



AGENDA

REGULAR JOINT MEETING OF THE OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY AND SPECIAL MEETING OF THE OAKLEY PUBLIC FINANCING AUTHORITY

Tuesday, September 28, 2021

6:30 PM

Oakley City Council Chambers located at 3231 Main Street, Oakley, California 94561

***CALL IN COMMENTS WILL BE ALLOWED FOR ITEM 4.1 ONLY (SEE ITEM 4.1 BELOW FOR CALL IN INSTRUCTIONS)**

MISSION STATEMENT: The City of Oakley exists to build and enhance a quality community and to serve the public in a friendly, efficient, responsive manner.

VISION STATEMENT: The City of Oakley will be recognized as a model of civic participation and a vibrant Delta community where families live, work, play, shop and visit.

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A complete packet of information containing staff reports and exhibits related to each item is available for public review prior to an Oakley City Council and/or City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority meeting at Oakley City Hall, 3231 Main Street, Oakley, CA 94561. Any writings or documents provided to a majority of the Oakley City Council, Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency or Oakley Public Financing Authority regarding any item on this agenda will be made available for public inspection, during regular business hours, at the front counter in the Main Lobby of the Oakley City Hall located at 3231 Main Street, Oakley, CA 94561.

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If you have a physically challenging condition and require special accommodations, please call the City Clerk's office at (925) 625-7013.

Please keep cell phones/electronic devices turned off during the meeting. Please be advised that City Council meetings are video recorded and attendees may appear on video.

Members of the public may address the Council on items of interest that are within the City's jurisdiction. Public comment on items not listed on the agenda will be heard under the Public Comments section of the agenda. In compliance with State law, the Council may not take action on an item that is not specifically listed on the agenda. If you would like to speak on any agenda item, please fill out a blue speaker card available in the lobby and submit it to the City Clerk prior to the agenda item being called. The Mayor will call you by name to the podium to hear your comments and you have up to 3 minutes to speak.

1.OPENING MATTERS

1.1 Call to Order and Roll Call of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority

1.2 Pledge of Allegiance to the Flag (Dawn Varela, Freedom High School Student)

2.PUBLIC COMMENTS

At this time, the public is permitted to address the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority on non-agendized items. PUBLIC COMMENTS ARE LIMITED TO THREE (3) MINUTES. In accordance with State Law, however, no action or discussion may take place on any item not appearing on the posted agenda.

3.CONSENT CALENDAR

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

3.1 Approve Minutes from the Special City Council Meeting held August 31, 2021 (Libby Vreonis, City Clerk)

[Minutes 08-31-21](#)

- 3.2 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency/Public Financing Authority Meeting held September 14, 2021 (Libby Vreonis, City Clerk)**
[Minutes 09-14-21](#)
- 3.3 Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)**
[Memo](#)
- 3.4 Waive the Second Reading and Adopt an Ordinance Approving the Summer Lake North Development Agreement Assignment and Term Extension (DA 01-21), as Conditioned (Ken Strelo, Principal Planner)**
[Ordinance](#)
[Exhibit A](#)
- 3.5 Resolution Approving a Budget Amendment, Authorizing the Interim City Manager to Execute an Addendum to the Agreement with the Consultant for Construction Support Services Related to Capital Improvement Project (CIP) 215 – Downtown Parking Lot Project and Authorizing staff to purchase asphalt, aggregate base, and parking lot light poles and associated hardware directly from suppliers for the project (Kevin Rohani, P.E., Public Works Director/City Engineer)**
[Staff Report](#)
 - [1. Resolution](#)
 - [2. Budget Adjustment Form](#)
- 3.6 Acceptance of Work Associated with Capital Improvement Project Number 260 - Fiscal Year 2021/22 Street Restriping Project (Kevin Rohani, P.E., Public Works Director/City Engineer)**
[Staff Report](#)
 - [1. Resolution](#)
 - [2. Notice of Completion](#)
- 3.7 Adopt a Resolution Declaring Properties as “Surplus” and Direct Staff to Provide the Notices Required by AB 1255 and AB 1486 (Joshua McMurray, Interim City Manager)**
[Staff Report](#)
 - [1. Resolution](#)
 - [2. Aerial maps of the property locations](#)
- 3.8 Adopt a Resolution Delegating Authority for Determining Industrial Disability to the City Manager Pursuant to Government Code Sections 21156 and 21173 (Nancy Marquez-Suarez, Assistant to the City Manager/HR Director)**
[Staff Report](#)

