	8/21/2012	8/13/2012	9808	Diablo Pointe Construction Inspection	$2,011.50	$0.00		$2,011.50
PERMCO, Inc.	8/21/2012	8/13/2012	9809	Stormwater Violations - CVS/Flora Square	$785.25	$0.00		$785.25
PERMCO, Inc.	8/21/2012	8/13/2012	9810	CAP Inspections 479 Obsidian Way	$83.00	$0.00		$83.00
PERMCO, Inc.	8/21/2012	8/13/2012	9811	Clayton Road Median Landscape Project	$122.00	$0.00		$122.00
PERMCO, Inc.	8/21/2012	8/13/2012	9812	Diablo Estates BAD Admin	$2,625.00	$0.00		$2,625.00
PERMCO, Inc.	8/21/2012	8/13/2012	9813	Notice of Violation 128 Widmar Place	$861.75	$0.00		$861.75
				Totals for PERMCO, Inc.:	*$10,727.25*	*$0.00*		*$10,727.25*
Riso Products of Sacramento								
Riso Products of Sacramento	8/21/2012	7/20/2012	94243	Copier contract 7/18/12-8/17/12	$94.79	$0.00		$94.79
				Totals for Riso Products of Sacramento:	***$94.79***	***$0.00***		***$94.79***
Rock & Waterfall Co								
Rock & Waterfall Co	8/21/2012	7/28/2012	107-31	waterfall maint July 2012	$650.00	$0.00		$650.00
Rock & Waterfall Co	8/21/2012	8/4/2012	107-47	pump/motor replacement	$1,726.62	$0.00		$1,726.62
				Totals for Rock & Waterfall Co:	*$2,376.62*	*$0.00*		*$2,376.62*
Shelley Brown								
Shelley Brown	8/21/2012	8/13/2012	024955	Deposit Refund 8/11/12	$47.00	$0.00		$47.00
				Totals for Shelley Brown:	*$47.00*	*$0.00*		*$47.00*
SPRAYTEC (Sprayer Sales Co)								
SPRAYTEC (Sprayer Sales Co)	8/21/2012	7/30/2012	11350	WTS- Clayton July 2012	$225.00	$0.00		$225.00
				Totals for SPRAYTEC (Sprayer Sales Co):	*$225.00*	*$0.00*		*$225.00*
Sprint Comm (PD)								
Sprint Comm (PD)	8/21/2012	7/29/2012	703335311-128	June 26-July 25, 2012	$400.97	$0.00		$400.97
				Totals for Sprint Comm (PD):	*$400.97*	*$0.00*		*$400.97*
Sprint Comm (PW & ADM)								
Sprint Comm (PW & ADM)	8/21/2012	7/29/2012	531409315-123	6/26-7/25/2012	$307.87	$0.00		$307.87
				Totals for Sprint Comm (PW & ADM):	*$307.87*	*$0.00*		*$307.87*
Stericycle Inc								
Stericycle Inc	8/17/2012	8/1/2012	3001920711	quarterly fees 8/12-10/12	$206.82	$0.00		$206.82
				Totals for Stericycle Inc:	*$206.82*	*$0.00*		*$206.82*
Stockbridge General Contracting, Inc								
Stockbridge General Contracting, Inc	8/21/2012	7/31/2012	1007	Pay #3 Clayton Road Median Landscape and I	$61,909.22	$0.00		$61,909.22
				Totals for Stockbridge General Contracting, Inc:	*$61,909.22*	*$0.00*		*$61,909.22*
The Radar Shop								
The Radar Shop	8/17/2012	7/23/2012	08845	radar units	$221.00	$0.00		$221.00
				Totals for The Radar Shop:	*$221.00*	*$0.00*		*$221.00*

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Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Thomas E. Dum Real Estate Appraisers, Inc.								
Thomas E. Dum Real Estate Appraisers,	8/21/2012	8/16/2012	15212	Appriasal Review on Property at Clayton Roa	$3,000.00	$0.00		$3,000.00
				Totals for Thomas E. Dum Real Estate Appraisers, Inc.:	*$3,000.00*	*$0.00*		*$3,000.00*
Turf Star, Inc.								
Turf Star, Inc.	8/21/2012	7/31/2012	6767327	Belt	$38.92	$0.00		$38.92
				Totals for Turf Star, Inc.:	*$38.92*	*$0.00*		*$38.92*
Underground Service Alert								
Underground Service Alert	8/21/2012	7/20/2012	12007165	Annual Membership 12-13	$168.00	$0.00		$168.00
				Totals for Underground Service Alert:	*$168.00*	*$0.00*		*$168.00*
United Site Services Inc								
United Site Services Inc	8/17/2012	7/5/2012	114-700114	4th of July services	$419.28	$0.00		$419.28
				Totals for United Site Services Inc:	*$419.28*	*$0.00*		*$419.28*
US Bank Corp Pymt System (Cal Card)								
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	General Supplies	$604.55	$0.00		$604.55
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	4th of July supplies	$448.78	$0.00		$448.78
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	Geocolsultants - well monitoring	$1,546.50	$0.00		$1,546.50
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	General Supplies	$189.61	$0.00		$189.61
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	Vehicle Fuel	$1,061.18	$0.00		$1,061.18
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	OSH - street lights	$23.90	$0.00		$23.90
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	gloves, water jug, volt tester, supplies	$266.30	$0.00		$266.30
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	Landscape fuel	$1,396.12	$0.00		$1,396.12
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	Misc supplies - first aid, prop room, safety ve	$645.96	$0.00		$645.96
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	USPS postage	$11.50	$0.00		$11.50
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	office depot - supplies	$322.72	$0.00		$322.72
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	car washes, car decor	$51.75	$0.00		$51.75
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	vehicle fuel	$2,465.51	$0.00		$2,465.51
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	CCC Sheriff - Training classes	$1,011.00	$0.00		$1,011.00
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	OSH RACES antenna supplies	$67.23	$0.00		$67.23
US Bank Corp Pymt System (Cal Card)	8/21/2012	7/23/2012	07/23/12	Fast signs - decals for car 1735	$459.50	$0.00		$459.50
				Totals for US Bank Corp Pymt System (Cal Card):	*$10,572.11*	*$0.00*		*$10,572.11*
Watch Guard								
Watch Guard	8/21/2012	7/11/2012	STDINV0017329	Overhead console with GPS/supplies	$5,493.69	$0.00		$5,493.69
				Totals for Watch Guard:	*$5,493.69*	*$0.00*		*$5,493.69*
Wells Fargo Bank, N.A.								
Wells Fargo Bank, N.A.	8/21/2012	8/1/2012	878882	Limited obligation improvement bonds Lydia l	$500.00	$0.00		$500.00
				Totals for Wells Fargo Bank, N.A.:	*$500.00*	*$0.00*		*$500.00*
Western Exterminator								
Western Exterminator	8/21/2012	7/31/2012	652677	July 2012	$334.50	$0.00		$334.50

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Totals for Western Exterminator:	*$334.50*	*$0.00*	*$334.50*
GRAND TOTALS:	**$224,222.41**	**$0.00**	**$224,222.41**

City of Clayton

Invoices paid in advance of 8/21/12 City Council Meeting

Vendor Name	Transaction Date	Transaction Number	Transaction Type	Description	Transaction Amount	Post Date	Invoice Balance
All-Guard Systems, Inc.							
All-Guard Systems, Inc.	**8/1/2012**	**25835**	**Invoice**	**AF & DTS Annual Fire MON w/daily test**	**$576.00**	**7/25/2012**	**$576.00**
All-Guard Systems, Inc.	8/3/2012	28748	Payment		($576.00)	8/3/2012	$0.00
All-Guard Systems, Inc.	**7/1/2012**	**A522481**	**Invoice**	**7/1/12-6/30/12 Monitoring Services**	**$564.00**	**8/3/2012**	**$564.00**
All-Guard Systems, Inc.	8/3/2012	28748	Payment		($564.00)	8/3/2012	$0.00
				Totals for All-Guard Systems, Inc.:			$0.00
Bay Area News Group-East Bay	**6/30/2012**	**00005110259**	**Invoice**	**Pavement Project Ad**	**$1,183.20**	**6/30/2012**	**$1,183.20**
Bay Area News Group-East Bay	7/31/2012	28731	Payment		($1,183.20)	7/31/2012	$0.00
Best Best & Kreiger LLP							
Best Best & Kreiger LLP	**7/11/2012**	**681970 & 681696**	**Invoice**	**Services Through June 30, 12**	**$9,375.00**	**6/30/2012**	**$9,375.00**
Best Best & Kreiger LLP	7/31/2012	28732	Payment		($9,375.00)	7/31/2012	$0.00
CalPERS Health							
CalPERS Health	**7/16/2012**	**731**	**Invoice**	**August 2012 health premium**	**$27,376.89**	**7/25/2012**	**$27,376.89**
CalPERS Health	8/8/2012	9100160	Payment		($27,376.89)	8/8/2012	$0.00
CalPERS Retirement							
CalPERS Retirement	**8/10/2012**	**7/25-8/24**	**Invoice**	**July/August Billing City Council**	**$446.60**	**9/18/2012**	**$446.60**
CalPERS Retirement	**8/10/2012**	**7/23-8/5/2012**	**Invoice**	**PPE 8/5/12**	**$22,286.43**	**9/3/2012**	**$22,286.43**
CalPERS Retirement	**7/25/2012**	**PPE 7/22/12**	**Invoice**	**PPE 7/22/12**	**$22,272.16**	**7/25/2012**	**$22,272.16**

CalPERS Retirement	8/8/2012 9100161	Payment		($22,272.16)	8/8/2012	$0.00
CalPERS Retirement	**7/13/2012 7/8/12**	**Invoice**	**PPE 7/8/12**	**$23,753.71**	**7/19/2012**	**$23,753.71**
CalPERS Retirement	7/19/2012 9100156	Payment		($23,753.71)	7/19/2012	$0.00
CalPERS Retirement	**7/13/2012 7/19**	**Invoice**	**City Council monthly**	**$446.60**	**7/19/2012**	**$446.60**
CalPERS Retirement	7/19/2012 9100156	Payment		($446.60)	7/19/2012	$0.00
Caltronics Business Systems, Inc						
Caltronics Business Systems, Inc	**7/17/2012 1123019**	**Invoice**	**Konica contract 6/15-7/14/2012**	**$375.51**	**7/25/2012**	**$375.51**
Caltronics Business Systems, Inc	7/31/2012 28733	Payment		($375.51)	7/31/2012	$0.00
			Totals for Caltronics Business Systems, Inc:		$0.00	
Cheyenne Electric Inc.						
Cheyenne Electric Inc.	**7/9/2012 7/9/12**	**Invoice**	**electrical work w/ quote dated 6/24/12**	**$2,595.00**	**6/24/2012**	**$2,595.00**
Cheyenne Electric Inc.	7/31/2012 28734	Payment		($2,595.00)	7/31/2012	$0.00
Contra Costa Tractor Mobile Svc						
Contra Costa Tractor Mobile Svc	**7/2/2012 15579**	**Invoice**	**repairs**	**$1,392.45**	**6/14/2012**	**$1,392.45**
Contra Costa Tractor Mobile Svc	7/31/2012 28735	Payment		($1,392.45)	7/31/2012	$0.00
Goldfarb & Lipman						
Goldfarb & Lipman	**7/13/2012 105436**	**Invoice**	**current fees through 6/30/12**	**$443.60**	**6/30/2012**	**$443.60**
Goldfarb & Lipman	7/31/2012 28736	Payment		($443.60)	7/31/2012	$0.00
			Totals for Goldfarb & Lipman:		$0.00	
J & R Floor Services						
J & R Floor Services	**7/1/2012 June 2012**	**Invoice**	**June billing**	**$4,910.00**	**6/30/2012**	**$4,910.00**
J & R Floor Services	7/31/2012 28737	Payment		($4,910.00)	7/31/2012	$0.00

Jason Delmar

Jason Delmar	**7/27/2012 218**	**Invoice**	**July Services**	**$300.00**	**7/31/2012**	**$300.00**
Jason Delmar	7/31/2012 28738	Payment		($300.00)	7/31/2012	$0.00
			Totals for Jason Delmar:		$0.00	

Marken Mechanical Services Inc

Marken Mechanical Services Inc	**7/3/2012 112-15600-2**	**Invoice**	**library thermostat**	**$597.51**	**6/26/2012**	**$597.51**
Marken Mechanical Services Inc	7/31/2012 28739	Payment		($597.51)	7/31/2012	$0.00
Marken Mechanical Services Inc	**7/3/2012 412-1151-7**	**Invoice**	**city hall maint. July 2012**	**$150.00**	**7/25/2012**	**$150.00**
Marken Mechanical Services Inc	7/31/2012 28739	Payment		($150.00)	7/31/2012	$0.00
Marken Mechanical Services Inc	**7/3/2012 412-1152-7**	**Invoice**	**library maintenance July 2012**	**$150.00**	**7/25/2012**	**$150.00**
Marken Mechanical Services Inc	7/31/2012 28739	Payment		($150.00)	7/31/2012	$0.00

Neopost (add postage)

Neopost (add postage)	**7/19/2012 7/19**	**Invoice**	**postage added**	**$300.00**	**7/25/2012**	**$300.00**
Neopost (add postage)	7/23/2012 9100158	Payment		($300.00)	7/23/2012	$0.00
Neopost (add postage)	**8/2/2012 8/2/12**	**Invoice**	**Neopost Postage - Admin**	**$300.00**	**8/6/2012**	**$300.00**
Neopost (add postage)	8/6/2012 9100159	Payment		($300.00)	8/6/2012	$0.00
			Totals for Neopost (add postage):		$300.00	

PERMCO, Inc.

PERMCO, Inc.	**7/30/2012 9787**	**Invoice**	**General Services**	**$6,854.50**	**7/31/2012**	**$6,854.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($6,854.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9797**	**Invoice**	**Oakhurst GHAD Misc. svcs**	**$934.00**	**7/31/2012**	**$934.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($934.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9788**	**Invoice**	**SW Inspections**	**$419.38**	**7/31/2012**	**$419.38**
PERMCO, Inc.	7/31/2012 28740	Payment		($419.38)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9796**	**Invoice**	**Diablo Estates BAD Admin**	**$1,220.00**	**7/31/2012**	**$1,220.00**

PERMCO, Inc.	7/31/2012 28740	Payment		($1,220.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9794**	**Invoice**	**Stormwater Violations, CVS & Flora Square**	**$300.00**	**7/31/2012**	**$300.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($300.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9789**	**Invoice**	**Stormwater Inspection**	**$41.50**	**7/31/2012**	**$41.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($41.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9790**	**Invoice**	**Silver Oaks Estates**	**$600.00**	**7/31/2012**	**$600.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($600.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9791**	**Invoice**	**Diablo Pointe Plan Check**	**$1,886.50**	**7/31/2012**	**$1,886.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($1,886.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9792**	**Invoice**	**Diablo Pointe Construction Inspections**	**$3,423.75**	**7/31/2012**	**$3,423.75**
PERMCO, Inc.	7/31/2012 28740	Payment		($3,423.75)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9793**	**Invoice**	**Diablo Pointe Stormwater Inspections**	**$41.50**	**7/31/2012**	**$41.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($41.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9795**	**Invoice**	**CAP Inspection #37**	**$83.00**	**7/31/2012**	**$83.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($83.00)	7/31/2012	$0.00
			Totals for PERMCO, Inc.:			$10,727.25

PG&E

PG&E	**7/23/2012 7/23/12**	**Invoice**	**6/21/12-7/22/12**	**$523.92**	**7/24/2012**	**$523.92**
PG&E	7/31/2012 28741	Payment		($523.92)	7/31/2012	$0.00
PG&E	**7/19/2012 7/19/12**	**Invoice**	**service 5/23-7/18**	**$625.38**	**6/30/2012**	**$625.38**
PG&E	7/31/2012 28741	Payment		($625.38)	7/31/2012	$0.00
PG&E	**7/24/2012 1218096305-5 7/2**	**Invoice**	**service 6/21-7/23/12**	**$2,909.35**	**7/24/2012**	**$2,909.35**
PG&E	7/31/2012 28741	Payment		($2,909.35)	7/31/2012	$0.00
PG&E	**7/18/2012 729347797-6 7/18**	**Invoice**	**service 5/22/12-7/17/12**	**$18,179.42**	**6/30/2012**	**$18,179.42**
PG&E	7/31/2012 28741	Payment		($18,179.42)	7/31/2012	$0.00
			Totals for PG&E:			$0.00

PMT Pest Control Service

PMT Pest Control Service	**7/4/2012 432**	**Invoice**	**Gopher and mole services 2012**	**$4,050.00**	**6/30/2012**	**$4,050.00**

PMT Pest Control Service	7/31/2012 28742	Payment		($4,050.00)	7/31/2012	$0.00
		Totals for PMT Pest Control Service:			$0.00	
Priority Payment Systems (Merchant Bankcard System)						
Priority Payment Systems (Merchant Bankca	**7/31/2012 518089240574194**	**Invoice**	**Credit Card Fees**	**$131.65**	**8/3/2012**	**$131.65**
Priority Payment Systems (Merchant Bankcard S	8/13/2012 9100163	Payment		($131.65)	8/13/2012	$0.00
Priority Payment Systems (Merchant Bankca	**6/30/2012 1592126793**	**Invoice**	**Merchant Fees June 2012**	**$49.54**	**7/3/2012**	**$49.54**
Priority Payment Systems (Merchant Bankcard S	7/3/2012 9100164	Payment		($49.54)	7/3/2012	$0.00
		Totals for Priority Payment Systems (Merchant Bankcard System):			$0.00	
Rock & Waterfall Co						
Rock & Waterfall Co	**7/28/2012 106-77**	**Invoice**	**waterfall maintenance**	**$650.00**	**6/28/2012**	**$650.00**
Rock & Waterfall Co	7/31/2012 28743	Payment		($650.00)	7/31/2012	$0.00
SPRAYTEC (Sprayer Sales Co)						
SPRAYTEC (Sprayer Sales Co)	**6/28/2012 11315**	**Invoice**	**WTS- Clayton 6/13 & 6/28/12**	**$225.00**	**6/28/2012**	**$225.00**
SPRAYTEC (Sprayer Sales Co)	7/31/2012 28744	Payment		($225.00)	7/31/2012	$0.00
		Totals for SPRAYTEC (Sprayer Sales Co):			$225.00	
Sprint Comm (PW & ADM)						
Sprint Comm (PW & ADM)	**7/29/2012 531409315-122**	**Invoice**	**May 26-June 25, 2012**	**$299.81**	**6/29/2012**	**$299.81**
Sprint Comm (PW & ADM)	7/31/2012 28745	Payment		($299.81)	7/31/2012	$0.00
		Totals for Sprint Comm (PW & ADM):			$307.87	
US Bank Corp Pymt System (Cal Card)						
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**Central Storage, supplies**	**$630.42**	**7/25/2012**	**$630.42**
US Bank Corp Pymt System (Cal Card)	8/3/2012 28749	Payment		($630.42)	8/3/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**Geoconsultants**	**$1,546.50**	**7/25/2012**	**$1,546.50**

US Bank Corp Pymt System (Cal Card)	8/3/2012 28749	Payment		($1,546.50)	8/3/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**CA Newspapers**	**$350.00**	**7/25/2012**	**$350.00**
US Bank Corp Pymt System (Cal Card)	8/3/2012 28749	Payment		($350.00)	8/3/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**Grove Supplies**	**$1,512.15**	**7/25/2012**	**$1,512.15**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($1,512.15)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**Misc. shop supplies**	**$576.97**	**7/25/2012**	**$576.97**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($576.97)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**plywood for windows**	**$697.90**	**7/25/2012**	**$697.90**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($697.90)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**gas**	**$1,174.39**	**7/25/2012**	**$1,174.39**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($1,174.39)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**landscape supplies**	**$526.89**	**7/25/2012**	**$526.89**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($526.89)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**landscape fuel**	**$1,435.46**	**7/25/2012**	**$1,435.46**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($1,435.46)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**CCP electrical**	**$478.20**	**7/25/2012**	**$478.20**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($478.20)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**PAPA Sandro**	**$80.00**	**7/25/2012**	**$80.00**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($80.00)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**park faucets**	**$391.12**	**7/25/2012**	**$391.12**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($391.12)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**wire**	**$620.34**	**7/25/2012**	**$620.34**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($620.34)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**USPS - postage**	**$11.50**	**7/25/2012**	**$11.50**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($11.50)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**fuel**	**$2,478.56**	**7/25/2012**	**$2,478.56**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($2,478.56)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**RACES antenna materials**	**$49.91**	**7/25/2012**	**$49.91**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($49.91)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**vehicle maintenance**	**$173.03**	**7/25/2012**	**$173.03**

US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($173.03)	7/31/2012	$0.00
US Bank Ops Ctr ATTN: TFM (RDA 96, 99)						
US Bank Ops Ctr ATTN: TFM (RDA 96, 99)	**8/1/2012 Series 1999 - RDA**	**Invoice**	**debt service payment 8/1/12**	**$407,541.25**	**8/1/2012**	
US Bank Ops Ctr ATTN: TFM (RDA 96, 99)	8/1/2012 Series 1999 RDA	Credit Memo	credits for debt service	($406.43)	8/1/2012	$407,134.82
US Bank Ops Ctr ATTN: TFM (RDA 96, 99)	8/6/2012 9100157	Payment		($407,134.82)	8/6/2012	$0.00
	Totals for US Bank Ops Ctr ATTN: TFM (RDA 96, 99):				$0.00	
Waraner Brothers Tree Service						
Waraner Brothers Tree Service	**6/25/2012 9881**	**Invoice**	**scheduled tree work**	**$900.00**	**6/20/2012**	**$900.00**
Waraner Brothers Tree Service	7/31/2012 28747	Payment		($900.00)	7/31/2012	$0.00
Waraner Brothers Tree Service	**6/25/2012 9882**	**Invoice**	**scheduled tree work - Stranahan Circle Trail**	**$1,200.00**	**6/25/2012**	**$1,200.00**
Waraner Brothers Tree Service	7/31/2012 28747	Payment		($1,200.00)	7/31/2012	$0.00
	Totals for Waraner Brothers Tree Service:				$0.00	
Wells Fargo Bank, N.A.	**7/24/2012 874882**	**Invoice**	**lim obligation imp bonds Lydia Lane Sewer As:**	**$10,649.75**	**9/2/2012**	**$10,649.75**

Total $ 595,860.77

City of Clayton

ALL Invoices for 8/21/12 City Council Approval

Vendor Name	Transaction Date	Transaction Number	Transaction Type	Description	Transaction Amount	Post Date	Invoice Balance
Access One							
Access One	**8/2/2012**	**1282637**	**Invoice**	**July Long Distance**	**$45.62**	**8/17/2012**	**$45.62**
All-Guard Systems, Inc.							
All-Guard Systems, Inc.	**8/1/2012**	**25835**	**Invoice**	**AF & DTS Annual Fire MON w/daily test**	**$576.00**	**7/25/2012**	**$576.00**
All-Guard Systems, Inc.	8/3/2012	28748	Payment		($576.00)	8/3/2012	$0.00
All-Guard Systems, Inc.	**7/1/2012**	**A522481**	**Invoice**	**7/1/12-6/30/12 Monitoring Services**	**$564.00**	**8/3/2012**	**$564.00**
All-Guard Systems, Inc.	8/3/2012	28748	Payment		($564.00)	8/3/2012	$0.00
				Totals for All-Guard Systems, Inc.:		$0.00	
American Fidelity Assurance Company							
American Fidelity Assurance Company	**8/1/2012**	**777795A**	**Invoice**	**July Billing**	**$975.59**	**8/10/2012**	**$975.59**
				Totals for American Fidelity Assurance Company:		$975.59	
Apache Signs							
Apache Signs	**7/16/2012**	**7/16**	**Invoice**	**10"decals for cars**	**$90.00**	**8/10/2012**	**$90.00**
				Totals for Apache Signs:		$90.00	
Apex Carpet And Upholstery Cleaning							
Apex Carpet And Upholstery Cleaning	**7/17/2012**	**2063**	**Invoice**	**Library Carpet Cleaning**	**$1,300.00**	**7/31/2012**	**$1,300.00**
Apex Carpet And Upholstery Cleaning	**8/3/2012**	**2068**	**Invoice**	**carpets cleaned City Hall/Police Stn/Exercise R**	**$500.00**	**8/10/2012**	**$500.00**
				Totals for Apex Carpet And Upholstery Cleaning:		$1,800.00	
Arlene Kikkawa-Nielson							
Arlene Kikkawa Nielson	**8/17/2012**	**August**	**Invoice**	**Library Volunteer Coord August**	**$600.00**	**8/17/2012**	**$900.00**

AT&T/ CalNet 2							
AT&T/ CalNet 2	**7/8/2012 3558549**	**Invoice**	**Phone services 6/22-7/21/12**	**$1,321.44**	**7/22/2012**	**$1,321.44**
			Totals for AT&T/ CalNet 2:			$1,321.44
Bay Area Barricade Serv.						
Bay Area Barricade Serv.	**7/25/2012 0284679-IN**	**Invoice**	**Diamondback safety glasses**	**$103.09**	**8/10/2012**	**$103.09**
Bay Area Barricade Serv.	**8/7/2012 0284539-IN**	**Invoice**	**safety vests**	**$645.60**	**8/15/2012**	**$645.60**
			Totals for Bay Area Barricade Serv.:			$748.69
Bay Area News Group-East Bay						
Bay Area News Group-East Bay	**6/30/2012 00005110259**	**Invoice**	**Pavement Project Ad**	**$1,183.20**	**6/30/2012**	**$1,183.20**
Bay Area News Group-East Bay	7/31/2012 28731	Payment		($1,183.20)	7/31/2012	$0.00
Bay Area News Group-East Bay	**7/31/2012 00000524193**	**Invoice**	**Classified Ad - Election**	**$151.40**	**8/13/2012**	**$151.40**
			Totals for Bay Area News Group-East Bay:			$151.40
Best Best & Kreiger LLP						
Best Best & Kreiger LLP	**7/11/2012 681970 & 681696**	**Invoice**	**Services Through June 30, 12**	**$9,375.00**	**6/30/2012**	**$9,375.00**
Best Best & Kreiger LLP	7/31/2012 28732	Payment		($9,375.00)	7/31/2012	$0.00
Best Best & Kreiger LLP	**8/4/2012 683340**	**Invoice**	**July Services**	**$8,000.00**	**8/10/2012**	**$8,000.00**
			Totals for Best Best & Kreiger LLP:			$8,000.00
CalPERS Health						
CalPERS Health	**7/16/2012 731**	**Invoice**	**August 2012 health premium**	**$27,376.89**	**7/25/2012**	**$27,376.89**
CalPERS Health	8/8/2012 9100160	Payment		($27,376.89)	8/8/2012	$0.00
			Totals for CalPERS Health:			$0.00
CalPERS Retirement						
CalPERS Retirement	**7/25/2012 PPE 7/22/12**	**Invoice**	**PPE 7/22/12**	**$22,272.16**	**7/25/2012**	**$22,272.16**
CalPERS Retirement	8/8/2012 9100161	Payment		($22,272.16)	8/8/2012	$0.00

CalPERS Retirement	**8/10/2012 7/25-8/24**	**Invoice**	**July/August Billing City Council**	**$446.60**	**9/18/2012**	**$446.60**
CalPERS Retirement	**8/10/2012 7/23-8/5/2012**	**Invoice**	**PPE 8/5/12**	**$22,286.43**	**9/3/2012**	**$22,286.43**
CalPERS Retirement	**7/13/2012 7/8/12**	**Invoice**	**PPE 7/8/12**	**$23,753.71**	**7/19/2012**	**$23,753.71**
CalPERS Retirement	7/19/2012 9100156	Payment		($23,753.71)	7/19/2012	$0.00
CalPERS Retirement	**7/13/2012 7/19**	**Invoice**	**City Council monthly**	**$446.60**	**7/19/2012**	**$446.60**
CalPERS Retirement	7/19/2012 9100156	Payment		($446.60)	7/19/2012	$0.00
			Totals for CalPERS Retirement:		$22,733.03	
Caltronics Business Systems, Inc						
Caltronics Business Systems, Inc	**7/17/2012 1123019**	**Invoice**	**Konica contract 6/15-7/14/2012**	**$375.51**	**7/25/2012**	**$375.51**
Caltronics Business Systems, Inc	7/31/2012 28733	Payment		($375.51)	7/31/2012	$0.00
			Totals for Caltronics Business Systems, Inc:		$0.00	
CCC Assessor's Office						
CCC Assessor's Office	**8/7/2012 8/7/12**	**Invoice**	**2012-2013 Clayton Parcel Tax Rolls (Electronic**	**$170.00**	**8/10/2012**	**$170.00**
			Totals for CCC Assessor's Office:		$170.00	
CCC General Services (Traffic)						
CCC General Services (Traffic)	**7/23/2012 4626**	**Invoice**	**June Traffic Signal Maint.**	**$1,250.81**	**6/30/2012**	**$1,250.81**
CCC General Services (Traffic)	**6/21/2012 4593**	**Invoice**	**May Traffic Signal Maint**	**$3,361.87**	**5/31/2012**	**$3,361.87**
			Totals for CCC General Services (Traffic):		$4,612.68	
CCC Information Technology						
CCC Information Technology	**8/9/2012 7626**	**Invoice**	**Data Processing Services for July 2012**	**$72.38**	**8/17/2012**	**$72.38**
			Totals for CCC Information Technology:		$72.38	
CCC Library						
CCC Library	**7/23/2012 Q4 11/12**	**Invoice**	**Additional Hours of Service FY 11/12 Q4**	**$5,052.47**	**6/30/2012**	**$5,052.47**
			Totals for CCC Library:		$5,052.47	

CCC Office of the Sheriff, Forensic Services Division

CCC Office of the Sheriff, Forensic Services I	**7/13/2012 CLPD-1206**	**Invoice**	**June Billings Clayton PD**	**$900.00**	**6/30/2012**	**$900.00**
	Totals for CCC Office of the Sheriff, Forensic Services Division:				$900.00	

CCC Police Chiefs' Assoc.

CCC Police Chiefs' Assoc.	**7/16/2012 12-01**	**Invoice**	**FY 2012/2013 CCC Police Chief's Association I**	**$650.00**	**8/10/2012**	**$650.00**
	Totals for CCC Police Chiefs' Assoc.:				$650.00	

Chase Electronics

Chase Electronics	**8/1/2012 123940**	**Invoice**	**Parts/Labor Radar Trailer**	**$106.75**	**8/10/2012**	**$106.75**
	Totals for Chase Electronics:				$106.75	

Cheyenne Electric Inc.

Cheyenne Electric Inc.	**7/9/2012 7/9/12**	**Invoice**	**electrical work w/ quote dated 6/24/12**	**$2,595.00**	**6/24/2012**	**$2,595.00**
Cheyenne Electric Inc.	7/31/2012 28734	Payment		($2,595.00)	7/31/2012	$0.00
Cheyenne Electric Inc.	**7/20/2012 7/20**	**Invoice**	**Repair water fall feature pump**	**$1,508.00**	**8/10/2012**	**$1,508.00**
	Totals for Cheyenne Electric Inc.:				$1,508.00	

City of Concord

City of Concord	**8/3/2012 29397**	**Invoice**	**Dispatch services August 2012**	**$13,285.00**	**8/10/2012**	**$13,285.00**
	Totals for City of Concord:				$13,285.00	

Clean Street

Clean Street	**7/31/2012 68021**	**Invoice**	**July Sweep Fee**	**$3,500.00**	**8/10/2012**	**$3,500.00**
	Totals for Clean Street:				$3,500.00	

Contra Costa Tractor Mobile Svc

Contra Costa Tractor Mobile Svc	**7/2/2012 15579**	**Invoice**	**repairs**	**$1,392.45**	**6/14/2012**	**$1,392.45**
Contra Costa Tractor Mobile Svc	7/31/2012 28735	Payment		($1,392.45)	7/31/2012	$0.00
Contra Costa Tractor Mobile Svc	**7/26/2012 015627**	**Invoice**	**service call PTO - hyd pump & rear seal**	**$2,743.21**	**8/15/2012**	**$2,743.21**

				Totals for Contra Costa Tractor Mobile Svc:			$2,743.21	
	Contra Costa Water Dist.							
Contra Costa Water Dist.		**8/9/2012**	**B Series**	**Invoice**	**irrigation 6/6/12-8/7/12**	**$37,266.29**	**8/10/2012**	**$37,266.29**
				Totals for Contra Costa Water Dist.:			$37,266.29	
	CR Fireline Inc							
CR Fireline Inc		**7/27/2012**	**92992**	**Invoice**	**Semi-Annual Sprinkler Insp./Test City Hall**	**$310.00**	**8/10/2012**	**$310.00**
CR Fireline Inc		**7/27/2012**	**92993**	**Invoice**	**Semi-Annual Sprinkler Insp./Test Endeavor H**	**$310.00**	**8/10/2012**	**$310.00**
CR Fireline Inc		**7/27/2012**	**92994**	**Invoice**	**Semi-Annual Sprinkler Insp./Test Library**	**$310.00**	**8/10/2012**	**$310.00**
				Totals for CR Fireline Inc:			$930.00	
	Cropper Accountancy Corp							
Cropper Accountancy Corp		**7/31/2012**	**643**	**Invoice**	**Audit - bank recon/Blackbaud**	**$3,250.00**	**8/10/2012**	**$3,250.00**
				Totals for Cropper Accountancy Corp:			$3,250.00	
	De Lage Landen Financial Services, Inc.							
De Lage Landen Financial Services, Inc.		**8/7/2012**	**14659648**	**Invoice**	**Konica contract 25079777**	**$431.68**	**8/13/2012**	**$431.68**
				Totals for De Lage Landen Financial Services, Inc.:			$431.68	
	Globalstar LLC							
Globalstar LLC		**7/16/2012**	**100000000403613**	**Invoice**	**close date 7/16/12**	**$43.59**	**8/10/2012**	**$43.59**
				Totals for Globalstar LLC:			$43.59	
	Goldfarb & Lipman							
Goldfarb & Lipman		**7/13/2012**	**105436**	**Invoice**	**current fees through 6/30/12**	**$443.60**	**6/30/2012**	**$443.60**
Goldfarb & Lipman		**8/16/2012**	**105713**	**Invoice**	**current fees through 7/31**	**$1,200.50**	**8/17/2012**	**$1,200.50**
Goldfarb & Lipman		7/31/2012	28736	Payment		($443.60)	7/31/2012	$0.00
				Totals for Goldfarb & Lipman:			$0.00	
	Hammons Supply Company							

Hammons Supply Company	**7/5/2012 72903**	**Invoice**	**Supplies**	**$541.14**	**8/10/2012**	**$541.14**
Hammons Supply Company	**8/3/2012 73419**	**Invoice**	**12" plastic dust**	**$16.83**	**8/15/2012**	**$16.83**
			Totals for Hammons Supply Company:		$557.97	
Harun Simbirdi						
Harun Simbirdi	**8/7/2012 8/6/12**	**Invoice**	**CERT Web Page Expenses**	**$55.97**	**8/10/2012**	**$55.97**
			Totals for Harun Simbirdi:		$55.97	
Health Care Dental Trust						
Health Care Dental Trust	**8/7/2012 September 2012**	**Invoice**	**September Dental**	**$2,822.49**	**8/10/2012**	**$2,822.49**
			Totals for Health Care Dental Trust:		$2,822.49	
ICMA Retirement Corporation						
ICMA Retirement Corporation	**7/6/2012 10981**	**Invoice**	**Plan fee billed quarterly 7/1/12-9/30/12**	**$125.00**	**7/31/2012**	**$125.00**
			Totals for ICMA Retirement Corporation:		$125.00	
J & R Floor Services						
J & R Floor Services	**7/1/2012 June 2012**	**Invoice**	**June billing**	**$4,910.00**	**6/30/2012**	**$4,910.00**
J & R Floor Services	7/31/2012 28737	Payment		($4,910.00)	7/31/2012	$0.00
J & R Floor Services	**8/1/2012 8/1/12**	**Invoice**	**July Services**	**$4,880.00**	**8/10/2012**	**$4,880.00**
			Totals for J & R Floor Services:		$4,880.00	
Jason Delmar						
Jason Delmar	**7/27/2012 218**	**Invoice**	**July Services**	**$300.00**	**7/31/2012**	**$300.00**
Jason Delmar	7/31/2012 28738	Payment		($300.00)	7/31/2012	$0.00
			Totals for Jason Delmar:		$0.00	
John Deere Landscapes Inc						
John Deere Landscapes Inc	**6/28/2012 61818181**	**Invoice**	**misc cust repair**	**$302.02**	**6/26/2012**	**$302.02**

John Deere Landscapes Inc	**7/13/2012 62016947**	**Invoice**	**turf gold**	**$171.33**	**7/25/2012**	**$171.33**
		Totals for John Deere Landscapes Inc:			$473.35	
LarryLogic Productions						
LarryLogic Productions	**7/18/2012 1263**	**Invoice**	**city council meeting 7/17/12**	**$325.00**	**7/25/2012**	**$325.00**
		Totals for LarryLogic Productions:			$325.00	
Local Government Consultants						
Local Government Consultants	**8/1/2012 123**	**Invoice**	**State Mandated Cost/1st Pmt for FY 2012/2013**	**$1,050.00**	**8/10/2012**	**$1,050.00**
		Totals for Local Government Consultants:			$1,050.00	
Marken Mechanical Services Inc						
Marken Mechanical Services Inc	**7/3/2012 112-15600-2**	**Invoice**	**library thermostat**	**$597.51**	**6/26/2012**	**$597.51**
Marken Mechanical Services Inc	7/31/2012 28739	Payment		($597.51)	7/31/2012	$0.00
Marken Mechanical Services Inc	**7/3/2012 412-1151-7**	**Invoice**	**city hall maint. July 2012**	**$150.00**	**7/25/2012**	**$150.00**
Marken Mechanical Services Inc	7/31/2012 28739	Payment		($150.00)	7/31/2012	$0.00
Marken Mechanical Services Inc	**7/3/2012 412-1152-7**	**Invoice**	**library maintenance July 2012**	**$150.00**	**7/25/2012**	**$150.00**
Marken Mechanical Services Inc	7/31/2012 28739	Payment		($150.00)	7/31/2012	$0.00
Marken Mechanical Services Inc	**8/1/2012 412-1152-8**	**Invoice**	**Library Maint 8/12**	**$150.00**	**8/10/2012**	**$150.00**
Marken Mechanical Services Inc	**8/1/2012 412-1151-8**	**Invoice**	**City Hall Maint 8/12**	**$150.00**	**8/10/2012**	**$150.00**
Marken Mechanical Services Inc	**7/23/2012 312-15700**	**Invoice**	**Gorunded compressor on condensing unit #1**	**$3,190.00**	**8/10/2012**	**$3,190.00**
Marken Mechanical Services Inc	**7/23/2012 112-15834**	**Invoice**	**change out failed condensor motor on CU-1**	**$635.99**	**8/10/2012**	**$635.99**
Marken Mechanical Services Inc	**5/22/2012 112-15600**	**Invoice**	**repair thermostat**	**$335.00**	**5/31/2012**	**$335.00**
Marken Mechanical Services Inc	**5/30/2012 112-15600-1**	**Invoice**	**VAV problems**	**$1,265.92**	**5/31/2012**	**$1,265.92**
		Totals for Marken Mechanical Services Inc:			$5,726.91	
Martell Water Systems, Inc.						
Martell Water Systems, Inc.	**7/17/2012 19182**	**Invoice**	**service call 7/11/12**	**$202.50**	**7/25/2012**	**$202.50**

				Totals for Martell Water Systems, Inc.:			$202.50
Muir/ Diablo Occupation Medicine							
Muir/ Diablo Occupation Medicine	**7/10/2012**	**185626**	**Invoice**	**Dansie, Lynn**	**$77.00**	**7/25/2012**	**$77.00**
				Totals for Muir/ Diablo Occupation Medicine:			$77.00
Municipal Pooling Authority							
Municipal Pooling Authority	**7/20/2012**	**P1203**	**Invoice**	**Property coverage premium 2012/2013**	**$9,096.00**	**7/25/2012**	**$9,096.00**
Municipal Pooling Authority	**7/17/2012**	**ER-1203**	**Invoice**	**ERMA Premium 2012-2013**	**$9,382.00**	**7/25/2012**	**$9,382.00**
Municipal Pooling Authority	**8/9/2012**	**8/2012**	**Invoice**	**August LTD**	**$1,254.18**	**8/10/2012**	**$1,254.18**
Municipal Pooling Authority	**8/9/2012**	**S2Q1203**	**Invoice**	**Kuwitzky Medicare Tax Withheld**	**$67.69**	**8/13/2012**	**$67.69**
Municipal Pooling Authority	**8/13/2012**	**G1203**	**Invoice**	**Workers' comp work alternative participants I**	**$750.00**	**8/17/2012**	
Municipal Pooling Authority	8/13/2012	G1203	Credit Memo	audited work alternative premium for 11/12	($17.00)	8/17/2012	$733.00
				Totals for Municipal Pooling Authority:			$20,532.87
Neopost (add postage)							
Neopost (add postage)	**7/19/2012**	**7/19**	**Invoice**	**postage added**	**$300.00**	**7/25/2012**	**$300.00**
Neopost (add postage)	7/23/2012	9100158	Payment		($300.00)	7/23/2012	$0.00
Neopost (add postage)	**8/2/2012**	**8/2/12**	**Invoice**	**Neopost Postage - Admin**	**$300.00**	**8/6/2012**	**$300.00**
Neopost (add postage)	8/6/2012	9100159	Payment		($300.00)	8/6/2012	$0.00
Neopost (add postage)	**7/19/2012**	**7/19**	**Invoice**	**Neopost Postage added**	**$300.00**	**7/23/2012**	**$300.00**
				Totals for Neopost (add postage):			$300.00
Neopost Leasing (Mail Finance)							
Neopost Leasing (Mail Finance)	**7/24/2012**	**N3426764**	**Invoice**	**Lease 8/25/12-9/24/12**	**$222.02**	**8/10/2012**	**$222.02**
				Totals for Neopost Leasing (Mail Finance):			$222.02
Pacific Telemanagement Svc							
Pacific Telemanagement Svc	**7/25/2012**	**422122**	**Invoice**	**Phone booth August, 2012**	**$73.00**	**7/31/2012**	**$73.00**

			Totals for Pacific Telemanagement Svc:			$73.00
PERMCO, Inc.						
PERMCO, Inc.	**7/30/2012 9787**	**Invoice**	**General Services**	**$6,854.50**	**7/31/2012**	**$6,854.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($6,854.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9797**	**Invoice**	**Oakhurst GHAD Misc. svcs**	**$934.00**	**7/31/2012**	**$934.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($934.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9788**	**Invoice**	**SW Inspections**	**$419.38**	**7/31/2012**	**$419.38**
PERMCO, Inc.	7/31/2012 28740	Payment		($419.38)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9796**	**Invoice**	**Diablo Estates BAD Admin**	**$1,220.00**	**7/31/2012**	**$1,220.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($1,220.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9794**	**Invoice**	**Stormwater Violations, CVS & Flora Square**	**$300.00**	**7/31/2012**	**$300.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($300.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9789**	**Invoice**	**Stormwater Inspection**	**$41.50**	**7/31/2012**	**$41.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($41.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9790**	**Invoice**	**Silver Oaks Estates**	**$600.00**	**7/31/2012**	**$600.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($600.00)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9791**	**Invoice**	**Diablo Pointe Plan Check**	**$1,886.50**	**7/31/2012**	**$1,886.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($1,886.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9792**	**Invoice**	**Diablo Pointe Construction Inspections**	**$3,423.75**	**7/31/2012**	**$3,423.75**
PERMCO, Inc.	7/31/2012 28740	Payment		($3,423.75)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9793**	**Invoice**	**Diablo Pointe Stormwater Inspections**	**$41.50**	**7/31/2012**	**$41.50**
PERMCO, Inc.	7/31/2012 28740	Payment		($41.50)	7/31/2012	$0.00
PERMCO, Inc.	**7/30/2012 9795**	**Invoice**	**CAP Inspection #37**	**$83.00**	**7/31/2012**	**$83.00**
PERMCO, Inc.	7/31/2012 28740	Payment		($83.00)	7/31/2012	$0.00
PERMCO, Inc.	**8/13/2012 9806**	**Invoice**	**Retainer - General Svcs.**	**$3,844.50**	**8/17/2012**	**$3,844.50**
PERMCO, Inc.	**8/13/2012 9807**	**Invoice**	**Diablo Pointe Plan Check**	**$394.25**	**8/17/2012**	**$394.25**
PERMCO, Inc.	**8/13/2012 9808**	**Invoice**	**Diablo Pointe Construction Inspection**	**$2,011.50**	**8/17/2012**	**$2,011.50**
PERMCO, Inc.	**8/13/2012 9809**	**Invoice**	**Stormwater Violations - CVS/Flora Square**	**$785.25**	**8/17/2012**	**$785.25**

PERMCO, Inc.	**8/13/2012 9810**	**Invoice**	**CAP Inspections 479 Obsidian Way**	**$83.00**	**8/17/2012**	**$83.00**
PERMCO, Inc.	**8/13/2012 9811**	**Invoice**	**Clayton Road Median Landscape Project**	**$122.00**	**8/17/2012**	**$122.00**
PERMCO, Inc.	**8/13/2012 9812**	**Invoice**	**Diablo Estates BAD Admin**	**$2,625.00**	**8/17/2012**	**$2,625.00**
PERMCO, Inc.	**8/13/2012 9813**	**Invoice**	**Notice of Violation 128 Widmar Place**	**$861.75**	**8/17/2012**	**$861.75**
			Totals for PERMCO, Inc.:		$10,727.25	
PG&E						
PG&E	**7/23/2012 7/23/12**	**Invoice**	**6/21/12-7/22/12**	**$523.92**	**7/24/2012**	**$523.92**
PG&E	7/31/2012 28741	Payment		($523.92)	7/31/2012	$0.00
PG&E	**7/19/2012 7/19/12**	**Invoice**	**service 5/23-7/18**	**$625.38**	**6/30/2012**	**$625.38**
PG&E	7/31/2012 28741	Payment		($625.38)	7/31/2012	$0.00
PG&E	**7/24/2012 1218096305-5 7/2**	**Invoice**	**service 6/21-7/23/12**	**$2,909.35**	**7/24/2012**	**$2,909.35**
PG&E	7/31/2012 28741	Payment		($2,909.35)	7/31/2012	$0.00
PG&E	**7/18/2012 729347797-6 7/18**	**Invoice**	**service 5/22/12-7/17/12**	**$18,179.42**	**6/30/2012**	**$18,179.42**
PG&E	7/31/2012 28741	Payment		($18,179.42)	7/31/2012	$0.00
			Totals for PG&E:		$0.00	
PMT Pest Control Service						
PMT Pest Control Service	**7/4/2012 432**	**Invoice**	**Gopher and mole services 2012**	**$4,050.00**	**6/30/2012**	**$4,050.00**
PMT Pest Control Service	7/31/2012 28742	Payment		($4,050.00)	7/31/2012	$0.00
			Totals for PMT Pest Control Service:		$0.00	
Priority Payment Systems (Merchant Bankcard System)						
Priority Payment Systems (Merchant Bankca	**7/31/2012 518089240574194**	**Invoice**	**Credit Card Fees**	**$131.65**	**8/3/2012**	**$131.65**
Priority Payment Systems (Merchant Bankcard S	8/13/2012 9100163	Payment		($131.65)	8/13/2012	$0.00
Priority Payment Systems (Merchant Bankca	**6/30/2012 1592126793**	**Invoice**	**Merchant Fees June 2012**	**$49.54**	**7/3/2012**	**$49.54**
Priority Payment Systems (Merchant Bankcard S	7/3/2012 9100164	Payment		($49.54)	7/3/2012	$0.00
			Totals for Priority Payment Systems (Merchant Bankcard System):		$0.00	
Riso Products						
Riso Products	**8/17/2012**	**Invoice**	**PD Copier maint**	**$94.79**	**8/17/2012**	**$94.79**

Rock & Waterfall Co

Rock & Waterfall Co	**7/28/2012 106-77**	**Invoice**	**waterfall maintenance**	**$650.00**	**6/28/2012**	**$650.00**
Rock & Waterfall Co	7/31/2012 28743	Payment		($650.00)	7/31/2012	$0.00
Rock & Waterfall Co	**7/28/2012 107-31**	**Invoice**	**waterfall maint July 2012**	**$650.00**	**8/10/2012**	**$650.00**
Rock & Waterfall Co	**8/4/2012 107-47**	**Invoice**	**pump/motor replacement**	**$1,726.62**	**8/15/2012**	**$1,726.62**
			Totals for Rock & Waterfall Co:		$2,376.62	

Shelley Brown

Shelley Brown	**8/13/2012 024955**	**Invoice**	**Deposit Refund 8/11/12**	**$100.00**	**8/15/2012**	
Shelley Brown	8/13/2012 024955	Credit Memo	Over 1 hour 8/11/12	($53.00)	8/15/2012	$47.00
			Totals for Shelley Brown:		$47.00	

SPRAYTEC (Sprayer Sales Co)

SPRAYTEC (Sprayer Sales Co)	**6/28/2012 11315**	**Invoice**	**WTS- Clayton 6/13 & 6/28/12**	**$225.00**	**6/28/2012**	**$225.00**
SPRAYTEC (Sprayer Sales Co)	7/31/2012 28744	Payment		($225.00)	7/31/2012	$0.00
SPRAYTEC (Sprayer Sales Co)	**7/30/2012 11350**	**Invoice**	**WTS- Clayton July 2012**	**$225.00**	**8/10/2012**	**$225.00**
			Totals for SPRAYTEC (Sprayer Sales Co):		$225.00	

Sprint Comm (PD)

Sprint Comm (PD)	**7/29/2012 703335311-128**	**Invoice**	**June 26-July 25, 2012**	**$400.97**	**8/10/2012**	**$400.97**
			Totals for Sprint Comm (PD):		$400.97	

Sprint Comm (PW & ADM)

Sprint Comm (PW & ADM)	**7/29/2012 531409315-122**	**Invoice**	**May 26-June 25, 2012**	**$299.81**	**6/29/2012**	**$299.81**
Sprint Comm (PW & ADM)	7/31/2012 28745	Payment		($299.81)	7/31/2012	$0.00
Sprint Comm (PW & ADM)	**7/29/2012 531409315-123**	**Invoice**	**6/26-7/25/2012**	**$307.87**	**8/10/2012**	**$307.87**
			Totals for Sprint Comm (PW & ADM):		$307.87	

Stericycle Inc

Stericycle Inc	**8/1/2012**	**3001920711**	**Invoice**	**quarterly fees 8/12-10/12**	**$206.82**	**8/1/2012**	**$206.82**
				Totals for Stericycle Inc:		$206.82	
Stockbridge							
Stoclbridge	**8/17/2012**		**Invoice**	**#3**	**$61,909.22**	**8/17/2012**	**$61,909.22**
The Radar Shop							
The Radar Shop	**7/23/2012**	**08845**	**Invoice**	**radar units**	**$221.00**	**7/31/2012**	**$221.00**
				Totals for The Radar Shop:		$221.00	
Thomas E. Dum Real Estate Appraisers, Inc.							
Thomas E. Dum Real Estate Appraisers, Inc.	**8/16/2012**	**15212**	**Invoice**	**Appriasal Review on Property at Clayton Road**	**$3,000.00**	**8/17/2012**	**$3,000.00**
				Totals for Thomas E. Dum Real Estate Appraisers, Inc.:		$3,000.00	
Turf Star, Inc.							
Turf Star, Inc.	**7/31/2012**	**6767327**	**Invoice**	**Belt**	**$38.92**	**8/13/2012**	**$38.92**
				Totals for Turf Star, Inc.:		$38.92	
Underground Service Alert							
Underground service alert			**Invoice**	**subscription**	**$168.00**	**8/17/2012**	**$168.00**
United Site Services Inc							
United Site Services Inc	**7/5/2012**	**114-700114**	**Invoice**	**4th of July services**	**$419.28**	**7/25/2012**	**$419.28**
				Totals for United Site Services Inc:		$419.28	
US Bank Corp Pymt System (Cal Card)							
US Bank Corp Pymt System (Cal Card)	**6/22/2012**	**6/22/12**	**Invoice**	**Central Storage, supplies**	**$630.42**	**7/25/2012**	**$630.42**
US Bank Corp Pymt System (Cal Card)	8/3/2012	28749	Payment		($630.42)	8/3/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012**	**6/22/12**	**Invoice**	**Geoconsultants**	**$1,546.50**	**7/25/2012**	**$1,546.50**
US Bank Corp Pymt System (Cal Card)	8/3/2012	28749	Payment		($1,546.50)	8/3/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012**	**6/22/12**	**Invoice**	**CA Newspapers**	**$350.00**	**7/25/2012**	**$350.00**
US Bank Corp Pymt System (Cal Card)	8/3/2012	28749	Payment		($350.00)	8/3/2012	$0.00

US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**Grove Supplies**	**$1,512.15**	**7/25/2012**	**$1,512.15**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($1,512.15)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**Misc. shop supplies**	**$576.97**	**7/25/2012**	**$576.97**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($576.97)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**plywood for windows**	**$697.90**	**7/25/2012**	**$697.90**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($697.90)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**gas**	**$1,174.39**	**7/25/2012**	**$1,174.39**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($1,174.39)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**landscape supplies**	**$526.89**	**7/25/2012**	**$526.89**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($526.89)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**landscape fuel**	**$1,435.46**	**7/25/2012**	**$1,435.46**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($1,435.46)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**CCP electrical**	**$478.20**	**7/25/2012**	**$478.20**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($478.20)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**PAPA Sandro**	**$80.00**	**7/25/2012**	**$80.00**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($80.00)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**park faucets**	**$391.12**	**7/25/2012**	**$391.12**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($391.12)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**wire**	**$620.34**	**7/25/2012**	**$620.34**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($620.34)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**USPS - postage**	**$11.50**	**7/25/2012**	**$11.50**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($11.50)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**fuel**	**$2,478.56**	**7/25/2012**	**$2,478.56**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($2,478.56)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**RACES antenna materials**	**$49.91**	**7/25/2012**	**$49.91**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($49.91)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**6/22/2012 6/22/12**	**Invoice**	**vehicle maintenance**	**$173.03**	**7/25/2012**	**$173.03**
US Bank Corp Pymt System (Cal Card)	7/31/2012 28746	Payment		($173.03)	7/31/2012	$0.00
US Bank Corp Pymt System (Cal Card)	**7/23/2012 07/23/12**	**Invoice**	**General Supplies**	**$604.55**	**8/13/2012**	**$604.55**
US Bank Corp Pymt System (Cal Card)	**7/23/2012 07/23/12**	**Invoice**	**4th of July supplies**	**$448.78**	**8/13/2012**	**$448.78**

US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**Geocolsultants - well monitoring**	**$1,546.50**	**8/13/2012**	**$1,546.50**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**General Supplies**	**$189.61**	**8/13/2012**	**$189.61**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**Vehicle Fuel**	**$1,061.18**	**8/13/2012**	**$1,061.18**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**OSH - street lights**	**$23.90**	**8/13/2012**	**$23.90**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**gloves, water jug, volt tester, supplies**	**$266.30**	**8/13/2012**	**$266.30**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**Landscape fuel**	**$1,396.12**	**8/13/2012**	**$1,396.12**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**Misc supplies - first aid, prop room, safety vests**	**$645.96**	**8/13/2012**	**$645.96**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**USPS postage**	**$11.50**	**8/13/2012**	**$11.50**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**office depot - supplies**	**$322.72**	**8/13/2012**	**$322.72**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**car washes, car decor**	**$51.75**	**8/13/2012**	**$51.75**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**vehicle fuel**	**$2,465.51**	**8/13/2012**	**$2,465.51**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**CCC Sheriff - Training classes**	**$1,011.00**	**8/13/2012**	**$1,011.00**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**OSH RACES antenna supplies**	**$67.23**	**8/13/2012**	**$67.23**
US Bank Corp Pymt System (Cal Card)	**7/23/2012**	**07/23/12**	**Invoice**	**Fast signs - decals for car 1735**	**$459.50**	**8/13/2012**	**$459.50**
				Totals for US Bank Corp Pymt System (Cal Card):			$10,572.11

US Bank Ops Ctr ATTN: TFM (RDA 96, 99)

US Bank Ops Ctr ATTN: TFM (RDA 96, 99)	**8/1/2012**	**Series 1999 - RDA**	**Invoice**	**debt service payment 8/1/12**	**$407,541.25**	**8/1/2012**	
US Bank Ops Ctr ATTN: TFM (RDA 96, 99)	8/1/2012	Series 1999 RDA	Credit Memo	credits for debt service	($406.43)	8/1/2012	$407,134.82
US Bank Ops Ctr ATTN: TFM (RDA 96, 99)	8/6/2012	9100157	Payment		($407,134.82)	8/6/2012	$0.00
				Totals for US Bank Ops Ctr ATTN: TFM (RDA 96, 99):			$0.00

Waraner Brothers Tree Service

Waraner Brothers Tree Service	**6/25/2012**	**9881**	**Invoice**	**scheduled tree work**	**$900.00**	**6/20/2012**	**$900.00**
Waraner Brothers Tree Service	7/31/2012	28747	Payment		($900.00)	7/31/2012	$0.00
Waraner Brothers Tree Service	**6/25/2012**	**9882**	**Invoice**	**scheduled tree work - Stranahan Circle Trail**	**$1,200.00**	**6/25/2012**	**$1,200.00**

Waraner Brothers Tree Service	7/31/2012 28747	Payment		($1,200.00)	7/31/2012	$0.00
		Totals for Waraner Brothers Tree Service:			$0.00	
Watch Guard						
Watch Guard	**7/11/2012 STDINV0017329**	**Invoice**	**Overhead console with GPS/supplies**	**$5,493.69**	**8/10/2012**	**$5,493.69**
		Totals for Watch Guard:			$5,493.69	
Wells Fargo Bank, N.A.						
Wells Fargo Bank, N.A.	**8/1/2012 878882**	**Invoice**	**Limited obligation improvement bonds Lydia L**	**$500.00**	**8/10/2012**	**$500.00**
Wells Fargo Bank, N.A.	**7/24/2012 874882**	**Invoice**	**lim obligation imp bonds Lydia Lane Sewer As**	**$10,649.75**	**9/2/2012**	**$10,649.75**
		Totals for Wells Fargo Bank, N.A.:			$11,149.75	
Western Exterminator						
Western Exterminator	**7/31/2012 652677**	**Invoice**	**July 2012**	**$334.50**	**8/10/2012**	**$334.50**
		Totals for Western Exterminator:			$334.50	

Total $ 820,083.18

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total

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Agenda Date: 08-21-12
Agenda Item: 4(d)

CITY OF CLAYTON
Founded 1857 Incorporated 1964

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: AUGUST 21, 2012

SUBJECT: CONSIDERATION OF RESOLUTIONS ACCEPTING VARIOUS EASEMENTS WITHIN THE DIABLO POINTE (aka DIABLO ESTATES AT CLAYTON) DEVELOPMENT, SUBDIVISION 8719, AND REJECTING AND VACATING LANDSCAPE AND CONSERVATION EASEMENTS DELINEATED ON THE FINAL MAP.

RECOMMENDATION

Approve the attached Resolutions.

BACKGROUND

Toll Bros. is in the process of closing house sales and transferring title on some of the lots in Subdivision 8719, Diablo Pointe (aka Diablo Estates at Clayton). It is now time to accept the various easements shown on the final map and provided by individual grant deeds.

Final Map Easements

The final map offered numerous easements throughout the development for dedication as public easements. These easements included public utility easements, sanitary sewer easements, storm drain easements, emergency vehicle access easements, landscape maintenance easements and conservation easements. The first resolution proposes the acceptance of all of the easements with the exception of the landscape maintenance easements and the conservation easements. The resolution also proposes rejecting the offers of dedication for the landscape maintenance easements and conservation easements.

Conservation Easements/Landscape Maintenance Easements

The development's original conditions of approval required the dedication of 150 foot wide conservation easements on Lots 1 through 4 adjacent to the Mt. Diablo State Park property lines. When Toll Bros. processed their new house designs through the Planning Commission, additional conditions of approval were imposed including the dedication of development rights on all of the slope areas of Lots 1 through 24 and all of Lot 25. The City Council accepted the Development Rights Deed at its meeting on July 17th and the deed has since been recorded. The area encumbered by this deed includes, and far exceeds, the 150 foot easement shown on the final map. Since the restrictions of the Development Rights Deed match, if not exceed, the restrictions stated in the offer of dedication, the 150 foot easement becomes superfluous and so is recommended for rejection.

The development's original conditions of approval also required the dedication of a 25' wide landscape maintenance easement along the subdivision's frontage of Regency Drive and Rialto Drive. The actual intent of the condition was to create a landscape maintenance easement along the back of sidewalk on both streets. However, the Council may recall the issue with the "Seeno Strip" which was approximately 20 to 30 feet wide and separated (landlocked) the development from the street rights of way. The developer's title company assured the developer and City that based on continual use since the construction of the Regency Woods subdivisions, Lemke had the right to cross over and improve the "Seeno Strip". However, in order to allow the final map to record and to avoid processing a request to modify the conditions of approval, the developer had the 25 foot wide easement shown on the final map to satisfy that particular condition of approval.

After the original developer's construction loan was foreclosed by the lender, First Horizon Home Loans ("First Horizon"), the lender's title company refused to issue title insurance in order to allow the lender to sell the property. First Horizon was required to purchase the strip of land and to incorporate it into the various lots through lot line adjustments. With this action completed, we were able to have a new landscape maintenance easement granted to fulfill the original intent of the conditions of approval (recommended for acceptance by its own resolution). The new landscape maintenance easement made the easement shown on the final map superfluous and is, therefore, also recommended for rejection.

It should be noted that even though the City is accepting this landscape maintenance easement, this landscaping will <u>not</u> be a part of the City-wide Landscape Maintenance District. This landscape strip is for the benefit of the Diablo Estates residents and will be maintained by the Diablo Estates at Clayton Benefit Assessment District.

Various easements over the "Seeno Strip"

The incorporation of the "Seeno Strip" into the development created a gap in various easements at the entry road connecting to Rialto Drive. These easements included a

sanitary sewer, storm drain easement, emergency vehicle access easement and a public utility easement. Toll Bros. (the current developer) has executed various easement grants to bridge these gaps and individual resolutions have been prepared and are recommended for approval by the City Council.

Various easements over portions of individual lots

The slight changes approved as part of Toll Bros.' design review process required the creation of small storm drain easements on Lots 6, 9 and 11 (in addition to the storm drain easements shown on the original final map. Also, the Deed of Development Rights over the slope areas and the Benefit Assessment District' obligation to provide weed abatement on the slopes, necessitated the creation of an easement across the north side of Lot 1 to access the slope areas above Lots 1 through 4. Again, Toll Bros. has prepared and executed individual grant deed for each of the easements and individual resolutions have been prepared and are recommended for approval by the City Council.

Vacation of the dedication of the landscape maintenance easements and conservation easements shown on the final map

Under State Law, offers of dedication rejected by the City Council remain avaialbe to the City for all time (and they become clouds on the title of each lot with such a dedication on it). The only way to remove the dedication is by vacating the dedication in accordance with procedures specified in the State's Streets and Highways Code (Section 8300 et seq.). We are able to summarily (without the need for public noticing and hearings) vacate the easements since they have been superseded by other easements as described above. A resolution calling for the summary vacation has been prepared and is recommended for City Council approval.

FISCAL IMPACT

There are no fiscal impacts due to these actions.

CONCLUSION

Based upon the above, staff recommends the City Council approve the attached Resolutions accepting the various deeds and vacating the landscape maintenance and conservation easements shown on the final map and directing the City Clerk to record the resolutions in the Office of the County Recorder.

Attachments: 11 Resolutions w/attached deeds (70 pp.)

Agenda Date: 8/21/12

Agenda Item: 4(d)1.

RESOLUTION NO.

A RESOLUTION ACCEPTING CERTAIN EASEMENTS WITHIN SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON) SHOWN ON THE FINAL MAP FOR SAID SUBDIVISION AS PUBLIC EASEMENTS AND REJECTING THE OFFERS OF DEDICATION OF THE LANDSCAPE MAINTENANCE EASEMENTS AND CONSERVATION EASEMENTS SHOWN ON SAID MAP.

THE CITY COUNCIL
City of Clayton, California

WHEREAS, the Developer begun closing of house sales and transferring title of individual lots to new owners; and

WHEREAS, the final map for Subdivision 8719, Diablo Pointe, (hereinafter referred to as "Map") was filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County, and

WHEREAS, said Map offered for dedication for public use certain easements for public utilities (PUE), sanitary sewers (SSE), storm drainage facilities (SDE), emergency vehicle access (EVAE), landscape maintenance and conservation; and

WHEREAS, the proposed easements for landscape maintenance and conservation shown on the Map have been relocated or superseded by new easements;

WHEREAS, the City Engineer has recommended acceptance of the easements for public utilities, sanitary sewers, storm drainage facilities, and emergency vehicle access, and has further recommended rejection of the easements for landscape maintenance and conservation;

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

1) The City Council hereby accepts the Public Utility Easements (PUE), the Sanitary Sewer Easements (SSE), the Storm Drain Easements (SDE) and the Emergency Vehicle Access Easements (EVAE) for public use as said easements are described, delineated and dedicated for public use on the map of Subdivision 8719, filed and recorded on June 10,

2008, in Book 506 of Maps at Pages 45 through 51, inclusive, in the office of the County Recorder of Contra Costa County; and

2) The City Council hereby rejects the offers of dedication for the Landscape Maintenance Easements and the Conservation Easements as said easements are described, delineated and dedicated on said map of Subdivision 8719 (506 MB 45).

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to cause a certified copy of this resolution to be recorded with the County Recorder of Contra Costa County, and to send a copy of said resolution to the developer of Subdivisions 8719.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

Agenda Date: 8/21/12

Agenda Item: 4(d)2.

RESOLUTION NO.

A RESOLUTION ACCEPTING A GRANT OF PUBLIC LANDSCAPE MAINTENANCE EASEMENT OVER PRIVATE PROPERTY (KNOWN AS THE "SEENO STRIP") LOCATED BETWEEN REGENCY DRIVE AND RIALTO DRIVE AND SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, a strip of land (commonly known as the "Seeno Strip") existed between Regency Drive and Rialto Drive and Subdivision 8719, Diablo Pointe (final map filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County and hereinafter referred to as "Map"); and

WHEREAS, the lender of construction funds for said Subdivision 8719, First Horizon Home Loans (hereinafter referred to as "Lender"), after foreclosure on the original developer, purchased said Seeno Strip in order to incorporate the land into Subdivision 8719; and

WHEREAS, in order to provide continuity for access and maintenance of the Subdivision's improvements between the boundary shown on the Map and Regency Drive and Rialto Drive, Lender has prepared and executed a Grant of Public Landscape Maintenance Easement in favor of the City; and

WHEREAS, the City Engineer has reviewed the Grant Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Grant of Public Landscape Maintenance Easement.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Grant of Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

RECORDING REQUESTED BY
CITY OF CLAYTON

APN 119-271-006

WHEN RECORDED MAIL TO:
City of Clayton
6000 Heritage Trail
Clayton, California 94517
Attention of: Engineering Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF PUBLIC LANDSCAPE MAINTENANCE EASEMENT

The undersigned grantor(s) declare(s)
Documentary transfer tax is $
( ) computed on full value of property conveyed, or
( ) computed on full value less value of liens and encumbrances remaining at time of sale
( ) Unincorporated area: (XX) City of Clayton
(XX) Realty not sold

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

First Horizon Home Loans, a Division of the First Tennessee Bank Association, a National Banking Association

hereby GRANT(S) TO

The City of Clayton, a municipal corporation

that property in the City of Clayton, Contra Costa County, State of California, described as:

A Non-exclusive Public Landscape Maintenance Easement for public landscaping purposes, together with the right of ingress and egress for the construction and maintenance of landscaping, irrigation, and appurtenances on and over said easement area.

See Exhibit 'A' (Legal Description) attached hereto and made apart hereof:

Mail tax statement to: Not applicable

Date 9/28/10

BY: James Boxold
James Boxold, Vice President

BY: Sue McPeak
Sue McPeak, Assistant Vice President

446-09 LANDSCAPE.Doc

See Attached Notary Certificate

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of CONTRA COSTA }

On 9/28/10 (Date) before me, DEBRA MANGINI, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared JAMES BOXOLD AND SUE MCPEAK, (Name(s) of Signer(s))

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

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

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

DEBRA MANGINI
COMM. # 1878075
NOTARY PUBLIC-CALIFORNIA
CONTRA COSTA COUNTY
MY COMM. EXP. FEB. 21, 2014

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: GRANT OF PUBLIC LANDSCAPE MAINTENANCE EASEMENT

Document Date: 9/28/10. Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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EXHIBIT 'A'

PUBLIC LANDSCAPE MAINTENANCE EASEMENT

Real property situated in the City of Clayton, County of Contra Costa, State of California, being described as follows:

All of that parcel of land described in the deed conveyed from Albert D. Seeno Construction Company, a California limited partnership and Albert D. Seeno, Jr., Family Foundation, a California nonprofit public benefit foundation to First Horizon Home Loans, a Division of First Tennessee Bank National Association, a national banking association, recorded May 7, 2010, at Series #2010-0091683, Contra Costa County Records.

Reserving there from: A Private Access and Utility Easement for the benefit of the owners of lots within Subdivision 8719, recorded June 10, 2008, in Book 506 of Maps, at Page 245, Contra Costa County Records, being more particularly described as follows:

A portion of that parcel of land described in the deed conveyed from Albert D. Seeno Construction Company, a California limited partnership and Albert D. Seeno, Jr., Family Foundation, a California nonprofit public benefit foundation to First Horizon Home Loans, a Division of First Tennessee Bank National Association, a national banking association, recorded May 7, 2010, at Series #2010-0091683, Contra Costa County Records, being further described as follows:

A Thirty-six (36) foot wide strip, measured at right angles, the centerline of which is described as follows:

BEGINNING at the Southeast corner of Lot 9 as said Lot 9 is shown on the Map of Subdivision 8719, recorded June 10, 2008, in Book 506 of Maps, at Page 45, Contra Costa County Records; thence leaving said Point of Beginning southwesterly along the direct extension of the common line between Lot 8 and Lot 9, of said Subdivision 8719 (506 M 45) South 58°13'11" West, 35.46 feet, more or less, to the Point of Terminus, said Point of Terminus being a point on the Northeast right-of-way line of Rialto Drive, a 56 foot wide public Right-of-Way, as said Rialto Drive is shown on the Map of Subdivision 4343, recorded July 19, 1973, in Book 159 of Maps, at Page 34, Contra Costa County Records.

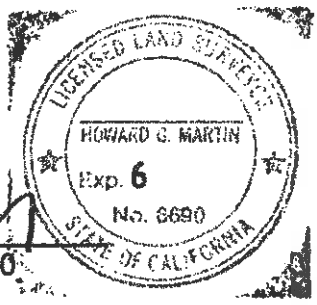
The sidelines of said strip to be lengthened or shortened so as to terminate at their northeasterly ends at the Southwest line of said Subdivision 8719 (506 M 45) and at their

southwesterly ends at the Northeasterly Right-Of-Way line of Rialto Drive as shown on said Subdivision 4343 (159 M 37).

Subject to all existing easements.

End of Description.

A.P.N. 119-271-006 (portion of)



BY: _____
Howard G. Martin, LS #6690

Schell & Martin, Inc.
Civil Engineering & Land Surveying
Lafayette, California

Agenda Date: 8/21/12

Agenda Item: 4(d)2.

RESOLUTION NO.