1. Resolution
2. Sample Resolution From CalPERS Resource Guide

3.9 Approval of Consulting Services Agreement by Park Engineering, Inc. for On-Call services Related to Private Development Projects Construction Management and Inspection Services (Kevin Rohani, P.E., Public Works Director/City Engineer)

[Staff Report](#)

1. Resolution
2. Proposal

4.PUBLIC HEARINGS

4.1 COMPLIANCE WITH THE CALIFORNIA VOTING RIGHTS ACT: PUBLIC HEARING TO RECEIVE INPUT CONCERNING "COMMUNITIES OF INTEREST" TO BE CONSIDERED IN THE CREATION OF CITY COUNCIL ELECTORAL DISTRICTS (TIMED ITEM AT 7:00 PM OR AS SOON THEREAFTER - 2ND COMMUNITIES OF INTEREST MEETING) (DEREK COLE, CITY ATTORNEY)

***THOSE WISHING TO LISTEN IN/OR PARTICIPATE IN THE PUBLIC HEARING MAY DO SO BY CALLING: 1 (669) 900-9128 AND USING ID# 858 0900 5401. CALLERS ARE ASKED TO MUTE PHONES UNLESS SPEAKING.**

[PowerPoint](#)

4.2 Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“Special Land Uses”) – Adding Four Subsections to Address Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage (RZ 04-21) (Ken Strello, Principal Planner)

Suggested Action: Staff Recommendation: 1) Receive the Staff Report, 2) Receive Questions from the City Council, 3) Open the Public Hearing, 4) Receive Public Testimony, 5) Close the Public Hearing, 6) Deliberate, 7) Summarize the Deliberation 8) Waive the First Reading and Introduce the Ordinance

[Staff Report](#)

1. Public Hearing Notice
2. Proposed Ordinance

5.REGULAR CALENDAR

5.1 Cooperative Agreement with Contra Costa County Regarding the Demolition of the Former County Sheriff’s Office Delta Substation at 210 O’Hara Ave (Joshua McMurray, Interim City Manager)

[Staff Report](#)

1. Draft Cooperative Agreement

6.REPORTS

6.1 INTERIM CITY MANAGER

(a) Interim City Manager

(b) East Cypress Road Emergency Access Update

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

(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency

(b) Requests for Future Agendas

7.WORK SESSION

8.CLOSED SESSIONS

9.ADJOURN

Minutes of the Special Oakley City Council Meeting held August 31, 2021

1) CALL TO ORDER AND ROLL CALL

Mayor Sue Higgins called the meeting to order at 6:30 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. She opened the meeting in memory of Joshua Schaefer. Delta Vista website. Councilmembers Aaron Meadows, Anissa Williams and George Fuller were in attendance. Mayor Higgins announced Vice Mayor Pope would not be in attendance.

2) PLEDGE OF ALLEGIANCE

2.1 **Pledge of Allegiance to the Flag (Mayor Higgins)**

Mayor Higgins led the Pledge of Allegiance to the Flag.

3) **PUBLIC COMMENTS**

Mayor Higgins announced no comment cards or online hands were submitted for public comments.

4) PUBLIC HEARINGS

4.1 **Compliance with the California Voting Rights Act: Public Hearing to Receive Input Concerning “Communities of Interest” to Be Considered in the Creation of City Council Electoral Districts (Derek Cole, City Attorney)**

City Attorney Derek Cole announced this is the first of six meetings the City will hold for the transition from its current at-large election system to a by-district election system. He mentioned Karin Mac Donald attended the previous Council meeting and gave the City Council a brief overview of the process. He shared that Karin and her team provided material with the staff report and the information speaks for itself. He explained this is the first part of the districting process to identify communities of interest which is a term of importance in Federal law and the California Voting Rights Act (CVRA). He mentioned the CVRA loosens the standards and tilts the scale toward more robust use of the districting process. He explained the idea is to keep communities of interest intact. He provided an example of the Summer Lake area and explained agencies typically don't want to draw a line down the middle of an area. He shared in Antioch, the downtown area felt it was a community of interest and ultimately Antioch observed that area as a community of interest. He mentioned Oakley may not have a similar downtown. He mentioned the Council may look at the contiguous shape of a district and population. He explained the process requires two meetings for the Council to hear testimony of the public and parties of interest regarding communities of interest. He mentioned members of the public don't have to address all communities of interest; it can be only one area of interest, i.e., where they live. He mentioned comments can be received tonight from the City Council and public. He added tonight is not the time to give direction, but the Council can express thoughts and ask questions. He explained that the second meeting of September is when additional testimony will be received regarding communities of interest and the Council can get more specific then with communities of interest direction; testimony can be heard tonight and during the next meeting.