A RESOLUTION ACCEPTING A GRANT OF SANITARY SEWER EASEMENT OVER PRIVATE PROPERTY (KNOWN AS THE "SEENO STRIP") LOCATED BETWEEN REGENCY DRIVE AND RIALTO DRIVE AND SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, a strip of land (commonly known as the "Seeno Strip") existed between Regency Drive and Rialto Drive and Subdivision 8719, Diablo Pointe (final map filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County and hereinafter referred to as "Map"); and

WHEREAS, the lender of construction funds for said Subdivision 8719, First Horizon Home Loans (hereinafter referred to as "Lender"), after foreclosure on the original developer, purchased said Seeno Strip in order to incorporate the land into Subdivision 8719; and

WHEREAS, in order to provide continuity for access and maintenance of the Subdivision's improvements between the boundary shown on the Map and Regency Drive and Rialto Drive, Lender has prepared and executed a Grant of Sanitary Sewer Easement in favor of the City; and

WHEREAS, the City Engineer has reviewed the Grant Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Grant of Sanitary Sewer Easement.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Grant of Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

RECORDING REQUESTED BY
CITY OF CLAYTON

APN 119-271-006
APN 119-640-002 & 003

WHEN RECORDED MAIL TO:
City of Clayton
6000 Heritage Trail
Clayton, California 94517
Attention of: Engineering Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF SANITARY SEWER EASEMENT

The undersigned grantor(s) declare(s)
Documentary transfer tax is $
( ) computed on full value of property conveyed, or
( ) computed on full value less value of liens and encumbrances remaining at time of sale
( ) Unincorporated area: (XX) City of Clayton
(XX) Realty not sold

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

First Horizon Home Loans, a Division of the First Tennessee Bank Association, a National Banking Association

hereby GRANT(S) TO

The City of Clayton

that property in the City of Clayton, Contra Costa County, State of California, described as:

A Non-exclusive Sanitary Sewer Easement for sanitary sewer purposes, together with the right of ingress and egress for the construction, maintenance, use, and operation of sanitary sewer structures and appurtenances under, on, and over said easement area.

See Exhibit 'A' (Legal Description) and Exhibit 'B' (Plat Map) attached hereto and made apart hereof:

Mail tax statement to: Not applicable

Date 9/28/10

BY: James Boxold
James Boxold, Vice President

BY: Sue McPeak
Sue McPeak, Assistant Vice President

446-09 SSE.Doc

See Attached Notary Certificate

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of CONTRA COSTA }

On 9/28/10 (Date) before me, DEBRA MANGINI, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared JAMES BOXOLD AND SUE MCPEAK, (Name(s) of Signer(s))

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

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

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

Place Notary Seal Above

DEBRA MANGINI
COMM. # 1878075
NOTARY PUBLIC - CALIFORNIA
CONTRA COSTA COUNTY
MY COMM. EXP. FEB. 21, 2014

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: GRANT OF STORM DRAIN EASEMENT

Document Date: 9/28/10 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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446-09 SSE (August 12, 2010)
Take from Seeno - Give to City of Clayton

EXHIBIT 'A'

PUBLIC SANITARY SEWER EASEMENT

Real property situated in the City of Clayton, County of Contra Costa, State of California, being described as follows:

A portion of that parcel of land described in the deed conveyed from Albert D. Seeno Construction Company, a California limited partnership and Albert D. Seeno, Jr., Family Foundation, a California nonprofit public benefit foundation to First Horizon Home Loans, a Division of First Tennessee Bank National Association, a national banking association, recorded May 7, 2010, at Series #2010-0091683, Contra Costa County Records, being further described as follows:

A ten (10) foot wide strip, measured at right angles, the centerline of which is described as follows:

BEGINNING at the Southeast corner of Lot 9 as said Lot 9 is shown on the Map of Subdivision 8719, recorded June 10, 2008, in Book 506 of Maps, at Page 45, Contra Costa County Records; thence leaving said Point of Beginning southwesterly along the direct extension of the common line between Lot 8 and Lot 9, of said Subdivision 8719 (506 M 45) South 58°13'11" West, 35.46 feet, more or less, to the Point of Terminus, said Point of Terminus being a point on the Northeast right-of-way line of Rialto Drive, a 56 foot wide public Right-of-Way, as said Rialto Drive is shown on the Map of Subdivision 4343, recorded July 19, 1973, in Book 159 of Maps, at Page 34, Contra Costa County Records.

The sidelines of said strip to be lengthened or shortened so as to terminate at their northeasterly ends at the Southwest line of said Subdivision 8719 (506 M 45) and at their southwesterly ends at the Northeasterly Right-Of-Way line of Rialto Drive as shown on said Subdivision 4343 (159 M 37).

See Exhibit 'B' (plat map) attached hereto and made a part hereof:

Subject to all existing easements.

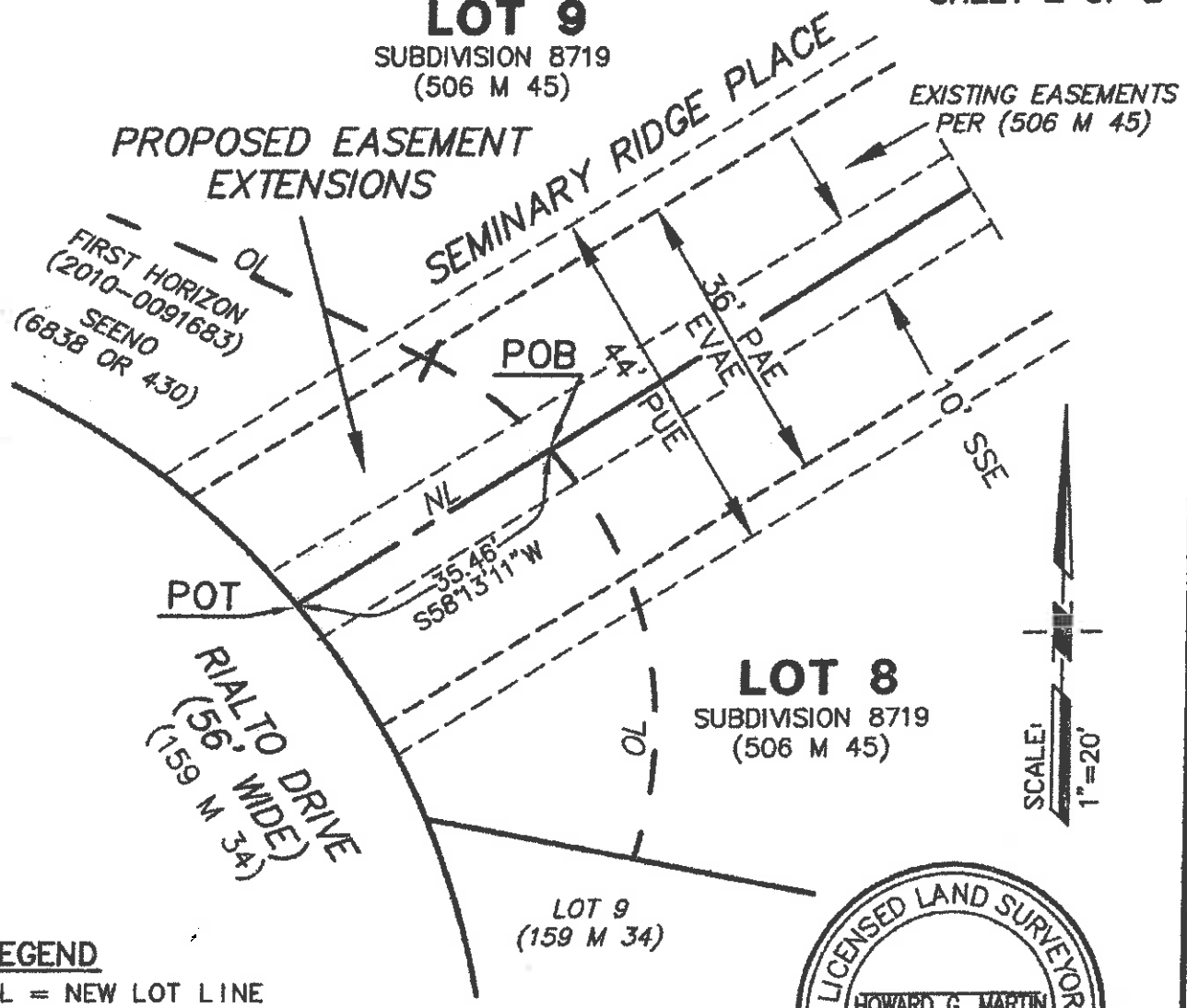
End of Description.

A.P.N. 119-271-006 (portion of)

By: _____
Howard G. Martin, LS #6690

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
Exp. 6-30-12
No. 6690
STATE OF CALIFORNIA

Schell & Martin, Inc.
Civil Engineering & Land Surveying
Lafayette, California



LEGEND

NL = NEW LOT LINE
OL = OLD LOT LINE
PAE = PRIVATE ACCESS EASEMENT.
PUE = PUBLIC UTILITY EASEMENT
SSE = PUBLIC SANITARY SEWER EASEMENT.
EVAE = PUBLIC EMERGENCY VEHICLE ACCESS EASEMENT.

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
EXP. 6-30-12
No. 6690
STATE OF CALIFORNIA

HOWARD G. MARTIN, LS 6690
EXP. DATE 6-30-12

EXHIBIT 'B'
PUBLIC SANITARY EASEMENT
PUBLIC UTILITY EASEMENT
PUBLIC EMERGENCY ACCESS EASEMENT
A.P.N. 119-271-006

SCALE: 1" = 20'
DATE: AUGUST 12, 2010
JOB NO. 446-09 (ALBORG)

SSE

SCHELL & MARTIN, INC.
CIVIL ENGINEERING & LAND SURVEYING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 94549
925.283.8111

Agenda Date: 8/21/12

Agenda Item: 4(d)2.

RESOLUTION NO.

A RESOLUTION ACCEPTING A GRANT OF EMERGENCY VEHICLE ACCESS EASEMENT OVER PRIVATE PROPERTY (KNOWN AS THE "SEENO STRIP") LOCATED BETWEEN REGENCY DRIVE AND RIALTO DRIVE AND SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, a strip of land (commonly known as the "Seeno Strip") existed between Regency Drive and Rialto Drive and Subdivision 8719, Diablo Pointe (final map filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County and hereinafter referred to as "Map"); and

WHEREAS, the lender of construction funds for said Subdivision 8719, First Horizon Home Loans (hereinafter referred to as "Lender"), after foreclosure on the original developer, purchased said Seeno Strip in order to incorporate the land into Subdivision 8719; and

WHEREAS, in order to provide continuity for access and maintenance of the Subdivision's improvements between the boundary shown on the Map and Regency Drive and Rialto Drive, Lender has prepared and executed a Grant of Emergency Vehicle Access Easement in favor of the City; and

WHEREAS, the City Engineer has reviewed the Grant Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Grant of Emergency Vehicle Access Easement.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Grant of Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

RECORDING REQUESTED BY
CITY OF CLAYTON

APN 119-271-006
APN 119-640-002 & 003

WHEN RECORDED MAIL TO:
City of Clayton
6000 Heritage Trail
Clayton, California 94517
Attention of: Engineering Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF EMERGENCY VEHICLE ACCESS EASEMENT

The undersigned grantor(s) declare(s)
Documentary transfer tax is $
( ) computed on full value of property conveyed, or
( ) computed on full value less value of liens and encumbrances remaining at time of sale
( ) Unincorporated area: (XX) City of Clayton
(XX) Realty not sold

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

First Horizon Home Loans, a Division of the First Tennessee Bank Association, a National Banking Association

hereby GRANT(S) TO

The City of Clayton

that property in the City of Clayton, Contra Costa County, State of California, described as:

A Non-exclusive Emergency Vehicle Access Easement for the ingress and egress of emergency vehicles.

See Exhibit 'A' (Legal Description) and Exhibit 'B' (Plat Map) attached hereto and made apart hereof:

Mail tax statement to: Not applicable

Date 9/28/10

BY: James Boxold
James Boxold, Vice President

BY: Sue McPeak
Sue McPeak, Assistant Vice President

446-09 EVAC.Doc

See Attached Notary Certificate

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of CONTRA COSTA }

On 9/28/10 (Date) before me, DEBRA MANGINI, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared JAMES BOXOLD AND SUE McPEAK, (Name(s) of Signer(s))

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

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

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

DEBRA MANGINI
COMM. # 1878075
NOTARY PUBLIC-CALIFORNIA
CONTRA COSTA COUNTY
MY COMM. EXP. FEB. 21, 2014

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: GRANT OF EMERGENCY VEHICLE ACCESS EASEMENT

Document Date: 9/28/10 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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446-09 EVAE (August 12, 2010)
Take from Seeno - Give to City of Clayton

EXHIBIT 'A'

PUBLIC EMERGENCY VEHICLE ACCESS EASEMENT

Real property situated in the City of Clayton, County of Contra Costa, State of California, being described as follows:

A portion of that parcel of land described in the deed conveyed from Albert D. Seeno Construction Company, a California limited partnership and Albert D. Seeno, Jr., Family Foundation, a California nonprofit public benefit foundation to First Horizon Home Loans, a Division of First Tennessee Bank National Association, a national banking association, recorded May 7, 2010, at Series #2010-0091683, Contra Costa County Records, being further described as follows:

A Thirty-six (36) foot wide strip, measured at right angles, the centerline of which is described as follows:

BEGINNING at the Southeast corner of Lot 9 as said Lot 9 is shown on the Map of Subdivision 8719, recorded June 10, 2008, in Book 506 of Maps, at Page 45, Contra Costa County Records; thence leaving said Point of Beginning southwesterly along the direct extension of the common line between Lot 8 and Lot 9, of said Subdivision 8719 (506 M 45) South 58°13'11" West, 35.46 feet, more or less, to the Point of Terminus, said Point of Terminus being a point on the Northeast right-of-way line of Rialto Drive, a 56 foot wide public Right-of-Way, as said Rialto Drive is shown on the Map of Subdivision 4343, recorded July 19, 1973, in Book 159 of Maps, at Page 34, Contra Costa County Records.

The sidelines of said strip to be lengthened or shortened so as to terminate at their northeasterly ends at the Southwest line of said Subdivision 8719 (506 M 45) and at their southwesterly ends at the Northeasterly Right-Of-Way line of Rialto Drive as shown on said Subdivision 4343 (159 M 37).

See Exhibit 'B' (plat map) attached hereto and made a part hereof:

Subject to all existing easements.

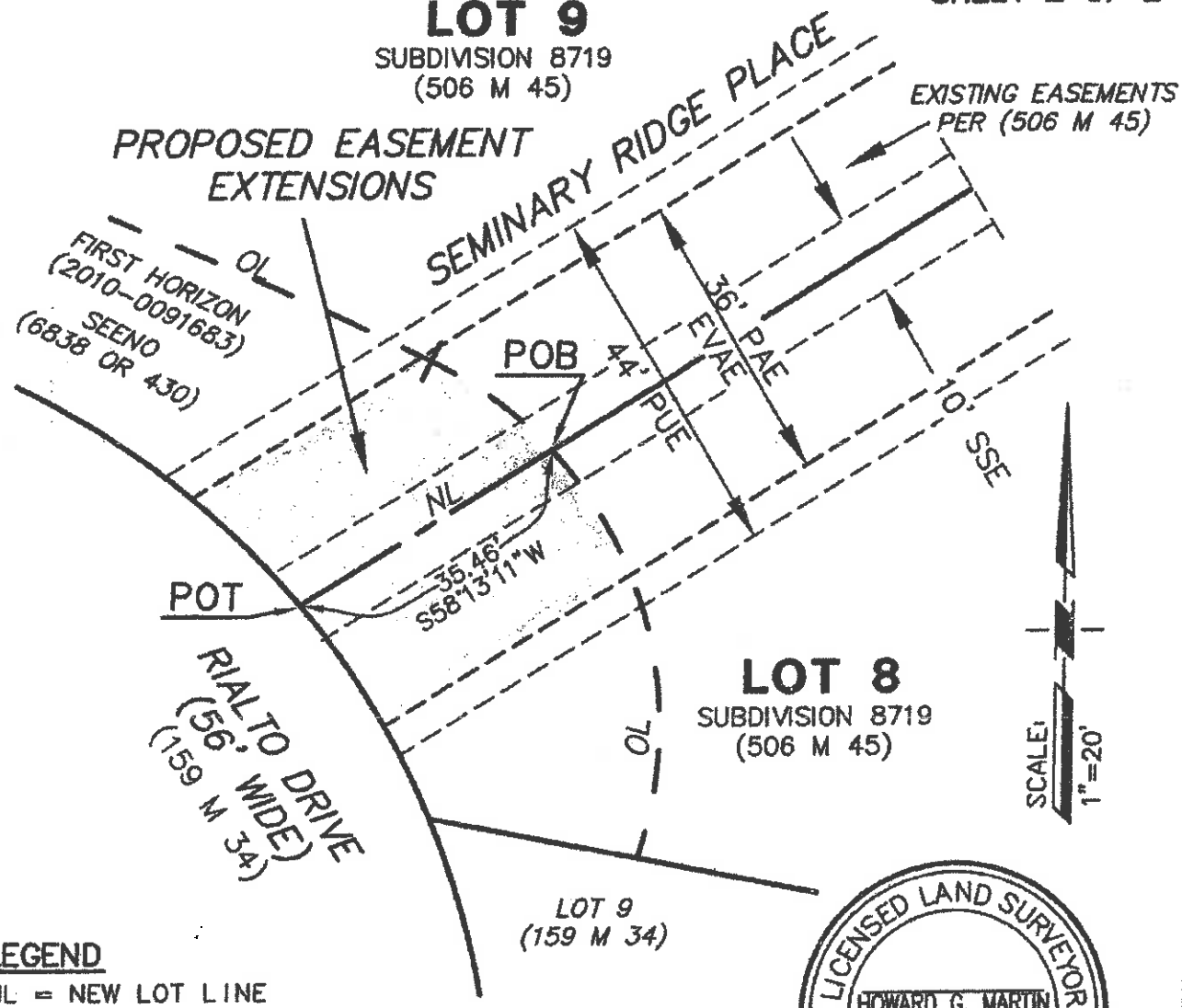
End of Description.

A.P.N. 119-271-006 (portion of)

By: _____
Howard G. Martin, LS #6690

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
Exp. 6/30/12
No. 6690
STATE OF CALIFORNIA

Schell & Martin, Inc.
Civil Engineering & Land Surveying
Lafayette, California



LEGEND

NL = NEW LOT LINE
OL = OLD LOT LINE
PAE = PRIVATE ACCESS EASEMENT.
PUE = PUBLIC UTILITY EASEMENT
SSE = PUBLIC SANITARY SEWER EASEMENT.
EVAE = PUBLIC EMERGENCY VEHICLE ACCESS EASEMENT

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
EXP. 6-30-12
No. 6690
STATE OF CALIFORNIA

HOWARD G. MARTIN, LS 6690
EXP. DATE 6-30-12

EXHIBIT 'B'
PUBLIC SANITARY EASEMENT
PUBLIC UTILITY EASEMENT
PUBLIC EMERGENCY ACCESS EASEMENT
A.P.N. 119-271-006

SCALE: 1" = 20'
DATE: AUGUST 12, 2010
JOB NO. 446-09 (ALBORG)

EVAE

SCHELL & MARTIN, INC.
CIVIL ENGINEERING & LAND SURVEYING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 94549
925.283.8111

Agenda Date: 8/21/12

Agenda Item: 4(d)2.

RESOLUTION NO.

A RESOLUTION ACCEPTING A GRANT OF STORM DRAIN EASEMENT OVER PRIVATE PROPERTY (KNOWN AS THE "SEENO STRIP") LOCATED BETWEEN REGENCY DRIVE AND RIALTO DRIVE AND SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, a strip of land (commonly known as the "Seeno Strip") existed between Regency Drive and Rialto Drive and Subdivision 8719, Diablo Pointe (final map filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County and hereinafter referred to as "Map"); and

WHEREAS, the lender of construction funds for said Subdivision 8719, First Horizon Home Loans (hereinafter referred to as "Lender"), after foreclosure on the original developer, purchased said Seeno Strip in order to incorporate the land into Subdivision 8719; and

WHEREAS, in order to provide continuity for access and maintenance of the Subdivision's improvements between the boundary shown on the Map and Regency Drive and Rialto Drive, Lender has prepared and executed a Grant of Storm Drain Easement in favor of the City; and

WHEREAS, the City Engineer has reviewed the Grant Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Grant of Storm Drain Easement.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Grant of Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

RECORDING REQUESTED BY
CITY OF CLAYTON

APN 119-271-006
APN 119-640-009

WHEN RECORDED MAIL TO:
City of Clayton
6000 Heritage Trail
Clayton, California 94517
Attention of: Engineering Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF STORM DRAIN EASEMENT

The undersigned grantor(s) declare(s)
Documentary transfer tax is $
( ) computed on full value of property conveyed, or
( ) computed on full value less value of liens and encumbrances remaining at time of sale
( ) Unincorporated area: (XX) City of Clayton
(XX) Realty not sold

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

First Horizon Home Loans, a Division of the First Tennessee Bank Association, a National Banking Association

hereby GRANT(S) TO

The City of Clayton

that property in the City of Clayton, Contra Costa County, State of California, described as:

A Non-exclusive Storm Drain Easement for storm drain purposes, together with the right of ingress and egress for the construction, maintenance, use, and operation of storm drain structures and appurtenances under, on, and over said easement area; said area to be kept open and free from buildings and structures of any kind, except utility, street, & sidewalk structures and appurtenances, irrigation systems, & lawful fences.

See Exhibit 'A' (Legal Description) and Exhibit 'B' (Plat Map) attached hereto and made apart hereof:

Mail tax statement to: Not applicable

Date 9/28/10

BY: James Boxold
James Boxold, Vice President

BY: Sue McPeak
Sue McPeak, Assistant Vice President

446-09 SDE.Doc

See Attached Notary Certificate

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of CONTRA COSTA }

On 9/28/10 (Date) before me, DEBRA MANGINI, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared JAMES BOXOLD AND SUE MCPEAK, (Name(s) of Signer(s))

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

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

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

DEBRA MANGINI
COMM. # 1878075
NOTARY PUBLIC-CALIFORNIA
CONTRA COSTA COUNTY
MY COMM. EXP. FEB. 21, 2014

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: GRANT OF STORM DRAIN EASEMENT

Document Date: 9/28/10 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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446-09 SDE (August 10, 2010) **Sheet 1 of 2**
Take from Seeno - Give to City of Clayton

EXHIBIT 'A'

STORM DRAIN EASEMENT

Real property situated in the City of Clayton, County of Contra Costa, State of California, being described as follows:

A portion of that parcel of land described in the deed conveyed from Albert D. Seeno Construction Company, a California limited partnership and Albert D. Seeno, Jr., Family Foundation, a California nonprofit public benefit foundation to First Horizon Home Loans, a Division of First Tennessee Bank National Association, a national banking association, recorded May 7, 2010, at Series #2010-0091683, Contra Costa County Records, being further described as follows:

BEGINNING at the Northwest corner of Lot 15, as said Lot 15 is shown on the Map of Subdivision 8719, recorded June 10, 2008, in Book 506 of Maps, at Page 45, Contra Costa County Records (506 M 45); thence leaving said point of beginning and said northwest corner along the west line of said Lot 15 (506 M 45) southerly along a non-tangent curve, concave to the west and having a radius of 900.00 feet, the center of which bears North 78°13'36" West through a central angle of 2°09'12" an arc distance of 33.82 feet to the south line of the existing storm drain easement shown on said Subdivision 8719 (506 M 45); thence leaving said west line North 85°57'35" West, 11.17 feet, more or less, to a point on the east line of Regency Drive, a 60' wide public right-of-way, as said right-of-way is shown on the map of Subdivision 4343, recorded July 19, 1973, in Book 159 of Maps, at Page 34, Contra Costa County Records; thence northerly along said east right-of-way line North 16°34'24" East, 34.24 feet to the Southwest Corner of Lot 8, as said Lot 8 is shown on said Subdivision 4343 (159 M 34); thence along the south line of said Lot 8 (159 M 34) South 85°57'35" East, 8.91 feet TO THE POINT OF BEGINNING.

See Exhibit 'B' (plat map) attached hereto and made a part hereof:

Subject to all existing easements.

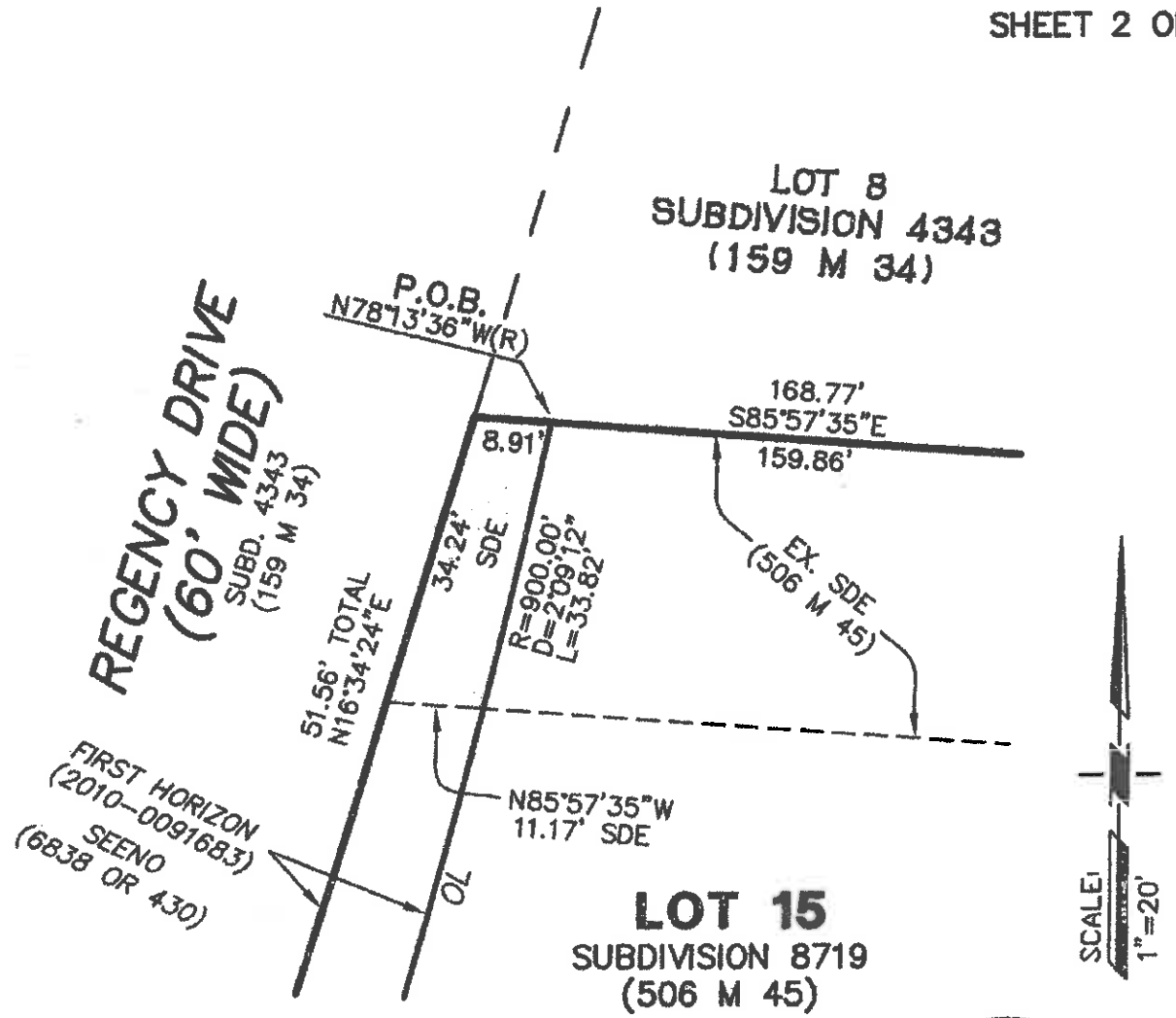
End of Description.

A.P.N. 119-271-006 (portion of)

By: _____
Howard G. Martin, LS #6690

HOWARD G. MARTIN
Exp. 6-30-12
No. 6690
STATE OF CALIFORNIA

Schell & Martin, Inc.
Civil Engineering & Land Surveying
Lafayette, California



LEGEND

NL = NEW LOT LINE
OL = OLD LOT LINE
SDE = PUBLIC STORM DRAIN EASEMENT.

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
EXP. 6-30-12
No. 6690
STATE OF CALIFORNIA

HOWARD G. MARTIN, LS 6690
EXP. DATE 6-30-12

EXHIBIT 'B'
STORM
DRAIN EASEMENT
A.P.N. 119-271-006

SCALE: 1" = 20'
DATE: AUGUST 12, 2010
JOB NO. 446-09 (ALBORG)

SDE

SCHELL & MARTIN, INC.
CIVIL ENGINEERING & LAND SURVEYING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 94549
925.283.8111

Agenda Date: 8/21/12

Agenda Item: 4(d)2.

RESOLUTION NO.

A RESOLUTION ACCEPTING A GRANT OF PUBLIC UTILITY EASEMENT OVER PRIVATE PROPERTY (KNOWN AS THE "SEENO STRIP") LOCATED BETWEEN REGENCY DRIVE AND RIALTO DRIVE AND SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, a strip of land (commonly known as the "Seeno Strip") existed between Regency Drive and Rialto Drive and Subdivision 8719, Diablo Pointe (final map filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County and hereinafter referred to as "Map"); and

WHEREAS, the lender of construction funds for said Subdivision 8719, First Horizon Home Loans (hereinafter referred to as "Lender"), after foreclosure on the original developer, purchased said Seeno Strip in order to incorporate the land into Subdivision 8719; and

WHEREAS, in order to provide continuity for access and maintenance of the Subdivision's improvements between the boundary shown on the Map and Regency Drive and Rialto Drive, Lender has prepared and executed a Grant of Public Utility Easement in favor of the City; and

WHEREAS, the City Engineer has reviewed the Grant Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Grant of Public Utility Easement.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Grant of Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

RECORDING REQUESTED BY
OWNERS

APN 119-271-006
APN 119-640-002 & 003

WHEN RECORDED MAIL TO:
City of Clayton
6000 Heritage Trail
Clayton, California 94517
Attention of: Engineering Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF PUBLIC UTILITY EASEMENT

The undersigned grantor(s) declare(s)
Documentary transfer tax is $
( ) computed on full value of property conveyed, or
( ) computed on full value less value of liens and encumbrances remaining at time of sale
( ) Unincorporated area: (XX) City of Clayton
(XX) Realty not sold

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

First Horizon Home Loans, a Division of the First Tennessee Bank Association, a National Banking Association

hereby GRANT(S) TO

The City of Clayton

that property in the City of Clayton, Contra Costa County, State of California, described as:

A Non-exclusive public Utility Easement for Public Utility Purposes, together with the right of ingress and egress for the construction, maintenance, use, and operation of utility structures and appurtenances under and upon said areas; said areas are to be kept open and free from buildings and structures of any kind, except utility, street, and sidewalk structures and appurtenances, irrigation systems, and lawful fences.

See Exhibit 'A' (Legal Description) and Exhibit 'B' (Plat Map) attached hereto and made apart hereof:

Mail tax statement to: Not applicable

Date 9/28/10

BY: James Boxold
James Boxold, Vice President

BY: Sue McPeak
Sue McPeak, Assistant Vice President

446-09 PUE.Doc

See Attached Notary Certificate

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of CONTRA COSTA }

On 9/28/2010 (Date) before me, DEBRA MANGINI, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared JAMES BOXOLD AND SUE McPEAK, (Name(s) of Signer(s))

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

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

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

DEBRA MANGINI
COMM. # 1878075
NOTARY PUBLIC-CALIFORNIA
CONTRA COSTA COUNTY
MY COMM. EXP. FEB. 21, 2014

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: GRANT OF SANITARY SEWER EASEMENT

Document Date: 9/28/2010 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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446-09 PUE (August 12, 2010) Sheet 1 of 2
Take from Seeno - Give to City of Clayton

EXHIBIT 'A'

PUBLIC UTILITY EASEMENT

Real property situated in the City of Clayton, County of Contra Costa, State of California, being described as follows:

A portion of that parcel of land described in the deed conveyed from Albert D. Seeno Construction Company, a California limited partnership and Albert D. Seeno, Jr., Family Foundation, a California nonprofit public benefit foundation to First Horizon Home Loans, a Division of First Tennessee Bank National Association, a national banking association, recorded May 7, 2010, at Series #2010-0091683, Contra Costa County Records, being further described as follows:

A Forty-four (44) foot wide strip, measured at right angles, the centerline of which is described as follows:

BEGINNING at the Southeast corner of Lot 9 as said Lot 9 is shown on the Map of Subdivision 8719, recorded June 10, 2008, in Book 506 of Maps, at Page 45, Contra Costa County Records; thence leaving said Point of Beginning southwesterly along the direct extension of the common line between Lot 8 and Lot 9, of said Subdivision 8719 (506 M 45) South 58°13'11" West, 35.46 feet, more or less, to the Point of Terminus, said Point of Terminus being a point on the Northeast right-of-way line of Rialto Drive, a 56 foot wide public Right-of-Way, as said Rialto Drive is shown on the Map of Subdivision 4343, recorded July 19, 1973, in Book 159 of Maps, at Page 34, Contra Costa County Records.

The sidelines of said strip to be lengthened or shortened so as to terminate at their northeasterly ends at the Southwest line of said Subdivision 8719 (506 M 45) and at their southwesterly ends at the Northeasterly Right-Of-Way line of Rialto Drive as shown on said Subdivision 4343 (159 M 37).

See Exhibit 'B' (plat map) attached hereto and made a part hereof:

Subject to all existing easements.

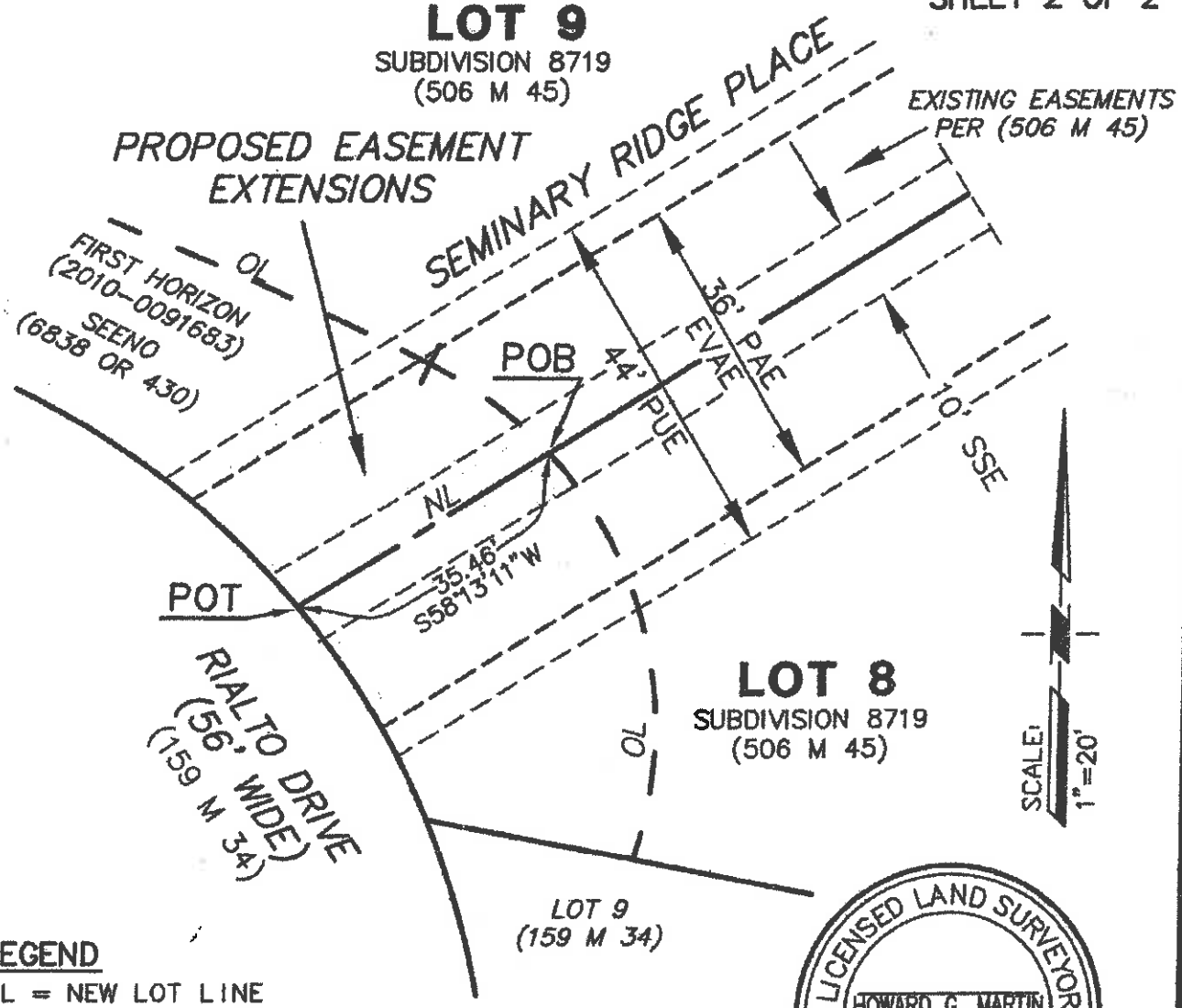
End of Description.

A.P.N. 119-271-006 (portion of)

By: _____
Howard G. Martin, LS #6690

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
Exp. 6-30-12
No. 6690
STATE OF CALIFORNIA

Schell & Martin, Inc.
Civil Engineering & Land Surveying
Lafayette, California



LEGEND

NL = NEW LOT LINE
OL = OLD LOT LINE
PAE = PRIVATE ACCESS EASEMENT.
PUE = PUBLIC UTILITY EASEMENT
SSE = PUBLIC SANITARY SEWER EASEMENT.
EVAE = PUBLIC EMERGENCY VEHICLE ACCESS EASEMENT.

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
EXP. 6-30-12
No. 6690
STATE OF CALIFORNIA

HOWARD G. MARTIN, LS 6690
EXP. DATE 6-30-12

EXHIBIT 'B'
PUBLIC SANITARY EASEMENT
PUBLIC UTILITY EASEMENT
PUBLIC EMERGENCY ACCESS EASEMENT
A.P.N. 119-271-006

SCALE: 1" = 20'
DATE: AUGUST 12, 2010
JOB NO. 446-09 (ALBORG)

SCHELL & MARTIN, INC.
CIVIL ENGINEERING & LAND SURVEYING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 94549
925.283.8111

PUE

Agenda Date: 8/21/12

Agenda Item: 4(d)3.

RESOLUTION NO.

A RESOLUTION ACCEPTING A N ACCESS EASEMENT DEED OVER A PORTION OF LOT 1 OF SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, the duties of the Diablo Estates at Clayton Benefit Assessment District ("BAD") include the maintenance of the sloped areas of Lots 1 through 4, inclusive, of Subdivision 8719, Diablo Pointe (final map filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County), including fire protection weed abatement of those slopes; and

WHEREAS, in order to perform its duties, the BAD must have access to said sloped areas; and

WHEREAS, Toll Bros. has prepared and executed an Access Easement Deed granting the City an access path to the sloped areas through Lot 1 for acceptance by the City; and

WHEREAS, the City Engineer has reviewed the Access Easement Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Access Easement Deed for an access path through Lot 1 of Subdivision 8719.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

RECORDED AT THE REQUEST OF:

WHEN RECORDED RETURN TO:

ACCESS EASEMENT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **TOLL CA XIX LIMITED PARTNERSHIP**, a California limited partnership (**"Grantor"**), hereby **GRANTS** to **CITY OF CLAYTON**, a municipal corporation (**"Grantee"**), an easement over, under, upon and across the following described real property (**"Easement Area"**) situated in the City of Clayton, County of Contra Costa, State of California, described as follows:

That certain real property described in Exhibit "A" attached hereto and depicted in Exhibit "B"attached hereto, both of which are incorporated herein as though set forth in full.

PURPOSES

The easement is for the purposes of (i) the right to enter within the Easement Area to access the Restricted Area described in the Deed of Development Rights recorded on _____, as Document No. _____, in the Official Records of the Contra Costa County Recorder.

MAINTENANCE

Any portion of the Easement Area which also serves as a driveway to the residence constructed on the servient tenement (Lot 1) shall be maintained by the owner of the servient tenement. Any asphalt, concrete, gravel or other surface improvement which is not required to be maintained by the owner of the servient tenement pursuant to the preceding sentence shall be maintained by Grantee. Grantor acknowledges and agrees that the costs of performing such maintenance by Grantee shall be funded by the Diablo Estates at Clayton Benefit Assessment District. Each party is responsible for and shall promptly repair, at its sole cost and expense, all damage caused by the party or its agents, guests, invitees, licensees, contractors, or employees, other than damage which is the result of ordinary wear and tear.

SUCCESSORS AND ASSIGNS

Each reference to "**Grantor**" in this Easement Deed shall be deemed to refer to and include Grantor and all successors and assigns of Grantor. All references to "**Grantee**" in this Easement Deed shall be deemed to refer to and include Grantee and all successors and assigns of Grantee.

Dated:_____

GRANTOR:

TOLL CA XIX LIMITED PARTNERSHIP,
a California limited partnership

By: Toll CA GP Corp,
a California corporation,
Its General Partner

By: _____
Name: Gary M. Mayo
Title: Group President

By: _____
Name: Richard M. Nelson
Title: Division President

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

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

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

WITNESS my hand and official seal.

_____
Signature

EXHIBITS

A Legal Description of Access Easement in Lot 1

B Plat of Access Easement in Lot 1

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

EXHIBIT 'A'

LEGAL DESCRIPTION

(5 FOOT ACCESS EASEMENT IN LOT 1)

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF CLAYTON, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 1 AS SHOWN ON THE FINAL MAP OF SUBDIVISION 8719, RECORDED JUNE 10, 2008, IN BOOK 506 OF MAPS AT PAGE 45, DOCUMENT NO. 2008-128962, CONTRA COSTA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF THE "150.00 FOOT CONSERVATION EASEMENT", AS SHOWN ON SAID LOT 1 (506M45), DISTANT THEREON NORTH 00°42'30" EAST, 243.82 FEET FROM THE ANGLE POINT THEREOF; THENCE, FROM SAID POINT OF BEGINNING, NORTH 89°17'30" WEST, 20.22 FEET TO A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 75.00 FEET; THENCE WESTERLY AND NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°21'05", AN ARC DISTANCE OF 46.27 FEET; THENCE NORTH 53°56'25" WEST, 106.03 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE WEST AND HAVING A RADIUS OF 42.00', A RADIAL LINE TO SAID POINT BEARS SOUTH 73°24'41" EAST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 7°25'32", AN ARC DISTANCE OF 5.44 FEET; THENCE, LEAVING SAID CURVE, NON-TANGENT, SOUTH 53°56'25" EAST, 108.18 FEET TO A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 70.00 FEET; THENCE SOUTHEASTERLY AND EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°21'05", AN ARC DISTANCE OF 43.19 FEET; THENCE SOUTH 89°17'30" EAST, 20.22 FEET TO SAID WESTERLY LINE OF THE "150.00 FOOT CONSERVATION EASEMENT" (506M45); THENCE, ALONG LAST SAID LINE, SOUTH 00°42'30" WEST, 5.00 FEET TO THE POINT OF BEGINNING.

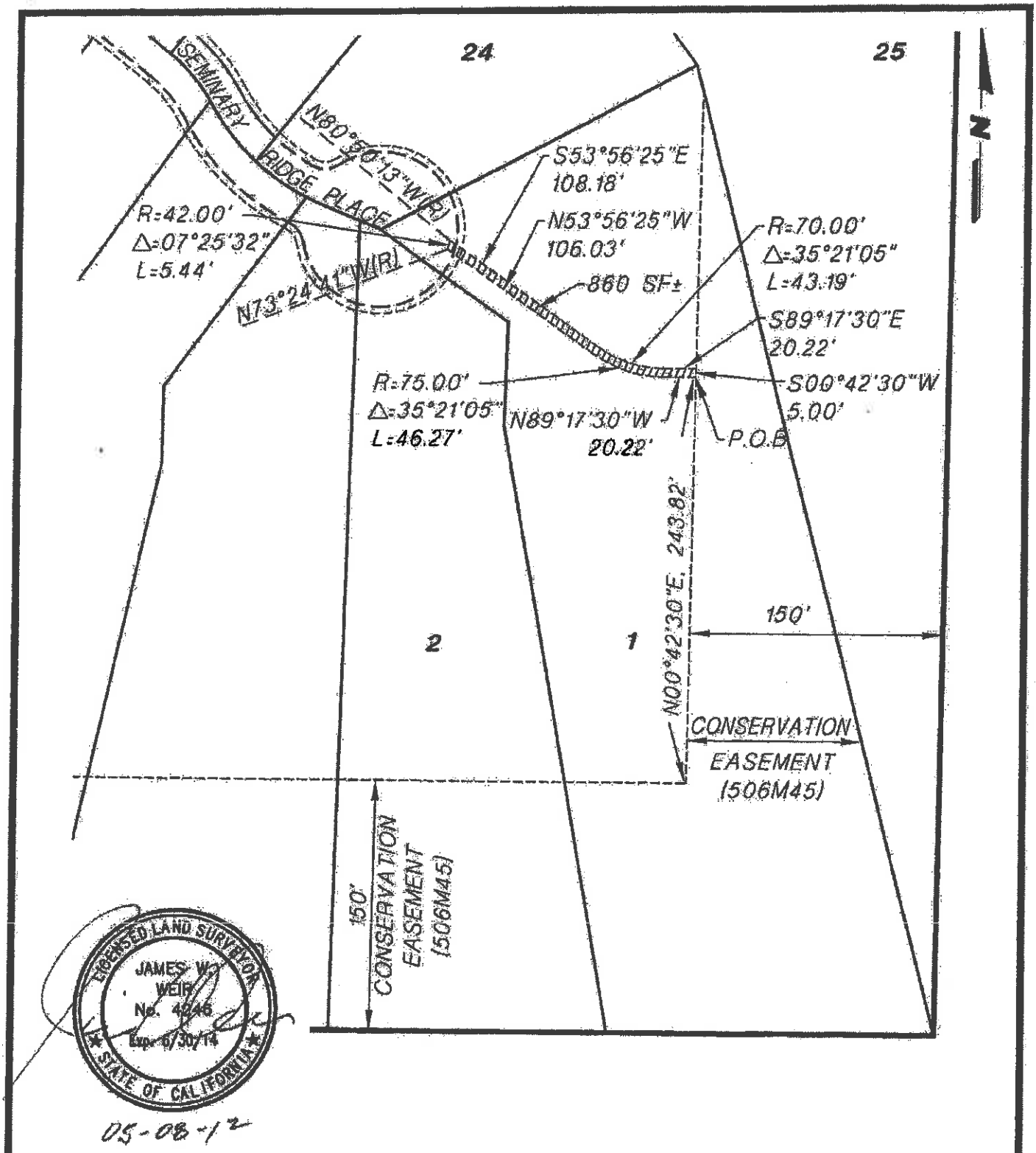
CONTAINING 860 SQUARE FEET, MORE OR LESS.

ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS MADE A PART HEREOF.

05-08-12

JAMES W. WEIR *DATED*

L.S. 4246 EXP. 6/30/14



LICENSED LAND SURVEYOR
JAMES W. WEIR
No. 4946
Exp. 6/30/14
STATE OF CALIFORNIA

05-08-12

DATE:	05/07/12
SCALE:	1"=80'
SHEET	1
OF 1 SHEET	
PROJ. NO.	11001

EXHIBIT 'B'

SUBDIVISION 8719 DIABLO POINTE (506 M 45)

5' ACCESS EASEMENT LOT 1

CLAYTON, CALIFORNIA

P/A Design Resources, Inc.
Planning • Engineering • Surveying
2021 Citrus Circle, Suite 160
Walnut Creek, California 94598-1656
TEL. (925) 210-0300

P:\Drawings\11001-20 Diablo Pointe\Esmt. Exhibits\32' FOOT ACCESS EASEMENT.dwg, 5/8/2012 8:34:10 AM, station r, P/A Design Re

Agenda Date: 8/21/12

Agenda Item: 4(d)3.

RESOLUTION NO.

A RESOLUTION ACCEPTING A STORM DRAINAGE EASEMENT DEED OVER A PORTION OF LOT 6 OF SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, Toll Bros., the developer of Subdivision 8719, Diablo Pointe (aka Diablo Estates at Clayton - filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County) proposed minor changes to the storm drainage facilities originally designed and approved for the development; and

WHEREAS, the changes to the storm drainage facilities necessitated the creation of additional storm drain easements for access and maintenance of the storm drainage improvements; and

WHEREAS, Toll Bros. has prepared and executed a Storm Drainage Easement Deed for a required storm drainage easement on Lot 6 of said Subdivision 8719 for acceptance by the City; and

WHEREAS, the City Engineer has reviewed the Storm Drainage Easement Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Storm Drainage Easement Deed for a portion of Lot 6 of Subdivision 8719.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

RECORDED AT THE REQUEST OF:

WHEN RECORDED RETURN TO:

STORM DRAINAGE EASEMENT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **TOLL CA XIX LIMITED PARTNERSHIP**, a California limited partnership ("**Grantor**"), hereby **GRANTS** to **CITY OF CLAYTON**, a municipal corporation ("**Grantee**"), an easement over, under, upon and across the following described real property ("**Easement Area**") situated in the City of Clayton, County of Contra Costa, State of California, described as follows:

That certain real property described in Exhibit "A" attached hereto and depicted in Exhibit "B"attached hereto, both of which are incorporated herein as though set forth in full.

PURPOSES

The easement is for the purposes of (i) construction, reconstruction, maintenance and repair of "V" and "J" ditches and related storm drainage improvements within the Easement Area, (ii) the right to enter within the Easement Area for the preceding purposes, and (iii) the use of and discharge of storm water through the storm "V" and "J" ditches and related storm drainage improvements.

MAINTENANCE

The "V" and "J" ditches and related storm drainage improvements constructed or reconstructed within the Easement Area in connection with the easements granted herein shall be maintained, repaired and replaced by Grantee. Grantor acknowledges and agrees that the costs of performing such maintenance, repair or replacement shall be funded by the Diablo Estates at Clayton Benefit Assessment District. Each party is responsible for and shall promptly repair, at its sole cost and expense, all damage caused by the party or its agents, guests, invitees, licensees, contractors, or employees, other than damage which is the result of ordinary wear and tear.

SUCCESSORS AND ASSIGNS

Each reference to "**Grantor**" in this Easement Deed shall be deemed to refer to and include Grantor and all successors and assigns of Grantor. All references to "**Grantee**" in this Easement Deed shall be deemed to refer to and include Grantee and all successors and assigns of Grantee.

Dated:_____

GRANTOR:

TOLL CA XIX LIMITED PARTNERSHIP,
a California limited partnership

By: Toll CA GP Corp,
a California corporation,
Its General Partner

By: _____
Name: Gary M. Mayo
Title: Group President

By: _____
Name: Richard M. Nelson
Title: Division President

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

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

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

WITNESS my hand and official seal.

_____
Signature

EXHIBITS

A Legal Description of Storm Drain Easement

B Plat of Storm Drain Easement

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

EXHIBIT 'A'

LEGAL DESCRIPTION

(STORM DRAIN EASEMENT IN LOT 6)

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF CLAYTON, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 6 AS SHOWN ON THE FINAL MAP OF SUBDIVISION 8719, RECORDED JUNE 10, 2008, IN BOOK 506 OF MAPS AT PAGE 45, DOCUMENT NO. 2008-128962, CONTRA COSTA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF SAID LOT 6 (506M45), DISTANT THEREON SOUTH 36°23'05" WEST, 108.59 FEET FROM THE NORTHERLY CORNER THEREOF; THENCE, FROM SAID POINT OF BEGINNING THE FOLLOWING COURSES:

1. *SOUTH 53°36'55" EAST, 10.00 FEET;*
2. *SOUTH 36°23'05" WEST, 13.41 FEET;*
3. *NORTH 16°16'44" WEST, 12.58 FEET TO SAID NORTHWESTERLY LINE;*

THENCE, ALONG LAST SAID LINE NORTH 36°23' 05" EAST, 5.78 FEET TO THE POINT OF BEGINNING.

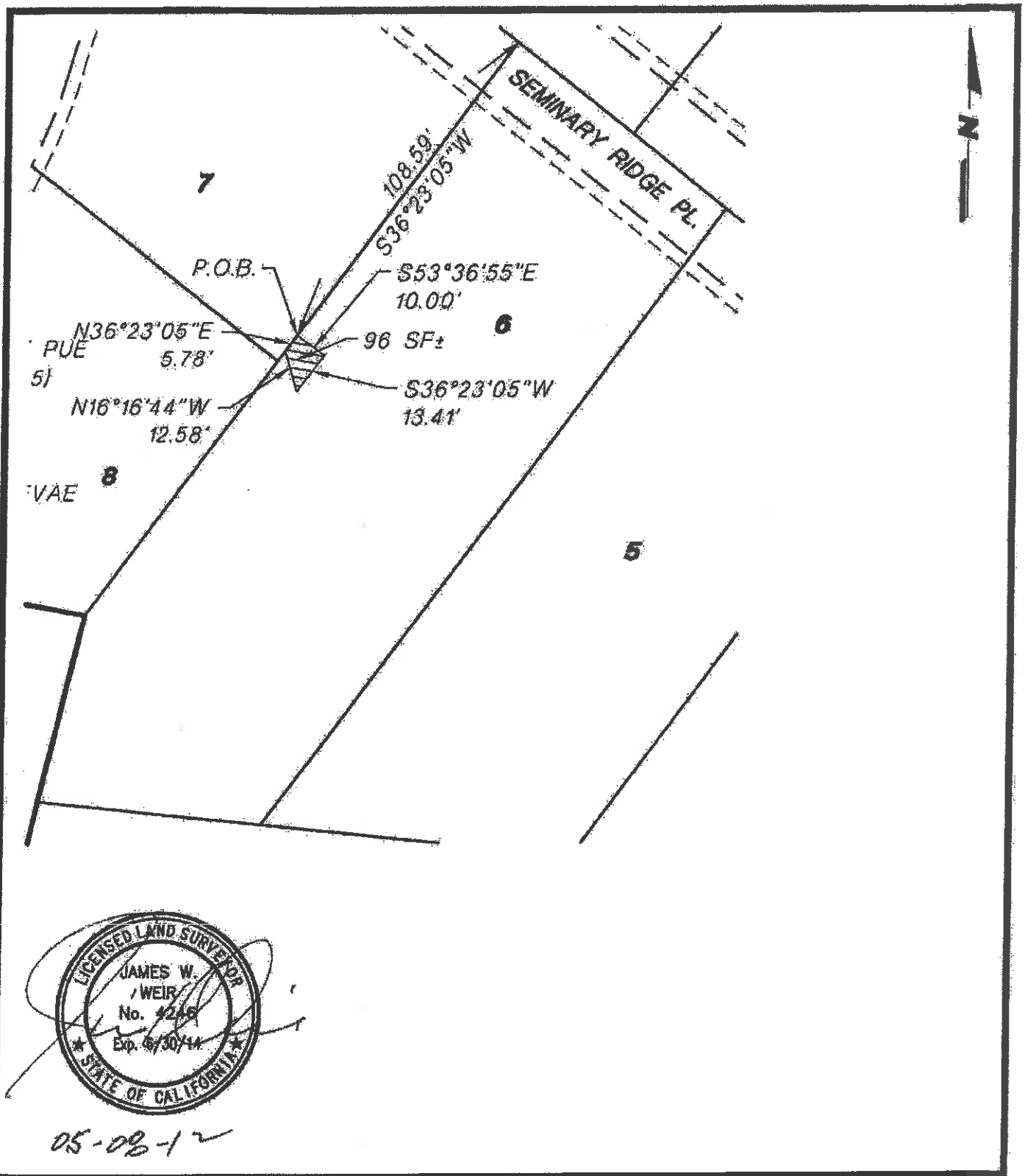
CONTAINING 96 SQUARE FEET, MORE OR LESS.

ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS MADE A PART HEREOF.

05-08-12

JAMES W. WEIR *DATED*

L.S. 4246 EXP. 6/30/14



LICENSED LAND SURVEYOR
JAMES W. WEIR
No. 4248
Exp. 6/30/14
STATE OF CALIFORNIA

05-02-12

DATE:	05/07/12
SCALE:	1"=40'
SHEET	1
OF	1 SHEET
PROJ. NO.	11001

EXHIBIT 'B'

SUBDIVISION 8719 DIABLO POINTE (506 M 45)

SD EASEMENT LOT 6

CLAYTON, CALIFORNIA

P/A Design Resources, Inc.
Planning • Engineering • Surveying
3021 Citrus Circle, Suite 150
Walnut Creek, California 94598-2634
(925) 210-0500

P:\Drawings\11001-20 Diablo Pointe\Esmt. Exhibits\SD EASEMENTS.dwg, 5/8/2012 8:28:37 AM, station r, P/A Design Resources, Inc.

Agenda Date: 8/21/12

Agenda Item: 4(d)3.

RESOLUTION NO.

A RESOLUTION ACCEPTING A STORM DRAINAGE EASEMENT DEED OVER A PORTION OF LOT 9 OF SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, Toll Bros., the developer of Subdivision 8719, Diablo Pointe (aka Diablo Estates at Clayton - filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County) proposed minor changes to the storm drainage facilities originally designed and approved for the development; and

WHEREAS, the changes to the storm drainage facilities necessitated the creation of additional storm drain easements for access and maintenance of the storm drainage improvements; and

WHEREAS, Toll Bros. has prepared and executed a Storm Drainage Easement Deed for a required storm drainage easement on Lot 9 of said Subdivision 8719 for acceptance by the City; and

WHEREAS, the City Engineer has reviewed the Storm Drainage Easement Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Storm Drainage Easement Deed for a portion of Lot 9 of Subdivision 8719.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____
Howard Geller, Mayor

ATTEST:

_____
Laci J. Jackson, City Clerk

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

_____
Laci J. Jackson, City Clerk

RECORDED AT THE REQUEST OF:

WHEN RECORDED RETURN TO:

STORM DRAINAGE EASEMENT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **TOLL CA XIX LIMITED PARTNERSHIP**, a California limited partnership (**"Grantor"**), hereby **GRANTS** to **CITY OF CLAYTON**, a municipal corporation (**"Grantee"**), an easement over, under, upon and across the following described real property (**"Easement Area"**) situated in the City of Clayton, County of Contra Costa, State of California, described as follows:

That certain real property described in Exhibit "A" attached hereto and depicted in Exhibit "B"attached hereto, both of which are incorporated herein as though set forth in full.

PURPOSES

The easement is for the purposes of (i) construction, reconstruction, maintenance and repair of an underground storm drain pipe and related underground storm drainage improvements within the Easement Area, (ii) the right to enter within the Easement Area for the preceding purposes, and (iii) the use of and discharge of storm water through the storm drain pipe and storm drainage improvements.

MAINTENANCE

All storm drain pipes and storm drainage improvements constructed or reconstructed within the Easement Area in connection with the easements granted herein shall be maintained, repaired and replaced by Grantee. Grantor acknowledges and agrees that the costs of performing such maintenance, repair or replacement shall be funded by the Diablo Estates at Clayton Benefit Assessment District. Each party is responsible for and shall promptly repair, at its sole cost and expense, all damage caused by the party or its agents, guests, invitees, licensees, contractors, or employees, other than damage which is the result of ordinary wear and tear.

SUCCESSORS AND ASSIGNS

Each reference to **"Grantor"** in this Easement Deed shall be deemed to refer to and include Grantor and all successors and assigns of Grantor. All references to **"Grantee"** in this Easement Deed shall be deemed to refer to and include Grantee and all successors and assigns of Grantee.

Dated:_____

GRANTOR:

TOLL CA XIX LIMITED PARTNERSHIP,
a California limited partnership

By: Toll CA GP Corp,
a California corporation,
Its General Partner

By: G. M. Mayo
Name: Gary M. Mayo
Title: Group President

By: R. M. Nelson
Name: Richard M. Nelson
Title: Division President

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

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

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

WITNESS my hand and official seal.

_____
Signature

EXHIBITS

A	Legal Description of Storm Drain Easement in Lot 9
B	Plat of Storm Drain Easement in Lot 9

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

EXHIBIT 'A'
LEGAL DESCRIPTION
(STORM DRAIN EASEMENT IN LOT 9)

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF CLAYTON, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 9-AMENDED AS DESCRIBED IN THE "LOT LINE ADJUSTMENT NO. 10-01", RECORDED OCTOBER 27, 2010, DOCUMENT NO. 2010-0239196, CONTRA COSTA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEING A STRIP OF LAND 10 FEET IN WIDTH, MEASURED AT RIGHT ANGLES, THE CENTERLINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTHWESTERLY LINE OF SAID LOT 9-AMENDED (2010-0239196), DISTANT THEREON NORTH 18°42'17" EAST, 19.20 FEET AND NORTH 57°36'41" EAST, 35.13 FEET FROM THE SOUTHWESTERLY CORNER THEREOF; THENCE, FROM SAID POINT OF BEGINNING, SOUTH 47°11'13" EAST, 94.60 FEET TO A POINT ON THE NORTHWESTERLY LINE OF THE 36 FOOT PAE AND EVAE AS SHOWN ON SHEET 13 OF 13 OF SAID LOT 9-AMENDED (2010-0239196), DISTANT THEREON NORTH 58°13'11" EAST, 23.42 FEET FROM THE MOST WESTERLY CORNER OF SAID 36 FOOT PAE AND EVAE.

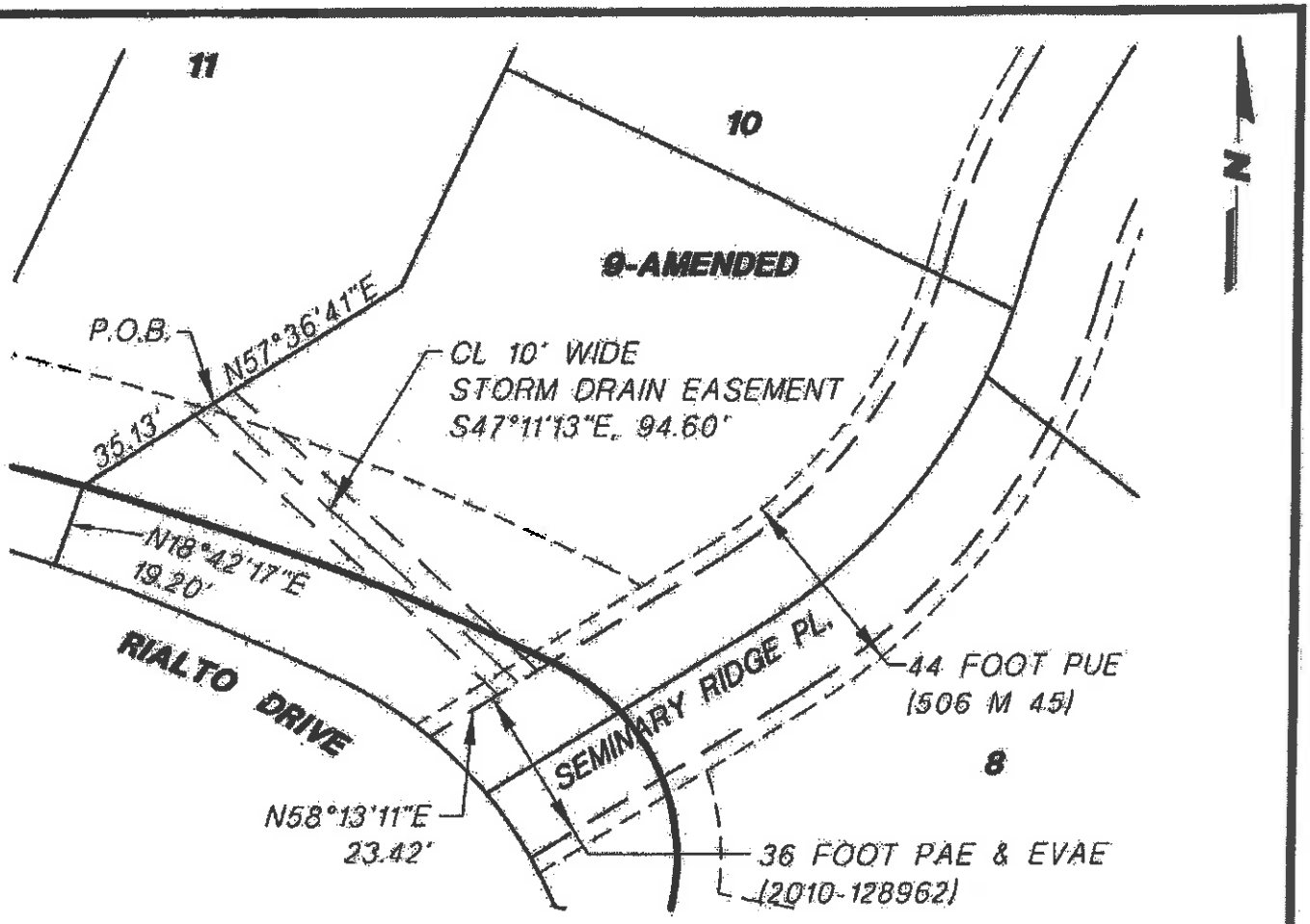
THE SIDELINES OF SAID 10 FOOT EASEMENT TO BE EXTENDED OR SHORTENED TO TERMINATE AT SAID LOT LINE AND PAE/EVAE EASEMENT LINE.

CONTAINING 946 SQUARE FEET, MORE OR LESS.

ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS MADE A PART HEREOF.

05-08-12

JAMES W. WEIR *DATED*
L.S. 4246 EXP. 6/30/14



LICENSED LAND SURVEYOR
JAMES W. WEIR
No. 4246
Exp. 6/30/14
STATE OF CALIFORNIA

05-08-12

DATE:	05/07/12
SCALE:	1"=40'
SHEET	1
OF 1 SHEET	
PROJ. NO.	11001

EXHIBIT 'B'

SUBDIVISION 8719 DIABLO POINTE (506 M 45) & LOT LINE ADJUSTMENT NO. 10-01(2010-128962)

SD EASEMENT LOT 9

CLAYTON, CALIFORNIA

P/A Design Resources, Inc.
Planning ■ Engineering ■ Surveying
1025 Ellinwood Woods, Suite 160
Walnut Creek, California 94596-1635
TEL (925) 947-9500

Agenda Date: 8/21/12

Agenda Item: 4(d)3.

RESOLUTION NO.

A RESOLUTION ACCEPTING A STORM DRAINAGE EASEMENT DEED OVER A PORTION OF LOT 11 OF SUBDIVISION 8719, DIABLO POINTE (AKA DIABLO ESTATES AT CLAYTON)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, Toll Bros., the developer of Subdivision 8719, Diablo Pointe (aka Diablo Estates at Clayton - filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County) proposed minor changes to the storm drainage facilities originally designed and approved for the development; and

WHEREAS, the changes to the storm drainage facilities necessitated the creation of additional storm drain easements for access and maintenance of the storm drainage improvements; and

WHEREAS, Toll Bros. has prepared and executed a Storm Drainage Easement Deed for a required storm drainage easement on Lot 11 of said Subdivision 8719 for acceptance by the City; and

WHEREAS, the City Engineer has reviewed the Storm Drainage Easement Deed and has recommended acceptance by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby accepts the attached Storm Drainage Easement Deed for a portion of Lot 11 of Subdivision 8719.

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Easement Deed to be recorded with the County Recorder of Contra Costa County.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____
Howard Geller, Mayor

ATTEST:

_____
Laci J. Jackson, City Clerk

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

_____
Laci J. Jackson, City Clerk

RECORDED AT THE REQUEST OF:

WHEN RECORDED RETURN TO:

STORM DRAINAGE EASEMENT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **TOLL CA XIX LIMITED PARTNERSHIP**, a California limited partnership (**"Grantor"**), hereby **GRANTS** to **CITY OF CLAYTON**, a municipal corporation (**"Grantee"**), an easement over, under, upon and across the following described real property (**"Easement Area"**) situated in the City of Clayton, County of Contra Costa, State of California, described as follows:

That certain real property described in Exhibit "A" attached hereto and depicted in Exhibit "B"attached hereto, both of which are incorporated herein as though set forth in full.

PURPOSES

The easement is for the purposes of (i) construction, reconstruction, maintenance and repair of "V" and "J" ditches and related storm drainage improvements within the Easement Area, (ii) the right to enter within the Easement Area for the preceding purposes, and (iii) the use of and discharge of storm water through the storm "V" and "J" ditches and related storm drainage improvements.

MAINTENANCE

The "V" and "J" ditches and related storm drainage improvements constructed or reconstructed within the Easement Area in connection with the easements granted herein shall be maintained, repaired and replaced by Grantee. Grantor acknowledges and agrees that the costs of performing such maintenance, repair or replacement shall be funded by the Diablo Estates at Clayton Benefit Assessment District. Each party is responsible for and shall promptly repair, at its sole cost and expense, all damage caused by the party or its agents, guests, invitees, licensees, contractors, or employees, other than damage which is the result of ordinary wear and tear.

SUCCESSORS AND ASSIGNS

Each reference to "**Grantor**" in this Easement Deed shall be deemed to refer to and include Grantor and all successors and assigns of Grantor. All references to "**Grantee**" in this Easement Deed shall be deemed to refer to and include Grantee and all successors and assigns of Grantee.

Dated:_____

GRANTOR:

TOLL CA XIX LIMITED PARTNERSHIP,
a California limited partnership

By: Toll CA GP Corp,
a California corporation,
Its General Partner

By:_____
Name: Gary M. Mayo
Title: Group President

By:_____
Name: Richard M. Nelson
Title: Division President

STATE OF CALIFORNIA
COUNTY OF _____ } ss.

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

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

WITNESS my hand and official seal.

_____
Signature

EXHIBITS

A	Legal Description of Storm Drain Easement
B	Plat of Storm Drain Easement

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

ACKNOWLEDGMENT

State of California
County of Contra Costa)

On July 10, 2012 before me, Jean R. Westphal, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JEAN R. WESTPHAL
Commission # 1972714
Notary Public - California
Contra Costa County
My Comm. Expires Apr 18, 2016

Signature Jean R. Westphal (Seal)

EXHIBIT 'A'

LEGAL DESCRIPTION

(STORM DRAIN EASEMENT IN LOT 11)

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF CLAYTON, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 11 AS SHOWN ON THE FINAL MAP OF SUBDIVISION 8719, RECORDED JUNE 10, 2008, IN BOOK 506 OF MAPS AT PAGE 45, DOCUMENT NO 2008-128962, CONTRA COSTA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF SAID LOT 11 (506M45), DISTANT THEREON SOUTH 24°57'04" WEST, 112.30 FEET FROM THE NORTHEASTERLY CORNER THEREOF; THENCE, FROM SAID POINT OF BEGINNING AND ALONG LAST SAID LINE, SOUTH 24°57'04" WEST, 5.61 FEET; THENCE, LEAVING LAST SAID LINE, THE FOLLOWING COURSES:

1. *SOUTH 67°44'40" WEST, 14.72 FEET;*
2. *NORTH 24°57'04" EAST, 16.41 FEET;*
3. *SOUTH 65°02'56" EAST, 10.00 FEET TO THE POINT OF BEGINNING.*

CONTAINING 110 SQUARE FEET, MORE OR LESS.

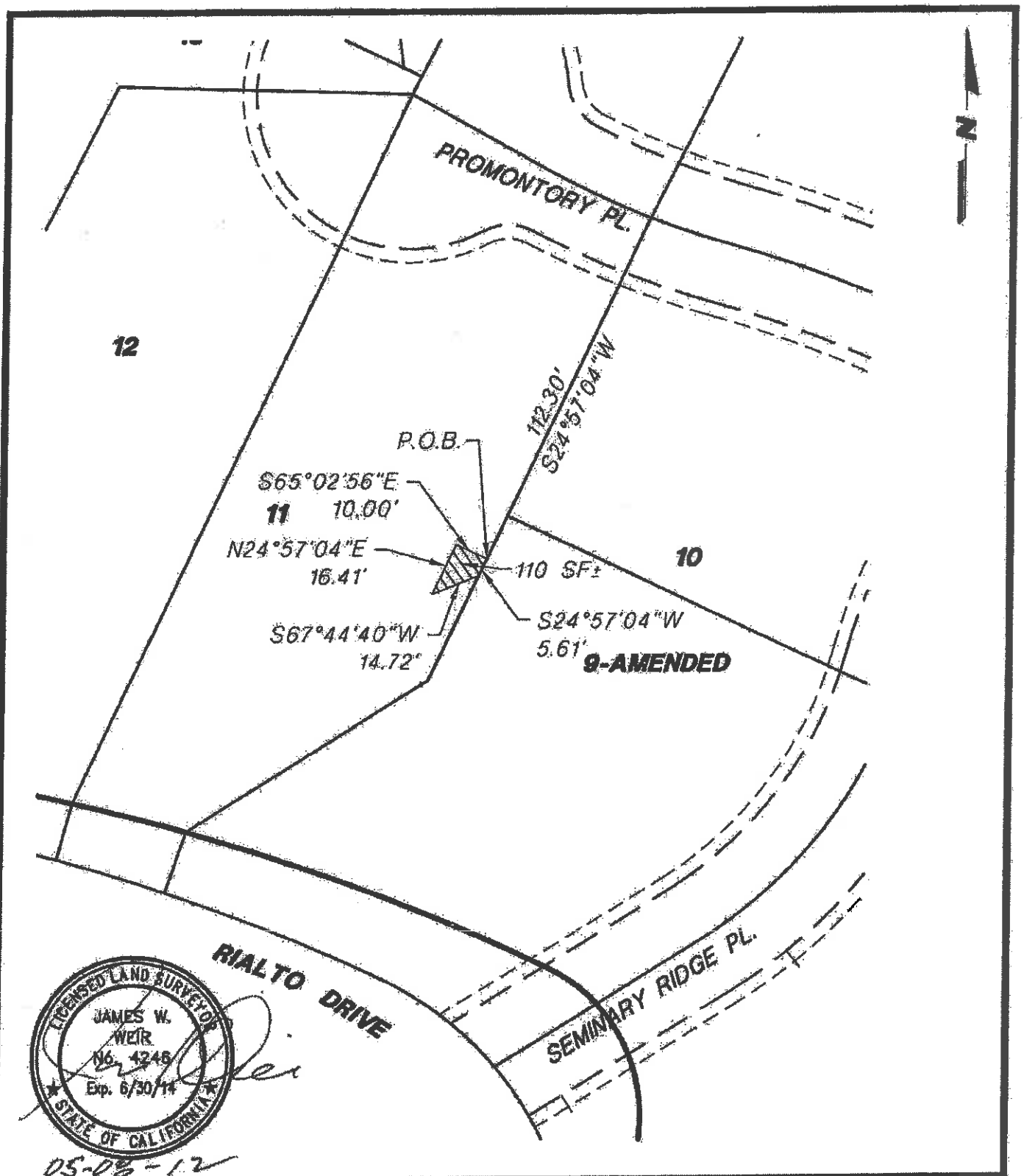
ATTACHED HERETO IS A PLAT ENTITLED EXHIBIT 'B' AND BY THIS REFERENCE IS MADE A PART HEREOF.

05-08-12

JAMES W. WEIR *DATED*

L.S. 4246 EXP. 6/30/14

LICENSED LAND SURVEYOR
JAMES W. WEIR
4246
STATE OF CALIFORNIA



LICENSED LAND SURVEYOR
JAMES W. WEIR
No. 4246
Exp. 6/30/14
STATE OF CALIFORNIA

05-08-12

DATE:	05/07/12
SCALE:	1"=40'
SHEET	1
OF 1 SHEET	
PROJ. NO.	11001

EXHIBIT 'B'

SUBDIVISION 8719 DIABLO POINTE (506 M 45)

SD EASEMENT LOT 11

CLAYTON, CALIFORNIA

P/A Design Resources, Inc.
Planning • Engineering • Surveying
2021 Citrus Circle, Suite 150
Walnut Creek, California 94598-1639
Tel. (925) 210-0330

Agenda Date: 8/21/12

Agenda Item: 4(d)4.

RESOLUTION NO.

A RESOLUTION OF VACATION SUMMARILY VACATING OFFERS OF DEDICATION OF LANDSCAPE MAINTENANCE EASEMENTS AND CONSERVATION EASEMENTS SHOWN ON THE FINAL MAP OF SUBDIVISION 8719 PURSUANT TO PART 3, CHAPTER 4 OF THE STATE OF CALIFORNIA STREETS AND HIGHWAYS CODE

THE CITY COUNCIL
City of Clayton, California

WHEREAS, the final map of Subdivision 8719, Diablo Pointe (aka Diablo Estates at Clayton - filed June 10, 2008 in Book 506 of Maps at Page 45 in the Office of the Recorder of Contra Costa County) included the dedication of public Landscape Maintenance Easements and Conservation Easements over portions of several lots; and

WHEREAS, both the Landscape Maintenance Easements and the Conservation Easements have been superseded by relocation and have been replaced by easements and development rights deeds that have previously been accepted by the City of Clayton; and

WHEREAS, Part 3, Chapter 4 (Section 8333 et seq.) of the State of California Streets and Highways Code authorizes the legislative body of a local agency (City) to summarily vacate a public service easement if the easement has been superseded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the City Engineer has confirmed that there are no other public facilities within the easement areas and has recommended approval of the easement vacation by the City Council;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The City Council hereby approves this resolution summarily vacating the offers of dedication for Landscape Maintenance Easements and Conservation Easements shown on the recorded final map for Subdivision 8719 (506 M 45).

2. The City Clerk is hereby instructed to cause a certified copy of this resolution and the Easement Deed to be recorded with the County Recorder of Contra Costa County.

3. The City Council hereby states that from and after the date this resolution is recorded, the easements vacated shall no longer constitute an easement or offer of dedication.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Howard Geller, Mayor

ATTEST:

_____

Laci J. Jackson, City Clerk

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

_____

Laci J. Jackson, City Clerk

Agenda Date: 8/21/12

Agenda Item: 5(a)

NOTE:

CERTIFICATES

FOR CLAYTON VALLEY HIGH CHARTER SCHOOL

WILL BE PROVIDED AT THE MEETING

Agenda Date: 8/21/12

Agenda Item: 5(b)

FERNANDO CAREREZ

for

outstanding and friendly service

at the

United States Post Office- Clayton, CA 94517

upon his retirement

Agenda Date: 8/21/12

Agenda Item: 5(b)

TONY OLIVER

for

outstanding and friendly service

at the

United States Post Office- Clayton, CA 94517

upon his retirement

CITY OF CLAYTON
Founded 1857 ... Incorporated 1964

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

Agenda Date: 8/21/12

Agenda Item: 9(a)

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR

DATE: AUGUST 21, 2012

SUBJECT: CONSIDERATION OF A PETITION BY TOLL BROTHERS, INC. FOR RELIEF FROM A CONDITION OF APPROVAL TO ALLOW THE DEVELOPER THE ISSUANCE OF THE 20TH AND SUBSEQUENT BUILDING PERMITS (24 TOTAL) DUE TO THE DELAYED CONVEYANCE OF LOT 25 AS A CONSERVATION MITIGATION PARCEL TO A SUITABLE LAND TRUST STEWARD (DIABLO ESTATES AT CLATYON; SUBDIVISION 8719) (SPR 01-11)

RECOMMENDATION

It is recommended that Toll Brothers be allowed issuance of up to and including the 22nd building permit at the Diablo Estates at Clayton residential subdivision. Toll Brothers shall provide proof of acceptance of Lot 25, the conservation mitigation parcel, by Save Mount Diablo (or other accepted third party) prior to the release of the building permit for the 23 home.

BACKGROUND

Toll Brothers, the developer of Diablo Estates at Clayton 24-home residential subdivision, has submitted a letter, dated August 14, 2012, to Mayor Geller and Members of the City Council, petitioning the City Council to instruct staff to issue all remaining building permits for the Diablo Estates at Clayton subdivision (See **Exhibit 1**). Condition No. 4 of the Diablo Estates at Clayton project approval (See **Exhibit 2**) indicates that the developer of this project is to dedicate Lot 25, the 4.98 +/- conservation mitigation parcel to the California Department of Parks and Recreation or a third party acceptable to the City Council. Alternatively, the benefit assessment district (BAD) associated with the project would be responsible for the on-going management and related costs associated with this property. Condition No. 4 further stipulates that the Developer shall provide to the City proof of acceptance of Lot 25 by the California Department of Parks and Recreation or accepted third party prior to the issuance of the 20th building permit. This condition further states in the circumstance the State or accepted third party has not accepted Lot 25 and the Developer is in a position to request issuance of the twentieth (20th) building permit in the subdivision, the Developer may petition the City Council to allow issuance of the 20th and subsequent building permits. Staff has released 19 building permits to date. Although there have been good faith efforts on the part of both Toll Brothers and Save Mount Diablo,

(the City Council accepted third party), Save Mount Diablo has not formally accepted the conveyance of Lot 25. Accordingly, Toll Brothers is exercising its right, as provided in Condition No. 4, to request the release of the 20th and subsequent building permits.

It is important for the City Council to be aware that Condition No. 5 (See **Exhibit 2**) of the project approval addresses the affordable housing requirements for this project. The project developers have satisfied both the very low-income and the moderate-income housing requirements for this project. Homes in these categories have been acquired and sold to qualified buyers. Toll Brothers has acquired the low-income housing unit but has not yet found a qualified buyer for that home. Condition No. 5 requires that escrow close for the low-income unit prior to the issuance of the 20th certificate of occupancy. Accordingly, should the Developer want to be allowed occupancy of the 20th or subsequent units, the Developer will need to request a modification of this condition, Condition No 5, at the Planning Commission.

DISCUSSION

Staff has spoken with representatives of both Toll Brothers and Save Mount Diablo and it appears the parties are close to reaching final agreement on the formal acceptance of Lot 25 by Save Mount Diablo and the conveyance of that property to Save Mount Diablo. Toll Brothers is requesting the release of all five remaining building permits. Staff was told by a Toll Brothers representative that 21 of the 24 homes have been sold to date. Staff suggests that it would be prudent to not release all building permits at this time to further assure that indeed the acceptance and conveyance of Lot 25 occurs. Staff suggests that up to 22 building permits be released to give the Developer the opportunity to move forward with known sales and still have two reminding building permits to help ensure that the conservation mitigation parcel is properly accepted and conveyed. Please note this relief would allow Toll Brothers to pull three more building permits, but Condition No. 5 will not allow occupancy beyond the 19th unit until the affordable home escrow closes.

Separately, if Toll Brothers needs additional time to satisfy the affordable housing requirement and is in need of occupancy certificates for the 20th or subsequent units, Toll Brothers will need to apply for a modification to Condition No. 5 at the Planning Commission. As building permits are released and if occupancy is being withheld pending satisfying conditions of approval, anxious home buyers typically become involved and add an extra layer of pressure on all of the parties (i.e., developer, City Staff, Planning Commission members and members of the City Council) to occupy the property without regard to these conditions.

Exhibits:

1. Toll Brothers letter to Mayor Geller and Members of the City Council, dated August 14, 2012.
2. Condition Nos. 4 and 5 form the Diablo Estates at Clayton Site Plan Review Permit Approval, dated July 15, 2011.

Exhibit 1

Toll Brothers
America's Luxury Home Builder®

August 14, 2012

Mayor Geller and Members of the City Council
City of Clayton City Hall
6000 Heritage Trail
Clayton, CA 94517

Re: Toll Brothers Inc.
Diablo Estates at Clayton, SPR 01-11, Condition of Approval #4 and Remaining Building Permits

Dear Mayor Geller and Members of the City Council:

As may know, Diablo Estates at Clayton is subject to a Condition of Approval (COA) that limits the issuance of the 20th building permit (and subsequent permits) prior to Lot 25 (see map, attachment #1) being **accepted** by a third party non-profit organization. The COA reads as follows,

> "The Developer agrees to dedicate Lot 25 to the California Department of Parks and Recreation as an addition to Mount Diablo State Park, or in the alternative, to a third party non-profit organization acceptable to the City Council. The Developer shall provide proof of acceptance of Lot 25 by the California Department of Parks and Recreation or the accepted third party non-profit organization prior to the issuance of a building permit for the twentieth (20th) dwelling. The Developer shall be responsible for the care and maintenance of Lot 25 until the dedication has been accepted by the State or accepted third party non-profit organization. This responsibility for care and maintenance may not be transferred to any entity, other than the State or the accepted third party non-profit organization, without the expressed written approval of the City. The Developer shall provide a performance deposit to the State or the accepted third party non-profit organization prior to acceptance of Lot 25 by the State to ensure that at least 75 percent of the plantings installed for remediation survive for five (5) years following installation. In the event that less than 75 percent of the trees and shrubs survive, the Developer shall (in consultation with the State or the accepted third party non-profit organization) install and maintain replacement trees and shrubs.
>
> **In the circumstance that the State or an accepted third party non-profit organization has not accepted Lot 25 and the Developer is in a position to request issuance of the twentieth (20th) building permit, the Developer may petition the City Council to allow issuance of the 20th and subsequent building permits.** In the circumstance that Lot 25 is not accepted by the State or an accepted third party non-profit organization, the benefit assessment district or alternatively a Homeowners Association (HOA) shall be responsible for the installation of the plantings, on-going management of the property, with all associated costs being the responsibility of the property owners of this subdivision in accordance with the conditions and mitigation measures associated with Lot 25."

Prior to the approval of the SPR, Toll Brothers Inc. (Toll) expressed its concern to both staff and the Planning Commission about the requirement that Lot 25 be **accepted** by a third party prior to the issuance of the 20th building permit (see attachment #2). Toll's concern was, and still is, that because Toll cannot compel a third party to accept the conveyance of the property, it could be hindered in its good faith efforts to do so, and Toll's buyers could be economically harmed. The acceptance of the dedication is out of Toll's control.

In spite of Toll's concerns, the COA was approved as written. For over a year, Toll has diligently pursued the dedication of Lot 25 to a City Council approved third party non-profit, and has offered Lot 25 without condition. Toll has acted in good faith to fulfill the COA. As of this date, the 20th building permit has been submitted to the City for review, and Toll has buyers who are being economically impacted by this COA. Toll has done everything in its control to fulfill the COA.

As provided in the COA, Toll respectfully requests that the City Council instruct staff to issue the remaining building permits for the Diablo Estates at Clayton subdivision prior to the conveyance of Lot 25 to a third party beneficiary. Summarized below is the history of Toll's efforts to fulfill the COA.

Concurrent with Site Permit Review (SPR) approval in July 2011 and the finalizing of the COA, Toll offered the property to the State of California (in person and via email). On September 13, 2011 Toll received written confirmation that the State could not accept the property (see attachment #3).

On October 4, 2011, City Staff informed Toll that Save Mount Diablo (SMD) was a 3rd Party non-profit who may be interested in accepting the conveyance of Lot 25, and it would be acceptable to the City (see attachment #4).

In late 2011, Toll contacted SMD representatives and started the process to convey Lot 25 to SMD. SMD indicated its Land Committee would have to review the offer and the property, and then their Board of Directors would make the final approval. SMD's next Land Committee meeting was scheduled for late January 2012, and their Board of Directors had a meeting in early March. Toll provided the requested documents so that SMD's Land Committee could review the offer (attachment #5). The only conditions on the Offer (attachment #6) were conditions required by the SPR.

In early February, SMD representatives walked Lot 25. Subsequent to that field visit and the March 7 SMD Board Meeting, SMD had some questions about the site (see attachment #7). Toll met with SMD shortly thereafter and addressed the issues.

At the May 1, 2012 meeting, the Clayton City Council formally approved SMD as an acceptable 3rd party to accept the dedication of Lot 25 (see attachment #8, Item 4f). Throughout May, Toll continued to meet with SMD, and Toll addressed SMD questions as they arose.

In early June, Toll met with SMD to confirm the final form of transfer, which would be a grant deed (see attachment #9). At that meeting, SMD asked Toll to complete a Vacant Land Questionnaire (CAR Form), among other disclosures. At the request of SMD, Toll scheduled another site visit with SMD and David Woltering.

In late June, SMD requested additional documents (see attachment #10). Toll provided the additional documents and on June 27 walked the site again with SMD representatives and

their attorney, who would be doing a final review of the documents. All requested documents were provided at that time. Additional questions came from Seth Adams on June 29 (attachment #11).

On July 31, SMD provided additional questions from their review of documents, and Toll responded to questions on August 3 (see attachment #12). At that point, Toll requested to be placed on the City Council Agenda because Toll was nearing the sale of its 20th home and it could not fulfill the COA as written through no fault or action by Toll.

Toll fully intends to continue to pursue the dedication and conveyance of Lot 25 to Save Mount Diablo or another 3rd party acceptable to the City. Toll is willing to sign a Grant Deed and place it into escrow, to be executed when a 3rd party is ready to accept the conveyance of the property. This should alleviate any concern that the property would not be dedicated and conveyed as required by the COA.

Toll has diligently pursued the dedication and conveyance of Lot 25 and has done everything in its control to fulfill the COA. As provided for in the COA, Toll respectfully requests that the City Council instruct staff to issue all remaining building permits for the Diablo Estates at Clayton community. This will ensure that future city residents will not be unnecessarily impacted by this COA which Toll has done everything in its control to fulfill.

Thank you,

Andrew Warner
Project Manager
Toll Brothers, Inc.

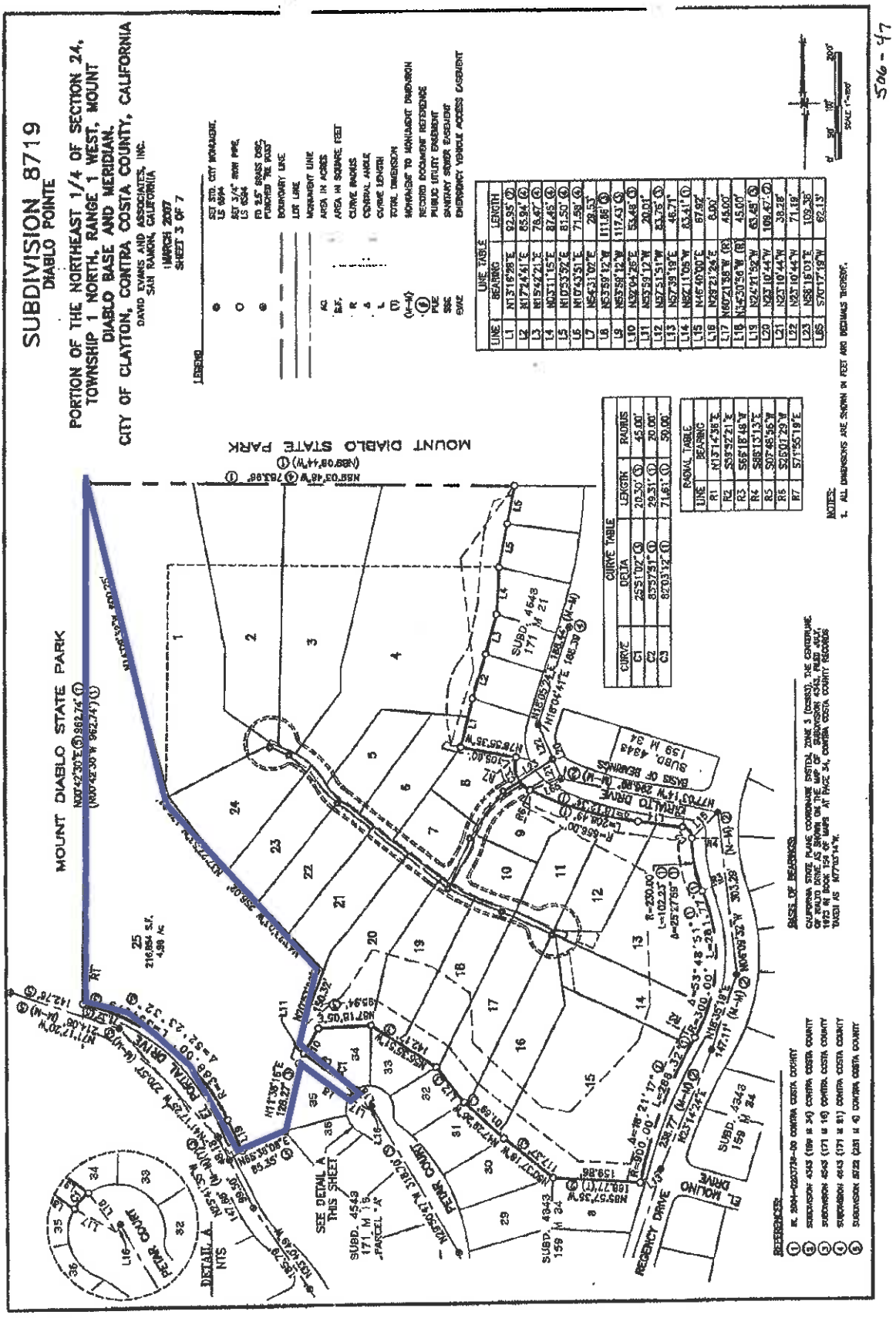
CC: Gary Napper, City Manager
David Woltering, Community Development Director
Laci Jackson, City Clerk
Charles Templeton, Toll Brothers, Inc.
Rick Nelson, Toll Brothers, Inc.

Attachments:

1. Page from Final Map for Subdivision 8719, Diablo Pointe
2. Page from Letter from Alica Guerra (Briscoe, Ivester & Bazel LLP) to Clayton Planning Commission, 7-12-11
3. Email from Roland Gaebert (State Parks) to Andrew Warner (Toll), 9-13-11
4. Email from David Woltering (Clayton) to Andrew Warner (Toll), 10-4-11
5. Email from Andrew Warner (Toll) to Jodi Bailey (Save Mount Diablo), 1-20-12
6. Offer of Dedication of Lot 25 at Diablo Estates at Clayton, 1-19-12
7. Email fro Andrew Warner (Toll) to Jodi Bailey (Save Mount Diablo), 3-9-12
8. Minutes from Clayton City Council Meeting, 5-1-12
9. Email from Seth Adams (Save Mount Diablo) to Andrew Warner (Toll), 6-7-12
10. Email from Seth Adams (Save Mount Diablo) to Andrew Warner (Toll) and David Woltering (Clayton), 6-22-12
11. Email from David Woltering (Clayton) to Andrew Warner (Toll) and Seth Adams (Save Mount Diablo), 6-29-12
12. Email from Andrew Warner (Toll) to Seth Adams (Save Mount Diablo) and David Woltering (Clayton), 8-3-12

ATTACHMENT #1

506 M 47



506 - 47

ATTACHMENT #2

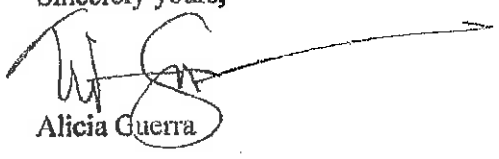
We believe the proposed alternative condition would address the concerns noted in the Staff Report in a manner that would not compromise the marketability concerns of the 24 lots that would otherwise be subject to this condition.

Planning Condition #4 Unfairly Requires Toll Brothers to Guarantee Acceptance of Lot #25 by Others

Condition #4 requires that Toll Brothers dedicate Lot #25 to the California Department of Parks and Recreation or third party non-profit organizations. Toll Brothers is more than willing to make the offer of dedication and has, in fact reached out to the Department of Parks and Recreation to no avail. Toll Brothers also agreed to the conditions concerning maintenance and vegetation planting on the Lot until such time as the Department of Parks and Recreation or a third party non-profit organization were to accept the property. But Toll Brothers cannot make a third party accept the offer of dedication to satisfy a condition that the City has decided to impose on the Project. Other third parties are not bound by the conditions. Thus, to hold Toll Brothers accountable for the performance of a third party is unfair, particularly in this instance where the State appears to not have the resources to accept the offer and where Toll Brothers already has assumed the maintenance obligations until such time as the property is accepted. Accordingly, we respectfully request that the Planning Commission revise Condition #4 to require that Toll Brothers provide evidence of its offer to dedicate Lot #25 to State Parks or a third party rather than requiring that Toll Brothers provide evidence that the State or third party has accepted the offer. This change also would be consistent with the Subdivision Map Act.

We appreciate your consideration of our comments regarding the Diablo Estates project SPR 01-11. Please feel free to contact us if you have any questions or need further information regarding our concerns.

Sincerely yours,



Alicia Guerra

cc: David Woltering
Gary Mayo
Richard M. Nelson
Andrew Warner

ATTACHMENT #3

RE: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25

From: "Gaebert, Roland" <rgaebert@parks.ca.gov>
To: Warner, Andrew
Cc: Anderson, Ken, Nelson, Rick, Bachman, Stephen
Date: 2011/09/13 17:39
Subject: RE: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25
Attachments: TEXT.htm, Mime.822

Sorry, that you haven't heard back from. There are so many priorities that kept popping up. Officially, the District is not interested in acquiring the property. The budget issues are critical and we find no benefit in pursuing the acquisition.

Roland J. Gaebert, SPS III
Diablo Vista District, Bay Sector,
96 Mitchell Canyon Road
Clayton, Calif. 94517
925-673-2895 Office
925-673-1060 FAX

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Tuesday, September 13, 2011 9:16 AM
To: Gaebert, Roland
Cc: Rick Nelson
Subject: Fwd: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25

Roland,
I haven't heard back from you on this. I'll be out at the job site this afternoon, if you would like to take a look at the property with me. Have you heard anything back from the Parks Department?

Thanks.

Andrew Warner
Toll Brothers
Project Manager
Office 925 855 0260
Direct 925 983 4103 - NEW DIRECT NUMBER
Cell 408 590 1108
www.tollbrothers.com

Please note we have moved. Our new office location is:

2000 Crow Canyon Place, Suite 200
San Ramon, CA 94583

>>> Andrew Warner 8/22/2011 7:14 PM >>>
Roland,
thanks for meeting with me last week. As I mentioned in our meeting, Toll Brothers took ownership of this property and we have recently received Planning Approval from the City of Clayton. One of the conditions of approval requires us to "...dedicate Lot 25 to the California Department of Parks and Recreation as an addition to Mount Diablo State Park...". The condition also allows us to donate the Lot to a 3rd party non-profit, but we would like to give the state every opportunity to take the land, if you want it.
I understand from our conversation that you looked at this dedication last summer and came to the determination that it did not make sense for the state to accept it at that time. Please inquire with the correct people, and let me know if the state has changed their opinion at all.
The Lot is currently vacant. The home that was on the property was demolished by the previous developer. We are in the process of having a remediation plan approved by the city of Clayton. Before the winter, we will plant approximately 125 small oak trees in the area that the home previously stood. If you would like to take a look at the lot, I'm happy to schedule a visit this week or next.

Thank you, again, for your time.

Andrew Warner
Toll Brothers
Project Manager
Office 925 855 0260
Direct 925 314 3138
Cell 408 590 1108
www.tollbrothers.com

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2000 Crow Canyon Place, Suite 200
San Ramon, CA 94583

ATTACHMENT #4

RE: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25

From:	David Woltering
To:	Andrew Warner
Cc:	gnapper@ci.clayton.ca.us, Malathy Subramanian, Rick Angrisani
Date:	2011/10/04 17:34
Subject:	RE: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25
Attachments:	Save Mount Diablo Letter, dated June 9, 2011.pdf, COA #4 - Lot 25.pdf

Andrew,

I called John Kopchik, East Contra Costa County Conservancy staff member, about other suitable entities to contact regarding the acceptance and stewardship of Lot 25, the Diablo Estates at Clayton mitigation parcel, in accordance with Condition 4 of your accepted conditions of project approval. He indicated that Save Mount Diablo is the most suitable entity that he is aware of in the area. He had mentioned previously that East Bay Regional Parks may be interested, but believes given the small, relative size of this property and the fact that East Bay Regional Parks does not have property in immediate vicinity, Save Mount Diablo would be the best fit. Both Seth Adams and Jodi Bailey (925-947-3535) from Save Mount Diablo have contacted City Staff and indicated interest in Lot 25. I am attaching a copy of a letter submitted by Seth Adams to the Planning Commission regarding your project as well as a copy of Condition 4.

Best regards,

David

David Woltering, AICP

Community Development Director

City of Clayton

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Tuesday, October 04, 2011 8:59 AM
To: Woltering, David
Subject: FW: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25

David,

Mt. Diablo State Park has declined to accept Lot 25. You said that you had heard from several other groups that would be interested in taking the property. Can you provide me with names and contact info, so that I can work with them?

Thanks.

From: Gaebert, Roland [mailto:rgaebert@parks.ca.gov]
Sent: Tuesday, September 13, 2011 2:40 PM
To: Andrew Warner
Cc: Rick Nelson; Ken Anderson; Stephen Bachman
Subject: RE: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25

Sorry, that you haven't heard back from. There are so many priorities that kept popping up.

Officially, the District is not interested in acquiring the property. The budget issues are critical and we find no benefit in pursuing the acquisition.

Roland J. Gaebert, SPS III

Diablo Vista District, Bay Sector,

96 Mitchell Canyon Road

Clayton, Calif. 94517

925-673-2895 Office

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From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
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To: Gaebert, Roland
Cc: Rick Nelson
Subject: Fwd: Toll Brothers, Diablo Estates (Diablo Pointe), Dedication of Lot 25

Roland,

I haven't heard back from you on this. I'll be out at the job site this afternoon, if you would like to take a look at the property with me. Have you heard anything back from the Parks Department?

Thanks.

Andrew Warner
Toll Brothers
Project Manager
Office 925 855 0260

Direct 925 983 4103 - NEW DIRECT NUMBER
Cell 408 590 1108
www.tollbrothers.com

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San Ramon, CA 94583

>>>Andrew Warner 8/22/2011 7:14 PM >>>

Roland,

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I understand from our conversation that you looked at this dedication last summer and came to the determination that it did not make sense for the state to accept it at that time. Please inquire with the correct people, and let me know if the state has changed their opinion at all.

The Lot is currently vacant. The home that was on the property was demolished by the previous developer. We are in the process of having a remediation plan approved by the city of Clayton. Before the winter, we will plant approximately 125 small oak trees in the area that the home previously stood. If you would like to take a look at the lot, I'm happy to schedule a visit this week or next.

Thank you, again, for your time.

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ATTACHMENT #5

RE: Toll Brothers, Dedication of Lot 25

From:	Andrew Warner
To:	Jodi Bailey
Cc:	Rick Nelson
Date:	2012/01/20 22:50
Subject:	RE: Toll Brothers, Dedication of Lot 25
Attachments:	Toll Brothers, Lot 25 Offer.pdf, AR-M700N_20120120_124028.pdf

Jodi,

attached is the Title Report and Offer Letter. Please let me know if you or Seth would like to discuss anything before the Land Committee meets on Thursday.

Thanks.

From: Jodi Bailey [JBailey@savemountdiablo.org]
Sent: Tuesday, December 13, 2011 2:06 PM
To: Andrew Warner
Subject: RE: Toll Brothers, Dedication of Lot 25

Hi Andrew,

You were on my list of people to call today…

Seth is getting ready for several weeks of vacation, so has been swamped trying to wrap up some other things. I did discuss the transfer with him yesterday and, at this point, he said that there is not a whole lot that is required for the Land Committee meeting in January, but here is what he noted:

1. We would like to evaluate the property (a walk-through will take care of much of this); I will discuss this more with Seth to see if he wants to be there or if I can go with perhaps one of our Land Committee members;

2. A preliminary title report would be helpful as part of our evaluation;

3. You do not need to attend our Land Committee meeting and since they were already briefed on this as a possibility and we do not need a lot of documents for them, though we do need to be able to fully describe what

the plan is (the letter should be sufficient for this); we do not foresee any problems that would keep the Committee from recommending to the Board of Directors to accept the dedication at their February meeting.

4. We do not have a strict timeline for getting documents to me for the Land Committee meeting. The Committee is reasonably small and somewhat informal, so I only need a few days lead time to make sure everything is in order. The Board meetings require a longer lead time and it looks like their February meeting is less than a week after the Land Committee, so I will have to discuss this in more detail with Seth.

5. We will have a final response from the Board after their February meeting (it looks like it should be on February 1, though our official calendar is not out yet).

I will dig a little deeper on the walk through and documents with Seth before he leaves and get back to you as soon as I have more.

Thanks,
Jodi

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Tuesday, December 13, 2011 10:59 AM
To: Jodi Bailey
Subject: RE: Toll Brothers, Dedication of Lot 25

Hi, Jodi.

Any more info on these questions?

Do you have a sample "offer of dedication" or "purchase letter" that we can work from?

Is there anything else I should provide for the committee's review?

Do either of you, or anyone on the committee, want to walk the property before the meeting (please let us know, so someone from Toll can accompany you)?

When do you need all of our docs to make sure we are on the agenda?

When will we hear a response from the committee?

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner

Project Manager

Toll Brothers, Inc.

Office: 925 855 0260

Direct: 925 983 4103

Cell: 408 590 1108

2000 Crow Canyon Place, Suite 200

San Ramon, CA 94583

From: Jodi Bailey [mailto:JBailey@savemountdiablo.org]
Sent: Wednesday, December 07, 2011 11:12 AM
To: Andrew Warner
Subject: RE: Toll Brothers, Dedication of Lot 25

Hi Andrew,

My apologies for not getting back to you sooner. We are working on answering your questions. For the moment, I can at least say that it looks like our next Land Committee meeting is on January 26 . I do not think it will be necessary for you to attend. The Committee has generally been briefed on the lot dedication already. If anything new materializes on this, we will let you know as soon as possible.

I should have the rest of your answers in the next couple of days.

I appreciate the follow up and will be in touch soon.

Best,

Jodi

Jodi L. Bailey, Ph.D.

Land Conservation Manager

Save Mount Diablo

1901 Olympic Blvd., Suite 320

Walnut Creek, CA 94596

(925) 947-3535

www.savemountdiablo.org

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Preserves natural lands through acquisition &cooperative efforts;

Defends Mount Diablo and its foothills from development threats through land use planning &public education;

Restores habitat, wildlife and creeks &builds trails; so you and future generations can

Enjoy Diablo's parks and its wildlife.

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Monday, December 05, 2011 3:32 PM
To: Jodi Bailey; Seth Adams
Cc: Rick Nelson
Subject: Toll Brothers, Dedication of Lot 25

Jodi/Seth,

We would like to move forward with a review from your Land Committee. From our meeting, I understand that I will need to provide the following:

An offer of dedication (do you have a sample I can work from?)

A title report for the property

A sample purchase letter

A couple of questions that I would appreciate your help with:

Is there anything else I should provide for the committee's review?

Should we attend the committee meeting to be available to answer questions and/or do a short presentation?

Do either of you, or anyone on the committee, want to walk the property before the meeting (please let us know, so someone from Toll can accompany you)?

What is the date of the committee meeting and when do you need all of our docs to make sure we are on the agenda?

When will we hear a response from the committee?

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner

Project Manager

Toll Brothers, Inc.

Office: 925 855 0260

Direct: 925 983 4103

Cell: 408 590 1108

2000 Crow Canyon Place, Suite 200

San Ramon, CA 94583

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ATTACHMENT #6

January 19, 2012

Offer for the Dedication of Lot 25 at Diablo Estates at Clayton

OFFER

This letter is an offer for Toll CA XIX, L.P. (SELLER) to sell to Save Mt. Diablo (BUYER) the property known as Lot 25 at Diablo Estates at Clayton (THE PROPERTY).

TERMS

Price: $0

Close of Escrow:
A mutually agreed upon date not more than 30 days after City of Clayton has provided written acceptance that all Conditions of Approval (SPR 01-11, VAR 01-11, LLA 01-11) pertaining to Lot 25 have been satisfied.

Conditions to Close:
The City of Clayton will agree in writing to the satisfactory completion of all conditions of approval regarding Lot 25, which Toll Brothers, Inc. is encumbered by per the Planning Commission Notice of Decision dated July 15, 2011. Specific conditions that pertain to Lot 25 include, but are not limited to conditions 4, 22k, 33, 35a, 35d, 35l, 35m, and 68.

A slope easement will be recorded prohibiting the grading of the sloped area of Lot 25.

Per condition 4, Toll Brothers, Inc. will provide a performance deposit to ensure that at least 75 percent of the plantings installed for remediation survive for 5 years following remediation.

The following notice shall be recorded on the deed, per condition 70:
"This constitutes notice that the State of California and the Department of Parks and Recreation (Mount Diablo State Park) are not responsible for homeowner fire prevention. Property owners are hereby notified that they are solely responsible for providing their own fire breaks, buffers, and prevention measures, within the boundaries of their own properties, necessary to prevent the spread of fire."

This proposal is a summary of terms upon which Toll Bros., Inc. would consider dedicating the property and is subject to mutual execution and delivery of a separate Agreement of Sale, to be prepared by Seller.

Sincerely,

TOLL BROS., INC.

ATTACHMENT #7

RE: Lot 25 Site visit

From:	Andrew Warner
To:	Jodi Bailey
Cc:	Gary Mayo (GMAYO@tollbrothersinc.com), Rick Nelson (RNELSON@tollbrothersinc.com)
Date:	2012/03/09 13:02
Subject:	RE: Lot 25 Site visit

Thanks, Jodi.

I'm happy to meet with you and Seth to resolve these issues, and I'd like to meet as soon as possible. How is next Tuesday?

We'll send you a copy of the final soils report for our property.

We are working with the City Engineer to define the scope of work for the tree maintenance. The COA requires that 75% of the trees survive for 5 years after install. Right now, we're planning on 3 trips per year to check on the trees and replacing trees (as necessary) once per year. I will forward that scope to you as soon as it is finalized. The COA also requires that we provide a performance bond to ensure that 75% of the trees survive for 5 years, so we'll be doing that as well. As part of our agreement to give you the property, we can address the access and liability issues for this work.

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner

Project Manager

Toll Brothers, Inc.

Office: 925 855 0260

Direct: 925 983 4103

Cell: 408 590 1108

2000 Crow Canyon Place, Suite 200

San Ramon, CA 94583

From: Jodi Bailey [mailto:JBailey@savemountdiablo.org]
Sent: Friday, March 09, 2012 8:58 AM
To: Andrew Warner

Subject: RE: Lot 25 Site visit

Hi Andrew,

The Board approved accepting Toll Bros. offer of dedication of Lot 25, pending resolution of a couple of outstanding concerns and questions.

First, there is the issue of the endowment. Seth and I will want to discuss this with you a bit further. There is also some concern about grading on Lot 25 itself as well as the lots that are above it. We want to be certain there are no potential issues related to land movement from the grading. If you have a geo-technical report, could you forward us a copy? We could review that in-house pretty quickly and probably clear up this question without much additional time. Finally, we would like to know what your plan is for managing the oak restoration plantings. If Toll Bros. or someone under contract to Toll is going to take care of the trees, the watering, etc., then we would need to work out some sort of arrangements for access and around liability. On the other hand, Save Mount Diablo could undertake the work for Toll under some kind of contractual arrangement. Please let us know how you anticipate managing this part of the project.

Thanks for your efforts to get the dedication completed.

Best,

Jodi

Jodi L. Bailey, Ph.D.

Land Conservation Manager

Save Mount Diablo

1901 Olympic Blvd., Suite 320

Walnut Creek, CA 94596

(925) 947-3535

www.savemountdiablo.org

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Defends Mount Diablo and its foothills from development threats through land use planning &public education;

Restores habitat, wildlife and creeks &builds trails; so you and future generations can

Enjoy Diablo's parks and its wildlife.

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Thursday, March 08, 2012 5:10 PM
To: Jodi Bailey
Subject: RE: Lot 25 Site visit

Hi, Jodi.

Any news from the Board Meeting yesterday?

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner

Project Manager

Toll Brothers, Inc.

Office: 925 855 0260

Direct: 925 983 4103

Cell: 408 590 1108

2000 Crow Canyon Place, Suite 200

San Ramon, CA 94583

From: Jodi Bailey [mailto:JBailey@savemountdiablo.org]
Sent: Wednesday, February 01, 2012 3:56 PM
To: Andrew Warner
Subject: RE: Lot 25 Site visit

Andrew,

It is scheduled for March 7. Let me know if you have any other questions.

See you on the 10th.

Jodi

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Wednesday, February 01, 2012 3:47 PM

To: Jodi Bailey
Subject: RE: Lot 25 Site visit

Jodi,

do you know the date of the Board meeting when they'll be considering the Lot 25 dedication?

From: Jodi Bailey [mailto:JBailey@savemountdiablo.org]
Sent: Wednesday, January 25, 2012 5:16 PM
To: Andrew Warner
Subject: RE: Lot 25 Site visit

Great; thanks.

jb

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Wednesday, January 25, 2012 5:13 PM
To: Jodi Bailey
Cc: Seth Adams
Subject: RE: Lot 25 Site visit

Let's meet at the cul-de-sac at the end of Petar Ct. We can walk into Lot 25 from there.

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner

Project Manager

Toll Brothers, Inc.

Office: 925 855 0260

Direct: 925 983 4103

Cell: 408 590 1108

2000 Crow Canyon Place, Suite 200

San Ramon, CA 94583

From: Jodi Bailey [mailto:JBailey@savemountdiablo.org]
Sent: Wednesday, January 25, 2012 5:11 PM

To: Andrew Warner

Cc: Seth Adams

Subject: Lot 25 Site visit

Hi Andrew,

I confirmed with Seth: we are on for a site visit of Lot 25 on Friday, February 9 at 9:00 a.m. Where should we meet you – is there an obvious place at the site? Seth knows the site, but I don't so he may already know this.

Thanks for the call and for agreeing to show us around.

Best,

Jodi

Jodi L. Bailey, Ph.D.

Land Conservation Manager

Save Mount Diablo

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ATTACHMENT #8

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 5-15-12

Agenda Item: 4a

TUESDAY, May 1, 2012

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:20 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 (arrived at 6:21 p.m.), and Stratford. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Assistant to the City Manager Laura Hoffmeister, and City Engineer Rick Angrisani, and City Clerk Laci Jackson.

2. **CLOSED SESSION** – Mayor Geller announced the following purpose for closed session and then adjourned into Closed Session at 6:21 p.m.

(a) *Government Code Section 54956.9*, Conference with Legal Counsel
Existing Litigation: *JFC Construction, Inc. v. City of Clayton, and related cross action*
Superior Court of CA, Contra Costa County; Case No. C-10-00293

Report out of Closed Session: Mayor Geller reported the Council gave direction to special legal counsel.

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

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

(a) Information Only
1. Updated Clayton Trails & Landscaping Brochure.
2. Adopted Rules of Procedure of the Oversight Board, Clayton Successor Agency.

(b) Approved the minutes of the regular meeting of April 17, 2012.

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

(d) Adopted Resolution 18-2012 rescinding Resolution No. 72-92 and defining City volunteers for purpose of City workers' compensation benefit eligibility.

(e) Adopted Resolution 19-2012 calling for the preparation and filing of the Engineer's Annual Report for the levy of FY 2012-2013 assessments in the Clayton Street Lighting Assessment District (pursuant to the Street Lighting Act of 1919).

(f) Approved Save Mount Diablo as an acceptable third-party non-profit entity for developer dedication of real property title to and responsibility of Lot 25 (APN 119-630-011), satisfying the developer's (Toll Brothers, Inc.) open space mitigation parcel requirement pursuant to Condition No. 4 of the Diablo Estates at Clayton residential subdivision (SPR 01-11).

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

6. **REPORTS**

(a) Planning Commission – No meeting held.

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

(c) The City Manager reported the City is seeking citizens interested in serving on two citizen advisory committees for the CCCTA and CCTA and he noting applicants for three seats on the Planning Commission. He noted all applications are available on the City's website.

(d) City Council

Councilmember Stratford thanked the Clayton Pioneer for sponsoring the Clayton Cleans Up. He also thanked the citizens involved in the Mormon Helping Hands project and noted a good size group worked on trail restoration from Peacock Creek to Diablo View Middle School.

Vice Mayor Medrano stated Dave Linzey was hired as the first Executive Director for the Clayton Valley Charter High School. He noted all bands have been booked for the weeknight concerts and 11 concert sponsors, 5 of which are downtown businesses, have committed to helping fund the Thursday night series. He thanked Ed's Mudville Grill, the Clayton Club Saloon, the Royal Rooster, Diablo Ford, Tipperary Construction, Inc, Oakhurst Country Club, Subway, Diablo View Construction Inc., CBCA, the Passport to Communities Foundation, and the Clayton Community Church's Labor Day Derby for committing to be sponsors.

Councilmember Pierce attended the Contra Costa Transportation Authority meeting, the ABAG General Assembly, and worked at the Clayton Cleans Up. She thanked the Clayton Pioneer and Allied Waste for their sponsorship of the event. Lastly, she attended the California Council of Governments Conference in Monterey.

Councilmember Shuey met the new Clayton Valley Charter High School Executive Director Mr. Dave Linzey and noted there will be a meet and greet Thursday, May 10th at 6:30p.m. in the multi-use room at Clayton Valley High School. He attended the League of California Cities East Bay Division Bocce fundraiser and a mediation session regarding litigation for the City.

Mayor Geller thanked the Pioneer for sponsoring the Clayton Cleans Up. He attended the Knights of Columbus Blue Night Award ceremony where Clayton Police Officer Allan Pike was honored. He attended the Mayors' Club meeting with the local Mayors where they discussed reducing costs. He noted Clayton resident and former State Senator Dan Boatright passed away recently. He reminded everyone about CBCA's Art and Wine Festival this weekend. He stated CBCA still needed volunteers. He stated the first Concert in The Grove will be May 12th and the Farmers' Market starts at 8am the same day.

(e) Other – None.

7. PUBLIC COMMENTS

Gail Murray, Clayton's representative to the BART Board of Directors, invited interested Councilmembers, staff, and citizens to BART's Rust, Dust and Rail Tour from 8:30-10:30 a.m. on June 8th.

Councilmember Pierce thanked Gail for attending all of the BART and CCTA meetings and noted BART has the oldest fleet of trains in the country.

Keith Haydon thanked the Council for the promotion for Art and Wine Festival and noted the festival is where CBCA raises the majority of their funds for community benefit and charity. He thanked the City staff for their work leading up to the festival and for staffing the weekend.

8. PUBLIC HEARINGS

(a) Consideration of the Introduction and First Reading of Planning Commission-recommended Ordinance No. 441 adding Chapter 15.90 to the *Clayton Municipal Code* establishing a process for individuals with disabilities seeking equal access to housing to request reasonable accommodations in the application of the City's land use, zoning or building standards, regulations, policies and procedures (ZOA 01-12).

The Community Development Director presented the staff report. He indicated with the certification of the City's Housing Element in 2010 many implementation measures were required to be adopted. He stated one of the implementation measures was to adopt a reasonable accommodations ordinance. He mentioned that currently the City reviews reasonable accommodation requests on a case by case basis. He stated in this proposed Ordinance a procedure and evaluation criteria for addressing reasonable accommodations requests are clearly defined and can be performed at a staff level in many circumstances within 30 days of receiving the request. He noted once approved the party making the request would have to act on the approval within 12 months. He stated when the need for the accommodation goes away, there may be a need for a modified structure to accommodate the request to be restored to its original condition. He stated the fee for this would be established at a later date by Council resolution.

Councilmember Pierce asked how staff will keep track of the accommodations on the properties to assure they are removed once the need is no longer present?

The Community Development Director stated there would be a deed restriction on the property to let the future owner of the property know. If it were determined the new owner needed the accommodation, it could be retained, or if the accommodation blended in architecturally (assuming a structural modification was involved), it could be retained; otherwise, staff could ask to have the property restored to its original condition.

Mayor Geller stated a deed restriction will appear on a preliminary title report but will not assure the new owner notifies staff. The Community Development Director acknowledged the concern, but stated the new owner would be obligated to contact the City.

Mayor Geller asked if there could be a notice to the City upon property transfer so that staff would be made aware of the change in ownership.

The Council consensus was to have the City Attorney add language in the Ordinance under Section 15.90.090C. to require there be a deed restriction recorded so that the City would be notified of a transfer of property ownership or circumstance eliminating the need for the reasonable accommodation.

Mayor Geller opened the Public Hearing at 7:43 p.m. No comments were received and closed the Public Hearing at 7:44 p.m.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to have the City Clerk to read Ordinance No. 441 by title and number only as amended to modify the language to a more affirmative requirement in Section 090C by replacing the word "could" with "shall" (Passed; 5-0 vote).

The City Clerk read Ordinance No. 441 by title and number only.

It was moved by Councilmember Shuey, seconded by Councilmember Pierce, to approve Ordinance 441 for introduction as amended (Passed; 5-0 vote).

9. ACTION ITEMS

(a) Consideration of the Trails and Landscaping Committee's (TLC) recommendations on the priority to partially fund a joint landscaping project of Daffodil Hill with the Clayton Business and Community Association (CBCA), incorporate the targeted City-owned parcel into the Citywide Landscape Maintenance District (CFD 2007-1), and determine the of source of maintenance funds following completion of the joint landscape project.

The Assistant to the City Manager presented the staff report. She stated the Council referred this matter back to the TLC for its recommendation on whether Daffodil Hill should be added to the Landscape Maintenance District and whether or not the district should help fund the construction/planting and ongoing maintenance. The TLC had a long thoughtful discussion on this matter and looked at the original language in Measure B (2007). They also discussed the intent of the voters, the definitions of the tax, and the area for consideration which is adjacent to Clayton Road and open space. She stated the TLC deliberated over the budget of the District and were hesitant to take on more ongoing costs. She noted the CBCA President and its Landscape Designer were present at the TLC meeting. She stated at the end of their discussion the TLC decided to recommend including the area into the Landscape District, sharing the costs for the construction/planting 50-50 with the CBCA, and have the City's General Fund pay for the ongoing maintenance.

Vice Mayor Medrano stated when the Committee discussed this they were aware that even though they do not want to pay for the ongoing maintenance, if Daffodil Hill was brought into the District, the District would still be obligated to pay for it.

When questioned, the City Manager stated the $26,000 presented to the TLC was the amount at that time, but the recommendation tonight is not to exceed $29,000 for the City's 50% share.

Councilmember Stratford stated he would like to make sure the City Maintenance staff looks at the plants and makes changes to the plan to bring in lower maintenance plants. The City Manager stated the plan bid on was part of the give and take design between

the CBCA committee and City staff. He stated down the road when the plants die they may not be replanted with the same plant.

Mayor Geller stated we have already made a lot of changes to the plan and the estimate given by City Maintenance for the cost of ongoing maintenance ($12,000), was a worst case scenario.

Vice Mayor Medrano stated he would be against delaying this project any longer.

Councilmember Pierce stated when the Council approved these plans we knew we were going to take care of it one way or another. She suggested Council approve the amount as recommended and replace the plants with something else if it does not work.

The City Manager clarified this design plan only encompasses landscaping on the City parcel and noted land behind the upper monument sign is Diamond Terrace property.

Keith Haydon stated the maintenance department participated in the review of the plans and made changes. He stated from CBCA's prospective this is a good overall plan. He stated the CBCA membership approved up to $29,000 as the amount given to build in a contingency.

No other public comments were received.

It was moved by Vice Mayor Medrano, seconded by Councilmember Stratford, to approve by motion the incorporation of the Daffodil Hill parcel into the Landscape Maintenance District (CFD 2007-1) (Passed; 5-0 vote).

It was moved by Vice Mayor Medrano, seconded by Councilmember Stratford, to agree to share the negotiated cost to complete the landscape beautification project on Daffodil Hill with CBCA at a 50-50 cost share not to exceed a City expense of $29,000 paid by Landscape Maintenance District funds (Passed; 5-0 vote).

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, that the Landscape Maintenance District be the source of funds for the completed project's maintenance costs (Passed; 4-1 vote; No- Medrano).

(b) Public Meeting on the proposed formation of a Diablo Estates at Clayton Benefit Assessment District (BAD) for the Diablo Pointe Subdivision 8719, 24 residential parcels east of Regency Drive and north of Rialto Drive (approx.19 acres).

The City Engineer presented the staff report and stated at its March 20th meeting the City Council approved moving forward with the formation of the BAD in accordance with Proposition 219 requirements. He stated on May 15th the Council will hold another meeting to count the ballots. He stated the assessment will be $3,072.62 per parcel per year with an annual CPI increase up to 4%.

No public comments were received.

No action was taken.

(c) Consideration of the Introduction and First Reading of Ordinance No. 442 adding and amending certain sections of the *Clayton Municipal Code* relating to claims for refunds of City taxes and actions challenging City taxes, assessments and fees.

The City Attorney presented the staff report for a pay first ordinance based on recent case law which would require citizens to pay fees, assessments, or taxes before they are able to challenge them.

Vice Mayor Medrano asked what the financial impact would be based on this change? The City Attorney stated thus far the City has not received any challenge.

No public comments were received.

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to have the City Clerk to read Ordinance No. 442 by title and number only (Passed; 5-0 vote).

The City Clerk read Ordinance No. 442 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Stratford, to approve Ordinance 442 for introduction (Passed; 5-0 vote).

10. **COUNCIL ITEMS**- None.

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

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor

ATTACHMENT #9

Andrew Warner

From: Seth Adams <SAdams@savemountdiablo.org>
Sent: Thursday, June 07, 2012 3:30 PM
To: Andrew Warner
Subject: RE: Toll Brothers, Dedication of Lot 25

Andrew,

I got your message yesterday.

I'm in the process of asking my own attorney what he thinks of the idea, so I don't know what we think of the idea yet.

I'd be happy to speak with Mr. Saputo but know his associate Giselle Jurkanin personally. I'm in most of the day tomorrow, Monday and Thursday if that's convenient for one or the other of them.

You're welcome.

Seth Adams
Land Programs Director

Save Mount Diablo
1901 Olympic Blvd., Suite 320
Walnut Creek, CA 94596
(925) 947-3535 // Fax (925) 947-0642
www.SaveMountDiablo.org // sadams@savemountdiablo.org

Save Mount Diablo:
Preserves natural lands through acquisition & cooperative efforts;
Defends Mount Diablo and its foothills from development threats through land use planning & public education;
Restores habitat, wildlife and creeks & builds trails;
so you and future generations can **Enjoy** Diablo's parks and its wildlife.

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Thursday, June 07, 2012 3:01 PM
To: Seth Adams
Subject: Toll Brothers, Dedication of Lot 25

Seth,
I left you a voicemail yesterday. My legal department has a number of issues with the CAR Vacant Land form. They would like to effectuate the dedication with a simple grant deed. Let me know if Save Mt. Diablo would be OK with this. We have a local attorney (Peter Saputo), whose office is actually in your building, and we could set up a meeting with you and your attorney, if you would like to discuss.

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner
Project Manager
Toll Brothers, Inc.
Office: 925 855 0260

ATTACHMENT #10

Andrew Warner

From:	Seth Adams <SAdams@savemountdiablo.org>
Sent:	Friday, June 22, 2012 4:24 PM
To:	Andrew Warner
Cc:	Saputo, Peter; David Woltering
Subject:	RE: Toll Brothers, Lot 25
Attachments:	Save Mt. Diablo.dee 03.pdf; Access Lot 34.eas 01a.pdf; Add.Seller Questionnaire (Lot 25 (Save Mt. Diablo).01.pdf; Conservation.eas 03.pdf; Lot 25, Master Covenant, Signed.pdf

Andrew,

FYI, I see quite a few areas which are going to need definition or clarification, including responsibility for maintenance of your drainage and boundary fencing improvements being clearly passed to your HOA rather than the suggestion that they pass to us.

Have you finalized your HOA CC&Rs yet? I may need them.

In addition to the documents you provided (attached) I'll need as many of the other documents your documents refer to as possible before asking our attorneys to begin review, preferably in digital form.

Please provide digital versions of :

1) The completed VACANT LAND QUESTIONNAIRE (C.A.R. Form VLQ)
2) The reports referred to in the "SELLER VACANT LAND QUESTIONNAIRE ADDENDUM CONCERNING LOT 25, AN ADDENDUM TO THE SELLER VACANT LAND QUESTIONNAIRE (C.A.R. Form VLQ):

Seller hereby provides the following reports to Buyer which Buyer should review and make its own determination concerning their contents:

3) (i) First American Subdivision Property Disclosure Report dated 5/20/11;
4) (ii) Supplemental Geological Exploration Report Diablo Pointe, Clayton, California, prepared by Engeo Incorporated on January 20, 2011, as Project No. 9047.000.002;
5) (iii) Tree Preservation Report Diablo Pointe Project, prepared by HortScience Inc, November, 2003;
6) (iv) Overlay Aerial of Subdivision 8719 prepared by RJA Engineers on July 28, 2010, as Job No. 101068;
7) (v) Map of Subdivision 8719 (recorded);
8) (vi) Diablo Estates At Clayton Disclosure Statement (Seller's disclosure to residential buyers) dated August, 26, 2011;
9) (vii) Master Covenant and Agreement (tree maintenance on Lot 25; and

(viii) _____ (whatever other documents you expect to include in this section).

Thanks,

Seth Adams
Land Programs Director

Save Mount Diablo
1901 Olympic Blvd., Suite 320
Walnut Creek, CA 94596
(925) 947-3535 // Fax (925) 947-0642
www.SaveMountDiablo.org // sadams@savemountdiablo.org

Save Mount Diablo:

Preserves natural lands through acquisition & cooperative efforts;
Defends Mount Diablo and its foothills from development threats through land use planning & public education;
Restores habitat, wildlife and creeks & builds trails;
so you and future generations can **Enjoy** Diablo's parks and its wildlife.

From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Friday, June 22, 2012 3:27 PM
To: Seth Adams
Subject: RE: Toll Brothers, Lot 25

Seth,
We've got a few documents for your review:

1. The Grant Deed to transfer ownership.
2. Deed of Development Rights (covers both Lot 25 and sloped areas of our community).
3. Lot 34 Easement (the access easement for the neighbor of Lot 25, 50 Petar Ct).
4. Master Covenant and Agreement between Toll and the City regarding the maintenance of the trees.
5. An Addendum to the Vacant Land Questionnaire.

Please let me know if you or your attorney has any questions or concerns.

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner
Project Manager
Toll Brothers, Inc.
Office: 925 855 0260
Direct: 925 983 4103
Cell: 408 590 1108
2000 Crow Canyon Place, Suite 200
San Ramon, CA 94583

From: Seth Adams [mailto:SAdams@savemountdiablo.org]
Sent: Friday, June 22, 2012 11:34 AM
To: Andrew Warner; dwoltering@ci.clayton.ca.us
Cc: 'Saputo, Peter'
Subject: RE: Toll Brothers, Lot 25

Andrew, Peter,

It was my impression that you said I was going to get real estate documents Monday of this week.
I haven't received anything.

That's fine with me, I'm quite busy.
But please remember that since we're not using standard purchase agreement forms, review by my volunteer attorneys will take longer.

ATTACHMENT #11

Andrew Warner

From: David Woltering <dwoltering@ci.clayton.ca.us>
Sent: Friday, June 29, 2012 11:50 AM
To: 'Seth Adams'; Andrew Warner; 'Amara Morrison'
Cc: 'Saputo, Peter'
Subject: RE: Save mount Diablo tour Wednesday

Seth,

Conditions of approval and recorded documents are difficult to amend or revise. Let's see if there are any areas of concern.

Best regards,

David

David Woltering, AICP
Community Development Director
City of Clayton

----Original Message----
From: Seth Adams [mailto:SAdams@savemountdiablo.org]
Sent: Friday, June 29, 2012 11:32 AM
To: 'Andrew Warner'; Amara Morrison (amara.morrison@comcast.net)
Cc: Saputo, Peter; David Woltering
Subject: RE: Save mount Diablo tour Wednesday

Andrew,

I don't know if you send them already or gave them to Amara on the cd, but please send us

The documents referred to in the DIABLO ESTATES AT CLAYTON SUBDIVISION 8719 MAINTENANCE MANUAL, and Incorporated by reference, so that we can see what if any affect Lot 25, and what responsibilities the city might have on the
lot:

Individual Plot Plans
On-lot Landscape Plans
Common Landscape -Landscape and Irrigation Plans- Approved 9/8/11 Weed Abatement Area Map Subdivision Grading Plans - Approved 6/18/07 Subdivision Street Construction Plans -Approved 9/20/07 Street Light Construction Plans - Dated 8/06

Dave, Peter, if something doesn't make sense, can this manual be amended?

Thanks,

Seth Adams
Land Programs Director

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www.SaveMountDiablo.org // sadams@savemountdiablo.org

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Preserves natural lands through acquisition & cooperative efforts; Defends Mount Diablo and its foothills from development threats through land use planning & public education; Restores habitat, wildlife and creeks & builds trails; so you and future generations can Enjoy Diablo's parks and its wildlife.

-----Original Message-----
From: Andrew Warner [mailto:AWARNER@tollbrothersinc.com]
Sent: Friday, June 29, 2012 10:17 AM
To: Amara Morrison (amara.morrison@comcast.net)
Cc: Saputo, Peter; Seth Adams
Subject: RE: Save mount Diablo tour Wednesday

Amara,
Attached is the scope of services for the Benefit Assessment District.
As you can see it does not explicitly state that the BAD is responsible for the fencing between Lot 25 and our community. I've sent a note to Rick Angrisani (City Engineer) and asked him how we should resolve this issue.

Please continue with your review of the remainder of the documents and let me know if any questions arise. I'm out of the office until the 5th, but I'll be checking emails, and I'll respond as soon as I can.

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner
Project Manager
Toll Brothers, Inc.
Office: 925 855 0260
Direct: 925 983 4103
Cell: 408 590 1108
2000 Crow Canyon Place, Suite 200
San Ramon, CA 94583

-----Original Message-----
From: Seth Adams [mailto:SAdams@savemountdiablo.org]
Sent: Tuesday, June 26, 2012 9:02 AM
To: Andrew Warner
Cc: Saputo, Peter; Amara Morrison
Subject: Re: Save mount Diablo tour Wednesday

Andrew I got some emails from you but I was out most of the day and I'm out most of today so I haven't had a chance to look at them. If you brought a CD for tomorrow's tour that would be great. Let's let Amara take a look at things before we set up a meeting it may take a little while or longer.

Thanks.

Seth

Sent from my iPhone

On Jun 26, 2012, at 8:56 AM, "Andrew Warner" <AWARNER@tollbrothersinc.com>
wrote:

> I can do meet you on site at 1:30 on Wednesday. Shall we set up a
> meeting
with your attorney and Peter for later this week to discuss any issues?
Maybe Friday?
>
> Did you receive all docs yesterday? I sent a couple of times in
> separate
emails. I can bring a CD tomorrow as well, if you didn't receive anything.
>
> Thanks.
>
>
> -----Original Message----
> From: Seth Adams [mailto:SAdams@savemountdiablo.org]
> Sent: Monday, June 25, 2012 10:08 PM
> To: Seth Adams
> Cc: Andrew Warner; Amara Morrison
> Subject: Re: Save mount Diablo tour Wednesday
>
> Andrew,
>
> Clarification 1:00 PM meeting in Walnut Creek so about 130 in Clayton.
>
> Thanks,
>
> Seth
>
> Sent from my iPhone
>
> On Jun 25, 2012, at 10:07 PM, "Seth Adams"
> <SAdams@savemountdiablo.org>
wrote:
>
>> Andrew,
>>
>> Id like to take my attorney (and board member) out on the site at
>> 1:00 PM
on Wednesday to familiarize her with the issues since she will be reviewing the documents. Will that work?
>>

ATTACHMENT #12

Andrew Warner

From:	Andrew Warner
Sent:	Friday, August 03, 2012 11:55 AM
To:	Seth Adams; 'Amara Morrison'; Angrisani, Rick
Cc:	'Saputo, Peter'; Rick Nelson; 'Little, Ken'; 'Woltering, David'
Subject:	RE: Save mount Diablo questions re: Lot 25 documents
Attachments:	FANHD MPTD Diablo Estates at Clayton.pdf; ALTA.PDF; 42-2012.pdf

Seth,
I've answered your questions below. David is out of town until August 8.

1) The Master Tax Disclosure is attached.
2) We followed Engeo's recommendations regarding remedial grading of Lots 1-24 as they are contained in the 1-20-11 Report by Engeo.
3) The 7-28-10 version of the ALTA is attached.
4) The two unrecorded documents are the access easement for the neighbor of Lot 25 and the Deed of Development Rights (see #8 below).
5) Let me know if you need anything from me on these two exceptions.
6) I will send you a separate email regarding Save Mt. Diablo taking over the Tree Maintenance responsibilities.
7) Since you have no issues with the access easement, we will finalize the distance and get it recorded.
8) The area covered by the Deed of Development Rights includes all of Lot 25, and the sloped areas of Lots 1-6 and 11-24. The Deed of Development Rights has been recorded (it's attached to this email along with all exhibits). Rear Yard Fences are set approximately 6' down slope from the flat portion of lots 11-24.
9) **Location of Property Line Fence and Shared responsibility** - The fence which separates Lot 25 from Lots 20-24 is on the Property Line, and my understanding is that a fence on a property line defaults to shared responsibility between adjacent property owners. I would imagine that you would want a fence to mark the property line between Lot 25 and the uphill properties. The fence, of course, also serves the purpose of keeping people, animals, garbage, etc. from traversing the property unnecessarily.
Maintenance - It's hard to say what level of maintenance a fence like this would require, but I don't imagine it would be much.
Approval of Location and Design of Fence - The design of the fence and its location were approved as part of the SDR package that was approved by the Clayton Planning Commission.
Fence at Rear of Pads - There is a fence about 6' down from the flat pads of Lots 20-24, which is 100% the responsibility of the homeowners. Neither this fence, nor the fence on the property line, violate the Deed of Development Rights.
10) The City Engineer is Rick Angrisani. I've CC'd him on this email.

Hope this clears everything up. I'll send a separate note on transferring the tree maintenance responsibility to Save Mt Diablo.

Thanks.

NOTE NEW DIRECT PHONE NUMBER AND ADDRESS

Andrew Warner
Project Manager
Toll Brothers, Inc.
Office: 925 855 0260
Direct: 925 983 4103
Cell: 408 590 1108

2000 Crow Canyon Place, Suite 200
San Ramon, CA 94583

From: Seth Adams [SAdams@savemountdiablo.org]
Sent: Tuesday, July 31, 2012 12:38 PM
To: 'Amara Morrison'; Andrew Warner
Cc: 'Saputo, Peter'; Rick Nelson; 'Little, Ken'; 'Woltering, David'
Subject: RE: Save mount Diablo questions re: Lot 25 documents

FYI, this is the same e-mail as the previous, I was just concerned that the vague subject line "RE: Save mount Diablo tour Wednesday" would mislead people so I updated it. Thanks. Seth

---

From: Seth Adams
Sent: Tuesday, July 31, 2012 12:36 PM
To: 'Amara Morrison'; Andrew Warner
Cc: Saputo, Peter; Rick Nelson; Little, Ken; Woltering, David
Subject: RE: Save mount Diablo tour Wednesday

Andrew, (and Dave, could you weigh in on 2 and 5?):

Thanks for the information and documents, sorry it's taken awhile to review them.

1) On the First American Natural Hazards Disclosures, pdf page 13/25 or Section 4/pg 1:

MELLO-ROOS and SPECIAL ASSESSMENT DETERMINATION
NO DETERMINATIONS MADE IN THIS REPORT

"Note: A comprehensive property tax disclosure report has been ordered along with this Report. Please contact FANHD for additional information"

** Where is the property tax disclosure report? I'm still trying to get a handle on actual assessments.

2) Amara's question (below) about Engeo reccomendations: "whether, and to what extent, were the recommendations from ENGEO followed to remediate the grading deficiencies noted by Kleinfelder in 2003 and the the consultant in 2007?"

3) On 6-22-2012 I asked for a variety of documents that were referred to, including (iv) Overlay Aerial of Subdivision 8719 prepared by RJA Engineers on July 28, 2010, as Job No. 101068.
Instead you provided me with a DRAFT overlay dated 7-12-2010. Where is "Overlay Aerial of Subdivision 8719 prepared by RJA Engineers on July 28, 2010, as Job No. 101068" ?

4) On the Cal Assoc. of Realtors Seller Vacant Land Questionnaire Item V2, there's no explanation for why the box was checked yes. We'd like detail as to "Any unrecorded easement, encroachment, or other dispute, maintenance or use agreement affecting access to, or the boundaries of, the property."

5) On the prelim title report dated 4-20-2012, I'm asking our title officer for info about exceptions 10 and 11, which have different recorder #s but appear redundant.

6) Andrew, have you figured out the tree maintenance issue?

7) The Access Easement Deed is still a draft and needs to fill in the blank on how many feet (50', 75'??) between the street and the connection into the neighbors' lot, but not including the bollards controlling traffic onto Lot 25. On Google Earth it appears to be about 80-85 feet.

8) The "Deed off Development Rights" doesn't include the Exhibits – the Legal Description and Plat; my assumption is that the area covered is the back of lots 1-4 and Lot 25, and that fencing should be at the back edge of the level area of Lots 20-24.

9) We asked for the BAD info in part because it's referred to in other docs, and in part to get a better handle on the fencing issue, which is a sticking point: we need more information from the city about the wooden fence between the various lots and Lot 25.

On July 6 you said: " I've met with the City Engineer, and he's confirmed that the maintenance of the fence which separates Lot 25 from our property is the joint responsibility of the owner of Lot 25 and our property owners (only the ones whose land abuts the fence)."

We need the written source of that shared responsibility, the Condition of Approval or whatever. The fence is more elaborate than we would have constructed. As I recall, the original development approvals included the condition requiring that Lot 25 be fenced for the benefit of the State Park; there was no discussion of ongoing or shared maintenance. This fence goes beyond park needs, only abuts one side of Lot 25 (rather than fencing the entire lot) and should probably be a BAD responsibility. Regardless, we'd like to see the language from which it derives, how issues are defined, and how shared responsibility is meant to take place.

In the Deed of Development Rights (mentioned in #6 above), the Restrictions Section seems like a strange place to include a fencing provision (is it even legally valid?): "Open Wire fencing" shall be constructed and maintained by the Grantor on the boundaries of the Restricted Area which are situated approximately at the rear of the level portion of the building pads on the residential lots. No additional fencing is permitted within the Restricted Area.

It appears that the fencing wasn't constructed at the "approximately at the rear of the level portion of the building pads on the residential lots", which would clearly be within the residential lots, but along the boundary of Lot 25, where issues of shared responsibility arise, and potentially violating the provision "No additional fencing is permitted within the Restricted Area."

Dave, we'd appreciate some help here.

10) Also Andrew or Dave, could you provide the contact info for the city engineer? Thanks.

I was pleased we actually had so few issues. I hope we can get through them relatively quickly.

Thanks,

Seth Adams
Land Programs Director

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Restores habitat, wildlife and creeks & builds trails;
so you and future generations can Enjoy Diablo's parks and its wildlife.

-----Original Message-----
From: Amara Morrison [mailto:amara.morrison@comcast.net]
Sent: Tuesday, July 31, 2012 10:47 AM
To: Andrew Warner
Cc: Seth Adams; Saputo, Peter; Rick Nelson; Little, Ken; Woltering, David
Subject: Re: Save mount Diablo tour Wednesday

The only question on my end is whether, and to what extent, were the recommendations from ENGEO followed to remediate the grading deficiencies noted by Kleinfelder in 2003 and the the consultant in 2007?
Thank you.
Amara Morrison

Sent from my iPhone

On Jul 31, 2012, at 8:43 AM, Andrew Warner <AWARNER@tollbrothersinc.com> wrote:

> Seth/Amara,
> Please send any questions/comments from your review of documents today, so we can address the issues.
>
> Thanks.
>
>
> NOTE NEW DIRECT PHONE NUMBER AND ADDRESS
>
> Andrew Warner
> Project Manager
> Toll Brothers, Inc.
> Office: 925 855 0260
> Direct: 925 983 4103
> Cell: 408 590 1108
> 2000 Crow Canyon Place, Suite 200
> San Ramon, CA 94583
>
>
>
>
> -----Original Message-----
> From: Seth Adams [mailto:SAdams@savemountdiablo.org]
> Sent: Monday, July 30, 2012 11:42 AM
> To: Andrew Warner
> Cc: Amara Morrison (amara.morrison@comcast.net); chris@littleandsaputo.com; Saputo, Peter; Rick Nelson; Little, Ken; Woltering, David
> Subject: RE: Save mount Diablo tour Wednesday
>
> Andrew,

Lot 16: This would not be a grant of special privilege since, due to the access easement on Lots 14 and 15, the reduced setback maintains 20' between the home on Lots 16 and those on Lots 14 and 15, as required on all other lots in the community.

Due to the flag shape of Lot 16, strict application of the 10' side yard setback in this area would push the home back on the lot so far that it would eliminate any usable backyard for this homeowner.

Authorizing this variance would meet the intent and purpose of the R-10 District which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

General: This would not be a grant of special privilege since all homes in the community would adhere to the same restriction.

Strict application of the setbacks in this instance would eliminate front porches, which activate the street for homeowners and pedestrians, and in some cases push homes back on the lot so as to eliminate usable back yard spaces.

Authorizing this variance would meet the intent and purpose of the R-10, R-40, and R-40H Districts which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

CONDITIONS OF APPROVAL

Site Plan Review (SPR 01-11)

PLANNING CONDITIONS

1. The final map shall show a conservation easement on Lots 1- 4 along the property lines adjacent to Mt. Diablo State Park. The easement shall be 150 feet wide, as measured from the project site's exterior property lines and is intended to preserve an open and attractive visual character adjacent to the park. Construction of all buildings shall be prohibited within the easement area.

2. The developer shall be responsible for submitting an application for rezoning those lots classified R-40-H to R-40 prior to the sale of those lots to a subsequent buyer to the satisfaction of the Community Development Director.

3. The project shall have covenants, conditions, and restrictions (CC&R's) which address the issues listed below. The CC&R's shall be submitted to the Community Development Director for review and approval, prior to sale of first lot.

a. Property owners are responsible for the repair and maintenance of the required fences along their respective property lines. The fences shall be maintained in a style consistent with the design approved by the City.
b. Property owners shall comply with the Tree Retention Conditions.
c. Property owners, unless expressly assigned as the responsibility of the benefit-assessment district (BAD), shall maintain any gates needed for access to above- ground or under-ground drainage facilities.
d. No fencing, grading, or other improvements of any kind will be allowed between the developer-installed open wire fencing and the rear lot lines on Lots 1-6 and Lots 8, 9, and 11-24, inclusive, except for that fencing, landscaping and irrigation installed as part of the project's perimeter landscaping along Regency Drive and Rialto Drive.
e. No provision in the CC&R's which is included as a result of these Conditions
f. Approval may be amended without the prior written approval of the City of Clayton.

4. The Developer agrees to dedicate Lot 25 to the California Department of Parks and Recreation as an addition to Mount Diablo State Park, or in the alternative, to a third party non-profit organization acceptable to the City Council. The Developer shall provide proof of acceptance of Lot 25 by the California Department of Parks and Recreation or the accepted third party non-profit organization prior to the issuance of a building permit for the twentieth (20^{th}) dwelling. The Developer shall be responsible for the care and maintenance of Lot 25 until the dedication has been accepted by the State or accepted third party non-profit organization. This responsibility for care and maintenance may not be transferred to any entity, other than the State or the accepted third party non-profit organization, without the expressed written approval of the City. The Developer shall provide a performance deposit to the State or accepted third party non-profit organization prior to acceptance of Lot 25 by the State to ensure that at least 75 percent of the plantings installed for remediation survive for five (5) years following installation. In the event that less than 75 percent of the trees and shrubs survive, the Developer shall (in consultation with the State or accepted third party non-profit organization) install and maintain replacement trees and shrubs.

In the circumstance that the State or an accepted third party non-profit organization has not accepted Lot 25 and the Developer is in a position to request issuance of the twentieth (20^{th}) building permit, the Developer may petition the City Council to allow issuance of the 20^{th} and subsequent building permits. In the circumstance that Lot 25 is not accepted by the State or an accepted third party non-profit organization, the benefit assessment district or alternatively a Homeowners Association (HOA) shall be responsible for the installation of the plantings, on-going management of the property, with all associated costs being the responsibility of the property owners of this subdivision in accordance with the conditions and mitigation measures associated with Lot 25.

5. The Developer shall provide one dwelling unit as a very low-income housing unit; one dwelling unit as a low-income housing unit; and one dwelling unit as a moderate-income unit; or an in-lieu fee, as determined by the City Council. Affordability requirements and resale restrictions shall be subject to the review and approval of the

City Attorney. Resale of the units shall be subject to recorded restrictions for fifty-five (55) years in order to ensure the units' long-term affordability. The units may be located on- or off-site. If the units are located off-site, the units shall be subject to the review and approval of the Community Development Director. Escrow for sale of the low-income and moderate-income units shall close prior to issuance of the certificate of occupancy for the project's twentieth (20^{th}) unit. Escrow for sale of the very low-income unit shall close prior to issuance of the certificate of occupancy for the project's tenth (10^{th}) unit. If the affordable unit is ready for sale and the potential buyer of the affordable housing unit is not ready to close escrow, the respective certificate of occupancy for the project unit shall not be withheld. (The initial Developer of this proposed project satisfied the requirement for the very low-income residential unit; accordingly, satisfaction of the requirement for the low-income and moderate units remains at this time.)

6. The Developer shall file annual reports in January with the Community Development Department which indicate the number and price of new residences sold in the previous calendar year.

7. The Developer shall pay a fair share contribution to the City for improvement of open space lands. Payments shall be made at the time of issuance of the building permits for each of the project's units. Payments shall be based on an initial amount of $264,365, as adjusted by the San Francisco-Oakland Consumer Price Index from December 2003 to the time of payment. [MM 29][1]

8. The Developer shall pay a fair share contribution to the City for impacts to police staffing directly related to project's impacts for a five-year period. The calculation and payment shall be made at the time of issuance of building permits for each of the project's units and shall be approved in advance by the City Manager in accordance with the formula provided in Mitigation Measure 26, based upon twenty three (23) net additional units. [MM 26]

9. All conditions of approval, which are applicable to the construction of the subdivision improvements, shall appear on the improvement drawings.

10. Pursuant to Government Code Section 66474.9, the applicant (including the Developer or any agent thereof) shall defend, indemnify, and hold harmless the City of Clayton and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul the City's approval provided for in Section 6499.37.

11. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to,

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[1] Mitigation measures (MM) listed in the *Diablo Pointe Residential Subdivision Initial Environmental Study/Negative Declaration* Final Draft, dated September 2004, are referenced by number (e.g., MM 2 for Mitigation Measure 2).

CITY OF CLAYTON
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Approved:

Gary A. Napper
City Manager

AGENDA REPORT

Agenda Date: 8/21/12

Agenda Item: 9(b)

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, COMMUNITY DEVELOPMENT DIRECTOR

DATE: AUGUST 21, 2012

SUBJECT: EAST BAY ECONOMIC DEVELOPMENT ALLIANCE'S "OPEN FOR BUSINESS" PLEDGE (CDD 03-12)

RECOMMENDATION

It is recommended the City Council not adopt the "Open for Business" Pledge and direct the City Manager to submit a letter on behalf of the City to the EDA consistent with the Conclusion of this report.

BACKGROUND

The East Bay Economic Development Alliance (EDA) Business Climate Initiative Group on behalf of the East Bay EDA sent a request to East Bay Cities and Counties to consider passage of an "Open for Business" Pledge (See **Attachment 1**). The purpose of the Pledge is to help focus attention on assuring excellent customer service related to economic development activities among the various cities and counties in the East Bay during these challenging economic times. The pledge provided by the EDA Initiative Group lists nine suggested actions for the various jurisdictions to follow to help assure that excellent customer service is provided to all customers to facilitate a strong business climate in the East Bay. The Initiative Group is requesting each jurisdiction adopt this Pledge verbatim.

DISCUSSION

The East Bay EDA's "Open for Business" Pledge lists a range of useful actions to be taken by local agencies to facilitate excellent customer service related to economic development including the following:

- "To proactively seek customer feedback regularly, positive and negative, and to respond appropriately;
- To provide transparent, easy to understand fee schedules and applications online;
- To provide staff with training in order to achieve high levels of consistency related to permitting; and,
- To respond to all communication, whether, phone, email, written or in-person, within 2 business days.

The EDA indicates its objective with this Pledge is to raise awareness, not dictate practices.

Certainly, it is already to each agency's benefit to maintain a high level of customer service to achieve its economic development goals. Each agency, however, has varying resources and should have the ability to allocate those resources as it determines best to achieve its local needs and priorities. Given the varying resources and priorities of the various jurisdictions, it does not seem possible or appropriate that there should be a single yardstick to measure success with respect to the proposed Pledge. Implementation of many of the measures listed in the Pledge will require expenditures and commitment of resources. This determination should be an internal decision made by the particular jurisdiction without oversight by a third unaccountable party.

Staff knows that some cities have adopted the EDA Pledge as-is, while others have balked at adopting an outside agency's standards for measurement by an independent entity. It is clear from the attached email stream (See **Attachment** 2) that EDA will only promote those cities that adopt the Pledge as-is as being "business friendly." We can hardly accept the default label of being "antibusiness" should a city opt not to adopt the Pledge. What East Bay city or county would ever consider itself anti-business? For example, the limited planning staff levels in Clayton give cause for concern over the 2-business day return contact, particularly with only 1.6 staff positions in the Community Development Department (i.e., Director and part-time Assistant Planner). Should EDA subsequently elect to "test" the City's response time while both planners are out because of the lack of back up that can result in circumstances of vacation and/or illness, staff is concerned EDA's public rating of our City would then be negative without reasonable explanation. And further, staff is wary of EDA's representation that adoption of their Pledge will " ... help provide the political will, resources and/or solution that are needed to achieve this clause and others." As the City Council is painfully aware, public resources for this City have dropped to levels of one decade ago and allocation of unavailable local resources to commit to a Pledge creates unrealistic expectations.

CONCLUSION

Staff suggests that the City Council direct the City Manager to respond to the East Bay EDA by thanking the EDA for the recommended measures to facilitate the City's on-going commitment to providing excellent customer service to all of its customers. The City of Clayton appreciates the attention given to this important issue and will continue to provide an excellent level of customer service to all of its customers, given the resources it has available to it and the priorities it establishes to meet the overall needs of the community. The City believes this matter to be one that ultimately is the local responsibility of the City Council and the City Manager to address and to prioritize its local actions.

Attachments:

1. East Bay Economic Development Alliance "Open for Business" Pledge Request, dated May 3, 2012.
2. Email stream on EDA's purpose for the Pledge (3pp.)

Attachment 1

East Bay EDA

East Bay Economic Development Alliance
The bright side of the San Francisco Bay

TO: East Bay Cities and Counties

FROM: The East Bay EDA Business Climate Initiative Group

- John McManus, Executive Director, Cushman & Wakefield of California, Inc., Group Chair
- Linda Best, President & CEO, Contra Costa Council
- Edward Del Beccaro, Managing Director, Grubb & Ellis
- Bill Lambert, Assistant Director, Alameda County Community Development Agency
- Cheryl O'Connor, Gov. Affairs Advisor, Building Industry Association of the Bay Area
- Margot Lederer Prado, Senior Business Development Specialist, City of Oakland

DATE: May 3, 2012

RE: Request to consider passage of the attached "Open for Business" Pledge

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Many East Bay cities and counties have experienced a significant negative impact on their General Fund revenues due to the on-going impacts of the national economic crisis stemming from the financial crisis and collapse of the housing market in 2008. Governor Jerry Brown's dissolution of redevelopment as a revenue source for cities and counties has only exacerbated this trend. As a result, many cities have been forced to cut essential staff and services.

As East Bay EDA recognizes that cities and other regulatory entities continue to strive to provide an excellent level of customer service despite these financial hardships, an unintended consequence of these cuts can be a decline in the customer service focus of public entities in their regulatory capacity.

To help focus attention on the excellent business climate in the East Bay, a number of East Bay EDA's members – public and private - came together to develop an "Open for Business" pledge that cities, counties, and other regulatory bodies could adopt as an indication of their dedication to fostering and maintaining excellent customer service related to economic development despite the economic downturn.

Adoption of the pledge would be voluntary, but the East Bay EDA proposes to publish a list of the cities that have adopted it and track and publicize any permit streamlining initiatives or "best practices" that are identified as a result of its adoption.

The goal is not to dictate practices but raise awareness. Adoption of the pledge is also a signal to the business community and the public that the adopting city or agency is aware of the impact that customer service has on the business climate of the East Bay. Thank you for considering this request.

OPEN FOR BUSINESS – OUR PLEDGE

Because we recognize and understand the critical importance of providing excellent customer service to all or customers – but particularly the business community – and because we recognize that our policies and practices have a direct impact on the East Bay's business climate and the ability of companies in the region to create jobs, the City/County of_____ officially endorses East Bay EDA's *Open for Business* Pledge.

We Pledge:

- *To provide senior management leadership and support for permit streamlining and empower the staff to act administratively.*
- *To conduct periodic reviews of our practices to ensure that we are current with changes in regulations, technology, and codes - including green building codes.*
- *To proactively seek customer feedback regularly, positive and negative, and to respond appropriately.*
- *To provide transparent, easy to understand fee schedules and applications online.*
- *To provide staff with training in order to achieve high levels of consistency related to permitting.*
- *To provide clear guidance on project schedules and milestones early in the process and to strive to meet to that schedule.*
- *To respond to all communication, whether phone, email, written or in-person, within 2 business days.*
- *To share best practices amongst East Bay EDA's localities.*
- *To recognize exemplary operations and staff, both internally and externally to the organization*

Gary Napper

From: Sutton, Keith - East Bay EDA <keith@eastbayeda.org>
Sent: Monday, August 06, 2012 7:12 PM
To: gnapper@ci.clayton.ca.us
Cc: Engel, Karen, East Bay EDA
Subject: RE: Request to consider passage of the Voluntary "Open for Business" Pledge

Hi Gary

That issue certainly has been a concern of a number of the cities, but so far of the 33 East Bay Cities, only one has said it will not adopt the Pledge and another adopted the Pledge with that clause amended.

Only the cities that adopt the Pledge as it was approved will be recognized.

From what I hear, that particular clause may take some cities some time to achieve, and smaller ones with one or two person permit staff may have problems when one is on vacation and the other is sick. But the discussion and acknowledgement of these issues by Council Members and Mayor and the public adoption of this Pledge should help provide the political will, resources and/or solutions that are needed to achieve this clause and others.

Many of our cities are dark in August, so we recognize that they will not be able to adopt it until September - please let me know what you are planning.

Thank you.

Keith

Keith Sutton
Business Development Director
East Bay Economic Development Alliance
1221 Oak Street, Suite 555
Oakland, CA 94612
PH: 510.272-3885
FAX: 510.272-5007
keith@eastbayeda.org
www.eastbayeda.org
Serving the East Bay - the Bright Side of the San Francisco Bay

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From: Gary Napper [mailto:gnapper@ci.clayton.ca.us]
Sent: August 06, 2012 5:02 PM
To: Sutton, Keith - East Bay EDA
Cc: Engel, Karen, East Bay EDA
Subject: RE: Request to consider passage of the Voluntary "Open for Business" Pledge

As noted when the matter was brought up a the Public Managers' Association meeting, I was not enthralled with the Pledge's 2 business day return communication. Apparently several other cities have similar issue with that element as well as other concerns.

Do I understand EDA's position to be "adopt as-is" or not at all?

For your information, the Clayton City Council meets only twice per month and it cancelled its first meeting in August 2012 and its first meeting in September 2012.

GARY A. NAPPER
City Manager
6000 Heritage Trail
Clayton, CA 94517-1250
925.673-7300
www.ci.clayton.ca.us

From: Sutton, Keith - East Bay EDA [mailto:keith@eastbayeda.org]
Sent: Monday, August 06, 2012 4:53 PM
To: gnapper@ci.clayton.ca.us
Cc: Engel, Karen, East Bay EDA
Subject: Request to consider passage of the Voluntary "Open for Business" Pledge

Dear Gary,

I am writing to follow up on our Executive Director's request to the Contra Costa County Public Manager's Association last May that your city consider adopting East Bay EDA's "Open-for-Business-Pledge" – a set of customer service and business-friendly practices.

To date, thirteen East Bay cities have adopted the pledge.

In the fall, East Bay EDA will conduct a PR campaign to recognize all of the East Bay cities, counties, and other regulatory agencies who have adopted the pledge. We will also be working with the Planning Directors Associations in both counties to periodically recognize "best practices" in regulatory streamlining.

A draft resolution and sample staff report can be downloaded by clicking here.

We hope that you will consider placing this item on your City Council agenda. If you do, please let me know if there is anything else I can do to help. Please let me know the date it is adopted so I can add your city to our website list.

Thank you very much for considering this request.

Sincerely,

Keith Sutton
Business Development Director
East Bay Economic Development Alliance
1221 Oak Street, Suite 555
Oakland, CA 94612
PH: 510.272-3885
FAX: 510.272-5007
keith@eastbayeda.org
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About the East Bay EDA

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East Bay EDA Foundation

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East Bay Economic Development Alliance > Focus Area & Issues > Open for Business Pledge

Open for Business Pledge

To improve the region's regulatory environment, East Bay EDA and its members developed a 9-point "Open for Business" Pledge that cities, counties, and other regulatory bodies can adopt as a commitment to excellent customer service with respect to business investment and expansion. The committee, Chaired John McManus, Cushman & Wakefield, is moving forward to get as many East Bay entities as possible to adopt the pledge in 2012.

Adoption of the pledge is a signal to businesses and the public that the adopting city or agency is aware of the impact that customer service has on the business climate of the East Bay. It is also a way to save businesses time and money and thus help businesses and the region be more competitive and create more jobs.

East Bay EDA congratulates and thanks the City of Dublin and City of Martinez for being the first in their respective counties to adopt the "Open For Business" pledge and for approving them with unanimous decisions!

East Bay entities that have adopted the Pledge without any changes are listed below:

"OPEN FOR BUSINESS"	DATE ADOPTED
City of Dublin	May 15, 2012
City of Martinez	May 29, 2012
City of Livermore	June 12, 2012
City of Oakley	June 12, 2012
City of Union City	June 12, 2012
Town of Danville	June 19, 2012
City of Lafayette	June 25, 2012
City of Brentwood	June 26, 2012
City of Newark	June 28, 2012
City of Moraga	July 10, 2012
City of Pleasant Hill	July 16, 2012
City of Pittsburg	July 16, 2012
City of Alameda	July 17, 2012
City of Hayward	July 17, 2012

Click on the image below for the PDF file of the Pledge. Click here to download the Pledge document and supporting info.

Agenda Date: 8/21/12

Agenda Item: 9(c)

CITY OF CLAYTON
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Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 21 AUGUST 2012

SUBJECT: CITY RESPONSES TO CIVIL GRAND JURY REPORTS NO. 1209 & 1213

RECOMMENDATION

It is recommended the City Council review the prepared City response letters regarding Civil Grand Jury Report No. 1209, "City Retirement Plans, An Unsustainable Benefit?", and Civil Grand Jury Report No. 1213, "Financial Transparency With Meaning?"; and then subject to any Council modifications to the proposed responses, by minute motion approve the letters as the City's official responses and authorize Mayor Geller to sign the letters.

BACKGROUND

A Civil Grand Jury is commissioned annually in Contra Costa County to investigate city and county governments, special districts and certain non-profit corporations to ensure functions are performed in a lawful, economical and efficient manner. Pursuant to *California Government Code* Section 933.5(a), whenever a civil grand jury issues a report that involves matters within a particular municipality's jurisdiction or area of responsibility, the respective city is required to respond in writing and in accord with a specific response format.

On 07 June 2012, the FY 2011-12 Contra Costa Civil Grand Jury released two reports directed to cities within Contra Costa County. The first one, Report No. 1209, took aim at the hot-button topic of public employee pension systems and benefits, and in particular those of a "defined retirement plan" (e.g. CalPERS) in contrast to "defined contribution plans" (e.g. 401(k) type plans). Of the 19 cities in the County, sixteen (16) provide a defined benefit pension plan (Clayton does). The Civil Grand Jury's review further looked at public employee retiree health care and made note of the Governor's Pension Reform Plan released in October 2011 and presently under legislative consideration. Civil Grand Jury Report No. 1209 then concluded with eight (8) Findings and four (4) Recommendations requiring structured responses by each of the County's nineteen cities. Of those, the City of Clayton must respond to six of the Findings and two of the Recommendations (see Page 10 of this Civil Grand Jury Report).

A second report issued simultaneously and addressed to cities, Civil Grand Jury Report No. 1213, centered on another hot-button issue of transparency in public agencies with focused attention on whether cities are doing a meaningful job in communicating and disclosing the true financial conditions of one's public entity. The Civil Grand Jury's interests covered the subjective evaluation of public "readability" of financial reports, ease of public understanding, and ways to best communicate the financial information from the Jury's perspective. Report No. 1213 concluded with ten (10) Findings and five (5) Recommendations requiring responses from each of the nineteen cities. On this particular Report, cities are required to reply to all of the Findings and Recommendations, again in accord with structured replies.

Attached are staff's recommended draft letters for the City Council to consider and approve constituting our City's response to Civil Grand Jury Reports No. 1209 and 1213. The City's response on each Report is due by 06 September 2012.

FISCAL IMPACT

None directly. However, there are certainly indirect staff costs and time incurred in responding to Civil Grand Jury Reports and Findings.

Attachments:
1. Proposed City Response Letters [2]
2. Civil Grand Jury Report No. 1209 [13 pp.]
3. Civil Grand Jury Report No. 1213 [11 pp.]

Attachment 1

CITY OF CLAYTON
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COMMUNITY DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
HOWARD GELLER, *MAYOR*
JOSEPH A. MEDRANO, *VICE MAYOR*
JULIE K. PIERCE
DAVID T. SHUEY
HANK STRATFORD

August 22, 2012

DRAFT

Contra Costa Civil Grand Jury
Attn: Lloyd D. Bell, Foreperson
725 Court Street
P O Box 431
Martinez, CA 94553-0091

Re: Contra Costa County Civil Grand Jury Report No. 1209, FY 2011-12
"City Retirement Plans, An Unsustainable Benefit?"

Dear Mr. Bell:

On behalf of the Clayton City Council this letter responds to the Contra Costa Civil Grand Jury's Report No. 1209 concerning public employee pension plans, public employee retiree health care, and Governor Brown's Pension Reform Plan. The Clayton City Council met at its regular public meeting on August 21, 2012 to consider Report No. 1209 and authorized this written response.

Pursuant to California Government Code section 933.5(a), the City of Clayton does hereby respond to its required Findings (Nos. 1, 3, 4, 6, 7 and 8) and Recommendations No. 3 and 4 as contained within Report No. 1209:

FINDINGS

Finding # 1: *Without additional revenue, continued increases in retirement costs may result in further reduction of public services.*

The City agrees with the finding.

Finding # 3: *Cities that have implemented lower pension formulas for new hires (Tier 2) have reduced their overall future pension obligations.*

The City agrees with the finding, and notes the City of Clayton had Tier 2 plans for all new hires in both its public safety and miscellaneous plans effective January 2011.

Finding # 4: *Although CalPERS administers the defined benefit pension plans, including the investment programs, cities have some flexibility to control their own retirement costs.*

The City agrees with the finding.

Finding # 6: *Retiree health care may represent a significant future cost for those cities that pay for all or a portion of those benefits.*

The City agrees with the finding.

Finding # 7: *Defined contribution retirement plans can be an effective way to limit both current and future retirement costs.*

The City agrees with the finding but notes there are legal challenges to modifying "vested" retirement benefits for current employees which need to be acknowledged.

Finding # 8: *The Governor's Pension Reform Plan offers a good strategic model for limiting future retirement costs for local governments.*

The City agrees with the finding that it represents a good platform for public discourse regarding public employee pension reform and savings yet in some cases it lacks quantifiable analysis that its tenets represent sound public policy. For example, the Pension Reform Plan does not offer any cost-benefit critique or discussion of the risks of injuries, general liability or industrial disability retirements associated with advanced employment of older employees in public safety positions (earliest retirement age of 57), particularly those working patrol or in physical field duties. In addition, similar workers' compensation risks and public expenses could accompany the employment of older employees in certain miscellaneous classifications (earliest retirement age of 67), such as field maintenance personnel and/or public recreation positions. Not all public employee classifications contained within a "miscellaneous plan" are office jobs.

Further, the Governor's Pension Reform Plan does not incorporate other options such as increasing the public employment time before one becomes "vested" in a defined benefit pension plan (for example: roll back the vesting period from 5 years to 10-15 years before one becomes eligible for a public pension). And finally, CalPERS could offer reduced defined benefit plans for employers to consider for additional cost savings (e.g. 1.5% or 1.75% at age 60).

RECOMMENDATIONS

Recommendation # 3: *In order to control unpredictable future expenses, cities should consider reducing or eliminating their financial obligation for retiree health coverage for future employees.*

The recommendation requires further analysis.
In July 1998 the City of Clayton elected to participate in the CalPERS' Public Employees' Medical and Hospital Care Act (PEMHCA) for the provision of health care for its active employees. At the time, PEMHCA (Government Code section 22857) required a contracting agency to also make available enrollment in the offered health care plans by its retirees (annuitants) at the retiree's sole cost except for an initial maximum one dollar ($1.00) per month contribution by the City. Pursuant to PEMCHA law (section 22892 of the California Public Employees' Retirement Law), the City's contribution per enrolled annuitant is subject to a maximum 5% increase per year. The City presently has four (4) retirees enrolled in PEMHCA for retiree health coverage at a monthly cost to the City of $78.40 for each ($3,763.20 per year), which City-paid amount represents approximately 6.4% of an annuitant's monthly health care premium (for two person enrollment).

Unless the City were to terminate its PEMHCA enrollment for its active public employees and place medical care coverage elsewhere (subject to collective bargaining processes and prevailing market rates), the City is bound by public law to provide its annuitants with access to medical care plans through PEMHCA with the accompanying minimal co-payment. As required by MMB, the City will explore this option during next year's negotiations with its public employee bargaining units.

Recommendation # 4: *Cities should review the key points of the Governor's Pension Reform Plan, and consider incorporating its points as a long term strategy for addressing retirement costs.*

The recommendation requires further analysis. The Governor's Pension Reform Plan as presently written will undoubtedly be subject to modifications and amendments as it transitions to actual legislation in the coming months or years. As noted above in Finding No. 8, this Plan should not be embraced as the beginning and end-all to public pension reform in California as the Plan must examine other options and evaluate unintended consequences, such those caused by raising the eligible age before pension retirement. Since this Pension Reform Plan is clearly under the jurisdiction of the Governor and State Legislature, those parties control the further analysis. Local implementation of the suggested reforms is also subject to the Meyers-Milias-Brown Act (MMB) good-faith collective bargaining process with recognized public employee bargaining units.

It must be noted, however, that in terms of public pension costs and containment, cities in Contra Costa County (including Clayton) have already outperformed the state of California in this regard.

We appreciate the time and effort the Civil Grand Jury spent researching and considering these matters, and we trust this response will be helpful to its endeavors.

Sincerely,

DRAFT

Howard Geller
Mayor

Attachment 1

CITY OF CLAYTON
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COMMUNITY DEVELOPMENT (925) 673-7340
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DAVID T. SHUEY
HANK STRATFORD

August 22, 2012

DRAFT

Contra Costa Civil Grand Jury
Attn: Lloyd D. Bell, Foreperson
725 Court Street
P O Box 431
Martinez, CA 94553-0091

Re: Contra Costa County Civil Grand Jury Report No. 1213, FY 2011-12
"Financial Transparency With Meaning?"

Dear Mr. Bell:

On behalf of the Clayton City Council this letter responds to the Contra Costa Civil Grand Jury's Report No. 1213 regarding its impressions of how well cities in the County are doing in reporting public agency financial health and conditions to the public. The Clayton City Council met at its regular public meeting on August 21, 2012 to consider Report No. 1213 and authorized this written response.

Pursuant to California Government Code section 933.5(a), the City of Clayton does hereby respond to its required Findings (Nos. 1 thru 10) and Recommendations No. 1 through 5, as contained within Report No. 1213:

FINDINGS

Finding # 1: *The budget process, government accounting systems, and financial statements provided to the public are complex and not readily understandable to most residents trying to assess the fiscal health of their city.*

The City partially disagrees with the finding. As with any industry practices, public or private, there exists certain "language" germane and familiar to that particular industry. Government at all levels conduct business often within that vernacular that can be mystifying to general observers. However, this City believes its line-item budget and limited size lends itself very well to the general public's understanding of our fiscal health, and certainly the comprehensive Budget Message accompanying each annual budget and the staff reports explaining audited financial statements and mid-year budget status are helpful tools to the reader. The financial statement format itself is necessitated by governmental accounting standards set nationally by the Governmental Accounting Standards Board (GASB).

Finding # 2: *Review of examples of financial reports from cities made it clear that despite the intent for transparency and full disclosure, the documents were often difficult to understand.*

The City agrees with the finding, and once again notes the formatting of audited financial statements is dictated to cities by the GASB. Often the best source to understand the data is the accompanying staff report.

Finding # 3: *Comparing the financial health of cities is difficult based only on information currently available to the public.*

The City partially disagrees with the finding. At certain fundamental levels (e.g. fund balances, unassigned and assigned reserves), all cities share some commonality. However, each city in this County and in this state is indeed unique in its composition, provision and scope of public services, socio-economics, and resources capacity that makes standardized comparisons often difficult.

Finding # 4: *Not all cities have approved reserve policies or guidelines in place, making use of reserve levels for an assessment of financial health incomplete.*

The City agrees with the finding to the extent it did not conduct an independent survey of prevailing practices or policies in other cities of the County. However, this City does have a reserve guideline that was previously submitted to the Civil Grand Jury and one which is presently adhered to by the City.

Finding # 5: *Cities have different definitions and measures of reserves, which may prevent meaningful comparisons between cities on this gauge of financial health.*

The City agrees with the finding. What minimum percentage of reserves is adequate in one city may be wholly insufficient in another city in terms of real dollars available for emergency or "rainy-day" need.

Finding # 6: *It was often impossible to verify whether a city was meeting its reserve level policy using publicly available numbers, definitions, and guidance.*

The City agrees with the finding to the extent we do not have independent knowledge of the Civil Grand Jury's frustration in this regard. However, this City regularly includes commentary in its annual Budget Message concerning the annual change in City reserves and a comparison of its current reserve status to the City's articulated reserve policy.

Finding # 7: *Some cities have had difficulty maintaining GFOA minimum recommended levels of unrestricted reserves, whether or not they had approved policies requiring maintenance of defined levels.*

The City agrees with this finding, noting the Great Recession with its national housing economic and jobs crises have taken considerable toll on government reserves at all levels as well as to individual household and private sector reserves. Very few entities have been immune during these challenging fiscal times to wholly protect one's nest eggs.

Finding # 8: *A city's ability to respond to future shortfalls may be impaired if it lacks a reserve policy containing specific plans for restoring reserves to minimum required levels.*

The City agrees with this finding, noting that when a city out of sheer necessity pierces its minimum reserve levels, that public action should be coupled with a detailed and relevant plan to replenish the reserves to the minimum stated quantity.

Finding # 9: *There are other key financial indicators in addition to levels of reserves that could provide a better picture of a city's financial health.*

The City agrees with this finding.

Finding # 10: *Information about the financial health of a city is often difficult for the public to understand.*

The City partially disagrees with this finding. While recognizing the varying degrees of complexities in individual cities, certain compulsory reporting standards (GASB) are required of each public entity that can confound the general public's ability to understand without some degree of familiarity with governmental accounting principles. However, as noted previously, this City prepares accompanying narrative and staff reports designed to aid the public's comprehension of the numerical and statistical financial reports.

RECOMMENDATIONS

Recommendation # 1: *The city should provide its city council and residents with a budget to actual performance comparison and the status of unrestricted reserves on a quarterly basis.*

The recommendation will not be implemented as it is not reasonable for a city of this size and resources to report such data on a quarterly basis when its revenues and expenditures do not flow inward or outward on an even trend line. For example, reporting property tax revenues received in the 1st Quarter of a fiscal year (ending 30 September 2012) is irrelevant and meaningless since local property tax revenues are not distributed to cities until December and then again in April of each fiscal year with a County "true-up" each June. The absence of such a key revenue source to cities would render a false impression in comparison to budgeted revenue numbers. Similarly, examination of the amount of irrigation water used by the end of the 2nd Quarter of a fiscal year could lead one to believe the allocation will be under-expended until consideration of the upcoming need for irrigated water in the spring is factored into the equation. For these reasons and others, this City is comfortable with its current Mid-Year Budget Review to ascertain annual swings in revenues and expenditures.

With regard to the status of unrestricted reserves, such comparison and public reporting would accompany any City Council action necessitating the use of said reserves at that time. In this City, only the City Council can appropriate reserves.

Recommendation # 2: *To increase financial transparency, the city should consider disclosing to the public the following key indicators of financial health: days cash available, working capital and ratio of retirement obligations to general fund revenue.*

The recommendation has not yet been implemented but will be implemented in the future, likely with other financial measurements in its FY 2013-2014 City Budget.

Recommendation # 3: *The city should consider adjusting its reporting process to include additional indicators of fiscal health in an easily accessible and understandable format.*

The recommendation has been implemented as the City considers its current annual budget, mid-year budget status report, and its year-end financial reporting requirements (each posted to the City's website) as consistent with public transparency and comprehension objectives. Additional indicators will be incorporated as deemed beneficial to its existing procedures and practices within limited staffing levels (e.g. the City has only one (1) financial professional, its Finance Manager, whom handles the financial matters of the City).

Recommendation # 5: *The city should consider creating a dashboard of fiscal health indicators on its website.*

The recommendation will not be implemented because it is not warranted. This City considers its current practices and policies as sufficiently transparent without the need for such fiscal gimmicks most often linked to showcase national debt or traffic deaths. Should the GASB ever consider employment of the suggested dashboard as a universally standard practice to measure the fiscal health of all cities nationally, this City would certainly comply with that measurement.

We appreciate the time and effort the Civil Grand Jury spent researching and considering these matters, and we trust this response will be helpful to its endeavors.

Sincerely,

DRAFT

Howard Geller
Mayor

Attachment 2

Grand Jury

Contra Costa County

725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

Received
JUN 07 2012
City of Clayton

June 6, 2012

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

Dear Mr. Napper:

Attached is a copy of **Grand Jury Report No. 1209, "City Retirement Plans, An Unsustainable Benefit?"** by the 2011-2012 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

(1) The respondent agrees with the finding.
(2) The respondent disagrees with the finding.
(3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.

2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **SEPTEMBER 6, 2012.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,

Lloyd Bell

Lloyd Bell, Foreperson
2011-2012 Contra Costa County Civil Grand Jury

A REPORT BY

THE 2011-2012 CONTRA COSTA COUNTY GRAND JURY

725 Court Street
Martinez, California 94553

Received
JUN 07 2012
City of Clayton

Report 1209

City Retirement Plans

An Unsustainable Benefit?

APPROVED BY THE GRAND JURY:

Date: May 24, 2012

Lloyd D. Bell
LLOYD D. BELL
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/31/12

John T. Laettner
JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contact: Lloyd Bell
Foreperson
925-957-5638

Contra Costa County Grand Jury Report 1209

City Retirement Plans

An Unsustainable Benefit?

TO: Contra Costa City Mayors and Council Members

SUMMARY

The cost of public agency employees' retirement benefits has become a hot-button topic. Increased benefits granted during good economic times are now coming back to haunt local governments that are struggling to maintain public services. Cities are required to spend an increasing portion of their limited budget dollars to meet their retirement obligations. In a number of instances, cities have found that the increased cost of funding retirement benefits at current levels requires expenditures that limit their ability to maintain services to their citizens.

Sixteen of the cities in Contra Costa County (County) provide a defined benefit retirement plan to their employees and some may be facing unsustainable retirement plan costs. Some of these cities have made changes to their retirement plans to reduce their future costs, but a number have not. With or without changes, the near-term future indicates an increase in costs associated with retirement benefits. These costs may be of particular concern to residents of cities which have a large portion of their General Fund dollars committed to paying for employee retirements, which in some cases includes not only the cost of pensions, but life-time health-related benefits as well.

Three cities in the County provide a defined contribution retirement plan to their employees. These plans tend to limit unexpected future financial exposure by capping the city's contribution to the retirement plans.

In February 2012, the Governor's Twelve Point Pension Reform Plan (Governor's Pension Reform Plan) was released as a bill and a proposed constitutional amendment. The pension reform bill would take substantial steps to alter retirement benefits for new governmental employees, as well as eliminate some benefits for current employees. While not all aspects of the reform proposal may be applicable to all local governmental entities, it represents a good model for addressing the looming retirement obligation challenge.

BACKGROUND

Local governmental agencies have been experiencing difficult financial times over the past several years. Faced with the sharp decreases in revenue, many public agencies have had to reduce expenditures, resulting in loss of jobs and services. Unfortunately, some of the costs of doing business have not decreased, but have increased, absorbing a larger portion of the "budget pie" and thus reducing the funds available for public services. Public sector retirement plans

have received a lot of attention from the media and government officials, primarily due to their escalating costs.

Low investment returns have obligated public agency employers to increase their contributions to meet the financial obligations of current and prospective retirees. A recent report from the Government Accountability Office estimated that without policy changes, states and local governments would need to cut spending or raise taxes by 12.7% each year over the next five decades to keep their budget in balance. This is due in part to increasing expenses for public sector health care and under-funded pension plans. Governor Brown, Stanford University, the Little Hoover Commission, and local elected officials of all political persuasions have even called current retirement benefits for governmental employees "unsustainable."

Each city in the County funds some type of retirement plan for current and retired employees. There are two types of retirement plans offered by the County's cities: a defined benefit plan or a defined contribution plan.

Under a defined benefit plan, an employee, upon qualifying for retirement, receives a monthly pension based upon a formula as contracted by the city. State statutes provide limitations as to how such formulas are to be determined. This type of pension is a direct obligation of the city, and the city takes the risk for any shortfalls or losses.

Under a defined contribution plan the employer contributes a set amount, usually a percentage of salary, to an employee's individual account, which is managed by the employee. The employee may also contribute a percentage of their salary. Only the contributions are guaranteed, not the future benefits. It is up to the individual employee to make investment decisions and thus bear the risk for losses.

Whether they provide either a defined benefit or defined contribution plan, many cities also provide another form of a defined contribution plan, often called a deferred compensation plan. It allows the employee to contribute an amount from salary which is deferred from current taxation. In some cases, the city also may contribute an amount to match all or a portion of the employee's contribution. The employee directs the investment of these funds and the city has no liability to the employee other than what it might contract to contribute to the plan on behalf of the employee.

In order to compare the type and level of those benefits, the Grand Jury surveyed and received responses from all 19 cities. The survey and follow-up questionnaire collected data concerning retirement obligations, such as:

- Plan types
- Plan formulas
- Employee contributions, if any, to the plan
- Vesting requirements
- Retiree health options

In addition, the Grand Jury requested information concerning:

- Changes to the retirement plan in the past three years
- Forecasts of the city's retirement obligations over the next five years
- The percentage of General Fund dollars represented by total retirement costs

Of the 19 cities in the County, 16 provide a defined benefit pension plan for employees.

The three cities in the County that do not provide a defined benefit pension plan, Lafayette, Orinda and Danville, do provide employees with a defined contribution plan.

All of the 16 cities with a defined benefit plan are members of the California Public Employees Retirement System (CalPers), which is one of the largest public sector retirement plans in the country, with an investment portfolio market value of $228.7 billion, as of February 2012. CalPers provides retirement, health and related financial programs to more than 1.6 million public employees and more than 3,000 public employers.

CalPers offers public agencies the ability to provide a variety of retirement benefits and benefit levels to employees. Generally, employees are grouped as either Safety (sworn peace officers and firefighters) or Miscellaneous (all others not eligible for Safety). Monthly pension benefits obtained by qualified employees upon retirement are determined by multiplying the employee's pension eligible compensation (either the highest 12 consecutive months or a three year average) by the number of years of service, multiplied by the contracted percentage factor, which ranges from 2% of salary at age 60 to 3% of salary at age 60 for Miscellaneous and from 2% of salary at age 55 to 3% of salary at age 50 for Safety. Pensions may also be adjusted annually based upon cost of living adjustment (COLA) formulas, which range from 2% to 5% annually. In addition, the contribution the city pays toward the employee's CalPers share can also be counted as salary when calculating the employee's pension upon retirement.

As an example, a Martinez police officer who is eligible to retire at age 50 with 30 years of service would receive a pension equal to 90% of his or her pension-eligible compensation. But since the City paid the employee's 9% CalPers contribution, the 9% is added to compensation. Therefore, the retiree essentially is receiving over 98% of the single highest year of his or her compensation. In addition, the pension may be adjusted annually for life to reflect COLA.

A number of cities have modified future pension benefits to their employees by creating a second benefit level, or tier. A second tier (Tier 2) would only apply to new employees hired after the date that the second tier was adopted. In all cases, the new tier has lower benefits than offered under the terms of the original pension plan formulas. Tier 2 employees could have a lower formula, use three years instead of 12 months for calculating the highest salary amount, and/or require more contribution from the employee towards the benefits. The second tier is adopted separately for Safety and Miscellaneous employees.

For example, Miscellaneous employees hired on or after October 1, 2010 in the city of Brentwood receive a benefit based on the formula 2% at age 60 (2% @ 60), using a three year average for the highest salary versus the formula 2.7% at age 55 (2.7% @ 55) using the highest 12 consecutive month average salary for employees hired before that date. At the time of the writing of this report, no second tier has been adopted for Safety employees in Brentwood.

Based upon the data provided by the cities, the following table identifies the pension formulas used for each tier for each city with a defined benefit plan.

Table 1 Defined Benefit Pension Formulas and Tiers

City	Miscellaneous				Safety			
	Tier 1		Tier 2		Tier 1		Tier 2	
	Formula	Base Salary	Formula	Base Salary	Formula	Base Salary	Formula	Base Salary
Antioch	2.7% @ 55	High 12	2.0% @ 55	High 12	3.0% @ 50	High 12		
Brentwood	2.7% @ 55	High 12	2.0% @ 60	3 yr avg	3.0% @ 50	High 12		
Clayton	2.0% @ 55	3 yr avg	2.0% @ 60	3 yr avg	3.0% @ 55	3 yr avg	2.0% @ 50	3 yr avg
Concord	2.5% @ 55	High 12	2.0% @ 55	High 12	3.0% @ 50	High 12		
El Cerrito	2.7% @ 55	High 12			3.0% @ 50	High 12		
Hercules	2.0% @ 55	3 yr avg			3.0% @ 50	High 12	3.0% @ 55	High 12
Martinez	2.0% @ 55	High 12			3.0% @ 50	High 12		
Moraga	2.0% @ 55	3 yr avg			2.0% @ 50	3 yr avg		
Oakley	2.5% @ 55	High 12	2.0% @ 60	High 12	N/A	N/A	N/A	N/A
Pinole	2.5% @ 55	High 12			3.0% @ 55	High 12	2.0% @ 50	High 12
Pittsburg	2.0% @ 55	High 12	2.0% @ 60	3 yr avg	3.0% @ 50	High 12	3.0% @ 55	3 yr avg
Pleasant Hill	2.0% @ 55	High 12	2.0% @ 60	3 yr avg	3.0% @ 50	High 12	3.0% @ 55	3 yr avg
Richmond	2.7% @ 55	High 12			3.0% @ 55[1] 3.0% @ 50	High 12		
San Pablo	2.5% @ 55	High 12			3.0% @ 50	High 12		
San Ramon	2.7% @ 55	High 12			3.0% @ 50	High 12		
Walnut Creek	2.0% @ 55	High 12	2.0% @ 60	3 yr avg	3.0% @ 55	High 12		
Danville	Employees retirement plans are defined contribution, not defined benefit							
Lafayette	Employees retirement plans are defined contribution, not defined benefit							
Orinda	Employees retirement plans are defined contribution, not defined benefit							

[1]Firefighter formula is 3% @ 55. Police formula is 3% @50

KEY POINTS

- Five cities (Antioch, Brentwood, El Cerrito, Richmond and San Ramon) provide the highest benefit for Miscellaneous employees. They use a 2.7% at age 55 formula, based on the highest 12 consecutive months of salary.

- Eight cities have created a second tier with a less generous benefit formula for Miscellaneous employees.

- All cities, except Clayton, Pinole, Walnut Creek and Richmond (firefighters only) offer 3% at age 50 for Safety employees. These four cities use a reduced benefit of 3% at age 55.

- Five cities (Clayton, Hercules, Pinole, Pleasant Hill and Pittsburg) have taken steps to reduce pension benefits by creating a second tier for Safety employees.

- Six cities (El Cerrito, Martinez, Moraga, Richmond, San Pablo and San Ramon) have not reduced the benefits of either Safety or Miscellaneous employees.

To demonstrate the future impact of Tier 2 formulas on retirement benefits, the cities of Brentwood and Pinole offer examples for Miscellaneous and Safety employees. The table below shows the net difference for these two cities using otherwise identical calculation criteria. The percentage amounts and retirement ages used were provided by those cities. This table does not include any COLA adjustments which normally increases the lifetime retirement payout. However, even without COLA adjustments, the impact of a Tier 2 formula can be seen.

Table 2 Impact of Second Tiers

City / Employee Group	Formula	Percent	Retirement Age	Annual Retirement Income	Lifetime Benefit	Reduced Lifetime Amount
Brentwood / Miscellaneous	Old	2.7%	55	$48,600	$1,215,000	
	New	2.0%	60	$36,000	$720,000	($495,000)
Pinole / Safety	Old	3.0%	55	$81,000	$2,430,000	
	New	2.0%	50	$54,000	$1,620,000	($810,000)

Calculation Criteria

$60,000	Miscellaneous group salary at retirement
$90,000	Safety group salary at retirement
30	Years of service at retirement
ZERO	COLA adjustment in calculations
Age 80	Assumed Lifespan

Under CalPers guidelines, both the employer and employee have prescribed contribution rates, paid as a percentage of salary. Generally the employee's share varies from 7% to 10% of salary. As noted above in the example of calculating the retirement amount for a police officer in Martinez, the amount of employee share paid by the employer is added to his or her salary. Over

the years, employees of many local governments have negotiated to have the employer pay all or a portion of the employee's share of pension cost. Some cities have the employee pay a portion of the **employer's** contribution, thereby continuing to add to the employee's share for the purpose of basing the pension on a higher salary.

Martinez was the only city to report that none of their employees contribute towards the employee's share. Several other cities indicated that certain groups are not required to pay towards the employee's share. On the other end of the spectrum, Pinole reported that employees pay all of the employee's share, as well as a portion of the employer's contribution.

The employer's contribution rate changes from year to year, depending upon an actuarial valuation, which is calculated to cover the normal costs, as well as any unfunded liabilities from previous years. The unfunded liability is what the actuary determines as the cost to cover shortfalls from market losses, demographic changes, overly optimistic estimates of investment returns by CalPers or other benefit improvements that were not covered by the contribution rates collected from the employee and employer. Employees do not share any of the unfunded liability burden. It is only recovered through additional charges to the employer. In other words, each city is responsible for any deficit the defined benefit plan may experience and ultimately its taxpayers suffer consequences in the loss of services.

Another retirement benefit that has been offered in many cities is retiree health care. Health care costs have seen substantial increases over the past decade. Since 2001, employer-sponsored health coverage cost for family premiums has increased by 113%. CalPers approved a 2012 health rate package that will increase overall premiums by only 4.1%, as compared to the latest national overall premium increase of 9% for 2011. Although efforts have been made to contain health care costs, it is uncertain what the future holds. In November 2011, the State Supreme Court ruled that government retirees have a vested right to health benefits if state and local governments clearly promised those benefits as part of employment agreements.

Retiree health care can include medical, dental, and vision care. Once an employee is vested in a city's retiree health benefit, which can range from the first day of employment to 20 years of service, the employee and sometimes his or her spouse and qualified dependents are eligible to continue receiving lifetime health coverage. In some cities, this benefit is paid all or partly by the employer. Some cities only offer the retiree the opportunity to continue under the city's group rates. Cities such as San Ramon, Pittsburg, Martinez, Richmond (safety), Pinole (employees hired prior to September 2010) and Brentwood pay 100% of the cost of health care if the employee is vested. In Martinez, Safety employees vest immediately upon employment for lifetime medical benefits upon retirement.

It was also noted that all cities with a defined benefit plan also offer a deferred compensation plan. This deferred compensation plan allows employees to contribute pre-tax dollars (currently up to $22,500 per year) from salary to a supplemental retirement plan. Many cities also contribute or match employee contributions to the deferred compensation plan.

Cities were requested to provide a five-year projection of retirement obligations. Many cities anticipated large increases in retirement costs in the next five years. Some of the cities indicated they could not forecast the cost of retirement for the next five years and either provided a shorter

projection of costs or none at all. No city anticipated a reduction in the cost for retirement obligations over the next five years.

The next table identifies those cities which provide retiree health insurance as an additional benefit, cities in which the employer contributes to the defined compensation supplemental retirement plan, and the percent of General Fund dollars that are allocated to total retirement costs in the current fiscal year.

Table 3 Other pension benefits and General Fund allocation for total retirement costs

CITY	Retiree Health care?	City Contributes to Defined Contribution (Deferred Compensation) Plan?	Percent of General Fund For Total Retirement Costs
Antioch	Yes	No	**16.00%**
Brentwood	Yes	Yes[2]	**13.10%**
Clayton	Yes	No	10.40%
Concord	Yes	Yes	**13.89%**
Danville	No	Yes[3]	5.02%
El Cerrito	No	Yes[4]	**21.40%**
Hercules	Yes	Yes	8.98%
Lafayette	Yes	Yes[3]	8.10%
Martinez	Yes	Yes	11.30%
Moraga	No	Yes	7.40%
Oakley	No	No	2.25%
Orinda	Yes	Yes[3]	3.50%
Pinole	Yes	No	**24.60%**
Pittsburg	Yes	Yes	**20.00%**
Pleasant Hill	No	Yes	**25.00%**
Richmond	Yes	No	10.20%
San Pablo	Yes	No	**13.00%**
San Ramon	Yes	No	**14.00%**
Walnut Creek	Yes	Yes[5]	**13.00%**
Average %			**12.69%**

[2] For some management
[3] Employees don't have defined benefit plan
[4] City Manager Only
[5] Contributions for Miscellaneous employees will range from $335 to $2,500 as of 6.22.2012

KEY POINTS

- Five cities do not offer retiree health care to their employees. Those cities are Danville, El Cerrito, Moraga, Oakley and Pleasant Hill.

- Seven cities do not contribute to the employee's defined contribution (deferred compensation) plan. These are Antioch, Clayton, Oakley, Pinole, Richmond, San Pablo and San Ramon.

- Retirement obligations represent a low of 2.25% of the General Fund budget in Oakley, to a high of 25% in Pleasant Hill. (Note that Oakley has neither unions nor safety employees). For all 19 cities, the average percentage of the General Fund budget dedicated to pension costs is 12.69%.

- Danville, Lafayette, and Orinda, which provide defined contribution retirement plans, allocate some of the lowest percentages of their General Funds for retirement costs.

Governor's Pension Reform Plan

In an attempt to address the looming state-wide public employee pension crisis, the Governor released his Pension Reform Plan in October 2011. This was subsequently released as proposed legislation and a proposed constitutional amendment in February 2012. In general, the Governor's proposal applies most changes to new employees to reduce future pension cost. Some of the key points of the Governor's Pension Reform Plan that may apply to cities are as follows:

- Mandates the use of a "hybrid" pension plan (combination of a defined benefit and defined contribution plans) for all new employees hired on and after July 1, 2013. It would be the only plan that a public employer could offer to its employees.

- The new plan targets a benefit after a full career (defined as 30 years for a safety employee and 35 years for a miscellaneous employee) at 75% of final compensation, with a cap generally equal to the Social Security wage base. The full benefit would not be payable for a safety member who retires before age 57 and a miscellaneous employee member who retires before 67.

- Requires the use of three years for calculating final compensation for new employees. This is an attempt to stop salary spiking in the final year of employment. It also limits the definition of compensation as the normal rate of base pay, excluding special bonuses, payouts for unused vacation or sick leave and other pay perks.

- Eliminates the purchase of up to five years of additional service credit, commonly referred to as "airtime", for current employees and new hires. For example, a qualifying employee with 20 years of service could purchase an additional five years of service credits for a total of 25 years of service.

- All employees would be required to pay at least 50% of the annual normal cost of their pension benefits.

- Prohibits retroactive benefit enhancements. Any enhancement will apply only for future service and not to service before the date of the enhancement for new employees and to current employees to the extent possible under the California and U.S. Constitutions.

FINDINGS

1. Without additional revenue, continued increases in retirement costs may result in further reduction of public services.

2. In some cases, retirement costs consume a large proportion of a city's General Fund budget, thus limiting funding for discretionary spending.

3. Cities that have implemented lower pension formulas for new hires (Tier 2) have reduced their overall future pension obligations.

4. Although CalPers administers the defined benefit pension plans, including the investment programs, cities have some flexibility to control their own retirement costs.

5. Safety employees have significantly more generous retirement benefits than Miscellaneous employees, yet few cities have lowered benefits for new Safety hires.

6. Retiree health care may represent a significant future cost for those cities that pay for all or a portion of those benefits.

7. Defined contribution retirement plans can be an effective way to limit both current and future retirement costs.

8. The Governor's Pension Reform Plan offers a good strategic model for limiting future retirement costs for local governments.

RECOMMENDATIONS

1. Those cities that have not adopted a second tier with reduced pension benefits for their Safety employees should consider doing so.

2. Those cities that have not adopted a second tier with reduced pension benefits for their Miscellaneous employees should consider doing so.

3. In order to control unpredictable future expenses, cities should consider reducing or eliminating their financial obligation for retiree health care for future employees.

4. Cities should review the key points of the Governor's Pension Reform Plan, and consider incorporating its points as a long term strategy for addressing retirement costs.

REQUIRED RESPONSES

	FINDINGS								RECOMMENDATIONS			
	1	2	3	4	5	6	7	8	1	2	3	4
City of Antioch	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
City of Brentwood	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
City of Clayton	✓		✓	✓		✓	✓	✓			✓	✓
City of Concord	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
Town of Danville	✓						✓	✓				✓
City of El Cerrito	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓
City of Hercules	✓		✓	✓		✓	✓	✓		✓	✓	✓
City of Lafayette	✓					✓	✓	✓			✓	✓
City of Martinez	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Town of Moraga	✓		✓	✓	✓		✓	✓	✓	✓		✓
City of Oakley	✓		✓	✓			✓	✓				✓
City of Orinda	✓					✓	✓	✓			✓	✓
City of Pinole	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓
City of Pittsburg	✓	✓	✓	✓		✓	✓	✓			✓	✓
City of Pleasant Hill	✓	✓	✓	✓		✓	✓	✓				✓
City of Richmond	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
City of San Pablo	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
City of San Ramon	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
City of Walnut Creek	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓

"✓" indicates a Required Response

Grand Jury

Contra Costa County

Attachment 3

725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

June 6, 2012

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

Received
JUN 07 2012
City of Clayton

Dear Mr. Napper:

Attached is a copy of **Grand Jury Report No. 1213, "Financial Transparency With Meaning?"** by the 2011-2012 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

(1) The respondent agrees with the finding.
(2) The respondent disagrees with the finding.
(3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.

2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **SEPTEMBER 6, 2012.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,

Lloyd Bell, Foreperson
2011-2012 Contra Costa County Civil Grand Jury

A REPORT BY

THE 2011-2012 CONTRA COSTA COUNTY GRAND JURY

725 Court Street
Martinez, California 94553

Received
JUN 07 2012
City of Clayton

Report 1213

Financial Transparency with Meaning

"So far, so good...or maybe not"

APPROVED BY THE GRAND JURY:

Date: May 24, 2012

Lloyd D. Bell
LLOYD D. BELL
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/31/12

John T. Laettner
JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contact: Lloyd Bell
Foreperson
925-957-5638

Contra Costa County Grand Jury Report 1213

Financial Transparency with Meaning

"So far, so good...or maybe not"

TO: Cities of Contra Costa County

SUMMARY

The nineteen cities in Contra Costa County are currently trying to cope with the same financial problems. Revenue available to fund city operations has been decreasing. At the same time, the need for programs and services to support the residents has been increasing. The potential impact of unfunded future pension and healthcare liabilities demands immediate attention. Structural changes associated with redevelopment agencies represent a potential threat to a city's debt rating and its ability to raise money. Maintenance and replacement of city assets is being deferred until some unidentified future time.

This difficult situation is not likely to change in the foreseeable future. As a result, it is especially important for residents to understand what actions their elected representatives are taking and what impact these actions are having in terms of services being provided and possible demands for new, additional taxes and assessments. To facilitate this, the cities have a responsibility to find new ways to provide easy to understand and easy to access financial information in a timely manner.

Cities have always had complex budget and reporting processes. The present state of the economy makes those processes even more difficult to follow. While posting lengthy budget documents and auditor's reports on a website has been the accepted past practice, it is no longer, in itself, a suitable way to keep residents advised and involved. Most residents do not have the time to attend city council meetings or review meeting minutes or read complicated reports. It is time to introduce a better way of keeping the public informed.

A long-standing indicator of the financial health of a city has been the amount it is holding as a reserve. The management of reserves and the public's understanding of the status of those reserves are important. To be meaningful, there must be a reference point, i.e., a minimum amount to be maintained. However, not every city has a formal policy on how much should be held in reserve, and not every city has a formal policy for replenishing the reserve after it has been used. These times demand that a rigorous policy be in place to guarantee that the reserve is used as intended and in the best interests of the community.

In recognition of the dramatic change in the financial environment, the types of information

provided must be reviewed and changed to give a timely and transparent picture of the situation. Reporting a reserve position is not enough to gauge the health of a city's finances. Presenting additional measurements of fiscal health may present a more accurate picture.

BACKGROUND

Current Practice

Every city is required by law to pass a balanced budget. Prior to the beginning of an upcoming twelve-month financial reporting period, all cities go through a budget process to estimate the revenues they can anticipate being available to pay for operations. This process also determines the types and levels of services provided to residents. Cities define the scope of the services they provide to the residents and budgeted expenditures estimate the cost to do so. The budget process also takes into account the funding requirements to support other obligations and liabilities, such as post-employment employee benefits.

As part of their budget process, some cities use five or ten-year projections of the city's operations as additional input. These projections are totally dependent upon assumptions of future events and conditions.

Cities also try to set aside funds to cover unanticipated costs. If a funding deficit is identified, the city may reduce services or choose to access reserves or budget stabilization funds accrued during past periods. It may take a combination of all of the above to create a final balanced budget.

The proposed budget is then presented to the city council in a public meeting where it is discussed and adopted. At that time, it becomes the city's financial operating plan. It is typically made available to residents on the city's website.

Periodically, the actual results are compared to the projections in the budget and discussed in a public meeting. When the year is completed, an independent accounting firm conducts an audit of the results and issues a report regarding the validity of the city's representation of the financial conduct of their business for that year. This is incorporated in a Comprehensive Annual Financial Report (CAFR). The law requires that this document become available to the public within 180 days of the end of the year. The CAFR is typically posted on the city's website.

The Government Finance Officers Association of the United States and Canada (GFOA) established the Certificate of Achievement for Excellence in Financial Reporting Program to encourage and assist local governments to go beyond the minimum requirements of generally accepted accounting principles and prepare comprehensive annual financial reports that evidence the spirit of transparency and full disclosure. The awarding of a Certificate recognizes an individual government whose CAFR achieves the highest standards in government accounting and financial reporting. Many of the County's nineteen cities have received a Certificate. However, the GFOA award does not include an evaluation of readability, ease of understanding of the CAFR by the public, or the best way to communicate the information.

The Challenge

In the past four years, cities have been presented with a unique set of challenges. They have been confronted with decreasing revenue, increasing demand for services, recognition of unfunded future liabilities, and structural changes (e.g., dissolution of redevelopment agencies) requiring a potential reclassification of their debt position.

Despite reductions in personnel, outsourcing of work, departmental consolidation, renegotiation of salaries and benefits, and elimination of some services during the past three to four years, most cities have not been able to bring costs in line with available revenue. To make up the difference, they have been forced to draw on reserve funds intended to provide additional money to support the desired level of city services during more difficult times. Just as families and individuals try to save some money to set aside for a "rainy day," cities also try to set aside money during "good times" to be available when circumstances warrant.

Because of its importance in helping cities work through a period of extreme economic challenges, reserves have become a commonly used key indicator of the financial health of a city. The amount of money in the reserve and whether it is growing or diminishing over time, may be an indication of whether or not the city is, or will be, facing a lack of resources to support its services.

Cities have differing definitions and measures of reserve positions. Some cities have a policy on how much reserves to keep, when and how to access them, and how to replace them. Some cities do not. In addition, the complex accounting methods employed from one city to the next make it challenging for residents to gauge the financial condition of their city or to compare it to other cities.

All cities have adopted the new reserve categories recommended by the Governmental Accounting Standards Board (GASB) known as GASB 54 for Fiscal Year 2010-2011. GASB 54 requires the cities to segment their general fund reserves into five categories based upon the extent to which they are bound to honor constraints on how those funds may be spent. The five funds are:

- Non-spendable fund balance
- Restricted fund balance
- Committed fund balance
- Assigned fund balance
- Unassigned fund balance

The last three funds combined make up the *unrestricted general fund reserve (unrestricted reserves)*. Unrestricted reserves are designed to provide adequate cash flow and offset economic downturns and revenue shortfalls. This is also available to provide for one-time funding in the event of an emergency situation such as a natural disaster or unanticipated liability.

Managing Reserves

Drawing on the unrestricted reserves is one way that cities can offset declining revenues and balance the budget. This allows them to continue to provide the services needed by residents. However, there is a limit to how long cities can continue this practice. Eventually, the unrestricted reserves are exhausted and cities must accelerate implementation of other actions to address an imbalance between money available and costs for operations.

It is common for the amount of money in the unrestricted reserves to be considered an indicator of the relative financial health of the city. Also, it is considered appropriate to evaluate the city's position with respect to this indicator over an extended period of time, usually years.

Cities have been facing an extraordinarily complicated set of conditions for the past four years and their dependence on access to unrestricted reserves has become acute. As the unrestricted reserves are being drawn down, the balance in the fund can no longer, by itself, be considered the sole indicator of financial health. How the fund balance has changed over time is important. Perhaps most important is the state of the fund balance relative to the minimum level established by the city's policy.

Not all cities have established policies for the creation and maintenance of minimum unrestricted reserves. This contradicts the best practice recommendation by GFOA, which states that while the adequacy of the unrestricted reserves should be assessed based upon a government's own specific circumstances, the minimum balance should be no less than two months (about 16%) of regular general fund operating revenues or expenditures.

The GFOA recommends that governments establish a formal policy on the level of unrestricted reserves that should be maintained in the general fund. Such a guideline is recommended to be set by the appropriate policy body and to provide both a framework and specific plans for restoring the level of unrestricted reserves if they fall below the minimum level.

As an example of the application of the GFOA recommended practice, the reserve policy currently in place for the City of El Cerrito is:

> It is a goal of the City to achieve a general operating reserve of 15%, with a minimum of 10%, of projected General Fund operating expenditures in each fiscal year. As part of the annual budget process, the City Council shall consider a Ten-Year Plan that attempts to maintain the minimum reserve balance of 15%. The City Council may adopt a deficit budget so long as the projected reserve does not go below 10% in any year of the Ten-Year Plan. Should the General Fund reserve fall below 10%, each budget year the City will adopt a plan to restore the reserve percentage to 10% within five years and 15% by the tenth year of the Ten-Year Plan.
>
> The portion of the reserve below 10% should be utilized only for a financial emergency (as determined by the City Council), natural disaster or significant unanticipated liability. If this portion of the reserve is utilized for such an event, the Ten-Year Plan presented with the Annual Operating Budget must be

developed so that the 10% base threshold is replenished within five years.

The unreserved fund balance in the Equipment Replacement Fund may be transferred to the General Fund only for a fiscal emergency where the current year revenues have decreased from the prior year or for one-time uses such as natural disasters or unforeseen liabilities.

The reserves between the 10% and 15% level are designed to be used by the City to deal with revenue fluctuations that arise as a result of changes in the economy and provide opportunities to maintain services and programs where funding may be difficult. Also, a portion of any operating reserve in excess of 10% of annual revenues resulting from the previous fiscal year's operations could be committed to capital improvement projects or used to retire existing debt, fund future liabilities or potential legislative actions, establish or replenish equipment replacement funds, and/or establish or replenish deferred maintenance funds as long as the amount is considered in the adopted Ten-Year Plan to achieve a balance of 15% within ten years.

On the other hand the City of Martinez does not have a reserve policy. The residents cannot compare unrestricted reserves to a reserve policy as an indicator of the health of their city.

New Measurement

In the current volatile financial environment, some cities are finding that adopting a budget, performing variance analyses, completing a CAFR, and relying on unrestricted reserves as a measure of fiscal health are no longer adequate. Additional indicators are available that take into account the reality and fluidity of the current situation, such as:

Budget to Actual Performance – This measure is used for internal management, measurement and reporting. Key decisions are made based on comparison of budget to actual. This metric is generally measured on a quarterly basis, presented to the city council, and made available to the public.

The GFOA recommends "that all state and local governments present mandated budgetary comparisons as part of their audited basic financial statements. The retention of the budget to actual comparison as a basic financial statement ensures that the strong link that has existed between the budget and financial reporting in the past will continue to enhance the credibility of both in the future."

The City of Martinez looks at budget to actual on a quarterly basis. On the other hand, the City of Hercules does not.

Days Cash Available – Days cash available (running liquidity) is a measurement of the number of days a government can operate normally without additional revenue.

While the GFOA has not recommended this calculation as a best practice, the City of Pinole provides this information to the City Council on a regular basis. At a

February 7, 2012 presentation it was reported, "As of June 30, 2011, there was only enough cash available in the City Treasury to finance City activities for approximately two and one-half (2.5) months."

Working Capital – The working capital ratio measures the relationship between current assets and current liabilities. It is computed by dividing current assets by current liabilities. Best practice is that an entity maintain adequate levels of working capital in its enterprise funds to alleviate revenue shortfalls and unanticipated expenses. The GFOA recommends a target amount for working capital in enterprise funds be 90 days of annual operating expenses as a baseline with no less than 45 days as the minimum acceptable level.

The City of Pinole tracks working capital in the general fund and reports on it to the City Council on a quarterly basis.

Ratio of Retirement Obligations to General Fund Revenues – Retirement obligations are defined as the total of funded and unfunded future costs, such as pensions and other post-employment benefits. The indicator is the ratio of total retirement obligations to annual general fund revenues. Retirement obligations have risen over time and may continue to do so.

A Word on Bond Ratings

Bond ratings are sometimes mentioned as an indicator of a city's financial stability and fiscal health. However:

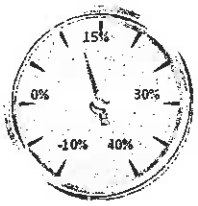
- The bond ratings are based upon the specific reason for which the bonds were solicited. The financial information taken into account may be much narrower than the scope of a city's revenues and expenditures.
- The criteria used to rate bonds vary from rating agency to rating agency. This may result in different bond ratings coming from analyses of the same financial information.
- Bonds ratings are developed when a city applies for a bond and when the bond is issued. Bond ratings are infrequently updated unless a new application is received. As a result, bond ratings can be old and not reflective of a city's current financial condition.

A New Communication Tool

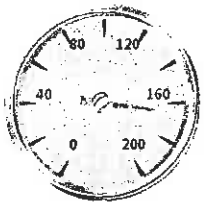
In recent years, the internet has had a tremendous impact on public communication expectations. People expect to be able to get to information quickly, and they expect that information to be summarized so they can decide what they want to focus on.

Some governmental agencies and private sector businesses use the dashboard concept on their website to communicate key information. A financial dashboard reduces complex issues to simple summary form. Each indicator is displayed with a simple description, a number, and then a means to show if the number is good, bad, or indifferent. For example:

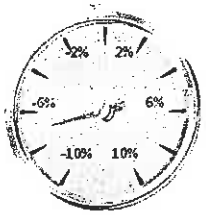
Reserves



Days Cash



Budget to Actual



FINDINGS

1. The budget process, government accounting systems, and financial statements provided to the public are complex and not readily understandable to most residents trying to assess the fiscal health of their city.

2. Review of examples of financial reports from cities made it clear that despite the intent for transparency and full disclosure, the documents were often difficult to understand.

3. Comparing the financial health of cities is difficult based only on information currently available to the public.

4. Not all cities have approved reserve policies or guidelines in place, making use of reserve levels for an assessment of financial health incomplete.

5. Cities have differing definitions and measures of reserves, which may prevent meaningful comparisons between the cities on this gauge of financial health.

6. It was often impossible to verify whether a city was meeting its reserve level policy using publicly available numbers, definitions, and guidance.

7. Some cities have had difficulty maintaining GFOA minimum recommended levels of unrestricted reserves, whether or not they had approved policies requiring maintenance of defined levels.

8. A city's ability to respond to future shortfalls may be impaired if it lacks a reserve policy containing specific plans for restoring reserves to a minimum required level.

9. There are other key financial indicators in addition to levels of reserves that could provide a better picture of a city's financial health.

10. Information about the financial health of a city is often difficult for the public to understand.

RECOMMENDATIONS

1. The city should provide its city council and residents with a budget to actual performance comparison and the status of unrestricted reserves on a quarterly basis.

2. To increase financial transparency, the city should consider disclosing to the public the following key indicators of financial health: days cash available, working capital and ratio of retirement obligations to general fund revenue.

3. The city should consider having a reserve policy that addresses recommended minimum unrestricted reserve levels, the processes for drawing down reserves, and the process for replacing reserves when they are below the recommended level.

4. The city should consider adjusting its reporting process to include additional indicators of fiscal health in an easily accessible and understandable format.

5. The city should consider creating a dashboard of fiscal health indicators on its website.

REQUIRED RESPONSES

Each city needs to respond only for its own practices.

City	Findings	Recommendations
City of Antioch	1-10	1-5
City of Brentwood	1-10	1-5
City of Clayton	1-10	1-5
City of Concord	1-10	1-5
Town of Danville	1-10	1-5
City of El Cerrito	1-10	1-5
City of Hercules	1-10	1-5
City of Lafayette	1-10	1-5
City of Martinez	1-10	1-5
Town of Moraga	1-10	1-5
City of Oakley	1-10	1-5
City of Orinda	1-10	1-5
City of Pinole	1-10	1-5
City of Pleasant Hill	1-10	1-5
City of Pittsburg	1-10	1-5
City of Richmond	1-10	1-5
City of San Pablo	1-10	1-5
City of San Ramon	1-10	1-5
City of Walnut Creek	1-10	1-5