He shared this information has been blasted on social media and the City's website, and this meeting is offering a call-in feature and attendance in-person to obtain community input.

Karin Mac Donald mentioned she will provide a presentation followed by questions and answers. During her presentation she explained the CVRA, districting process, criteria and laws, 5 criterion for mapping (equal population, compliance with Federal Voting Rights Act (FVRA), contiguity, compactness, and respect for communities of interest. She indicated they are providing maps for everyone to draw lines as they prefer and her colleague can digitize the maps and use them to help depict proposed districts. She discussed each of the 5 criterion in detail.

Criterion 1: Equal Population

Ms. Mac Donald mentioned the U.S. Constitution requires districts to have reasonably equal populations, e.g., "one person, one vote", and districts should be drawn with reasonably equal population. She added that the 14th Amendment (Equal Protection) prohibits intentional discrimination because it is a violation of equal protection (the jurisdiction is treating residents differently because of race, and thus not according them equal protection under the law), and that the 15th Amendment bans racial discrimination in voting.

She discussed the ideal population per district which is calculated by the total population divided by the number of districts. She shared that Oakley's population is 43,357 according to 2020 U.S. Census data; therefore, with 5 districts, each district would have approximately 8,671 residents per district. She discussed equal populations in more detail, indicating there are different standards for different jurisdictions. She explained that Congressional Districts are held to 'strict scrutiny', but lower level districts, i.e., City Council districts, have more flexibility in that they must be reasonably equal which means there is some deviation allowed above or below the ideal population. She added that generally up to +/- 5% deviation is used in FVRA compliance and is a safe harbor.

Criterion 2: Federal Voting Rights Act (FVRA)

Ms. Mac Donald mentioned FVRA Section 2, applies to districting and prohibits denial or abridgment of voting rights on basis of *race or language minority status* (42 USC § 1973). She added that the FVRA defines "language minority" as Asian, Native American, Alaskan Native or Spanish heritage; it does not apply to other language groups. She also mentioned it prohibits practices that have the purpose or effect of discriminating on the basis of race or language minority status and it applies nationwide to all jurisdictions that conduct elections.

She shared that with the FVRA and districting, vote dilution is a key topic. She mentioned electoral systems can limit the "ability to elect a candidate of choice" by a protected class of voters in various ways. She suggested everyone keep in mind the protected class of voters are the language minority groups and the racial groups. She explained a "candidate of choice" is often mentioned and it means there is an ability to elect, but not a guarantee to elect. She shared two examples; one, at-large election systems can make it impossible for even a large minority group to elect a candidate of choice, when the majority votes against them; and two, single-member districts can be drawn in ways that minimize voters' ability to elect a candidate of choice. She added that systems that limit ability to elect in this way are said to "dilute" minority voting strength.

She explained methods of voting dilution which include “cracking” and “packing”. She mentioned “cracking” means dividing up a politically viable population group so it doesn’t constitute a majority in any district and “packing” means drawing a high proportion minority population into one district when it could be politically viable in more than one district. She explained cracking and packing further with drawings and explained it is not something you want to do because it is not in compliance with the FVRA.

She also discussed race and districting. She explained Supreme Court opinions have limited the role that race can play in districting, race can’t be the predominant criterion in line drawing, race should not subjugate “traditional districting principles” (compactness, contiguity, communities of interest), and district appearance has been important in some cases, i.e., gerrymandering. She mentioned this means that the Council should be looking at everything comprehensively, not just looking at race or language minority status, and it should be looking at all redistricting principles as they all work together, and draw district lines based on that. She explained that does not mean the Council cannot look at race or language minority status, but it should not be the predominant criterion.

Criterion 3: Contiguity

Ms. Mac Donald explained that all parts of a district must be adjacent to another part or in other words, a district in which one may travel from any location to any other location without crossing the district boundary. She mentioned the method of travel is not specified whether you have to drive or walk. She mentioned California law requires areas that meet only at the points of adjoining corners are not contiguous and areas separated by water and not connected by a bridge, tunnel, or regular ferry service or otherwise are not contiguous.

Criterion 4: Compactness

Ms. Mac Donald mentioned compactness addresses the geography of district and there are many different ways to measure it; it is assumed to “guard against all types of gerrymandering” and “drastic departures from compactness are a signal that something may be amiss”, *Karcher v. Daggett*, 462 U.S. 725, (1983). She explained if it looks weird how districts were drawn and the only explanation is some violation of the criterion, then that is not okay. She explained the most common complaints come from appearance; i.e. if the district looks funny. She mentioned case law supports that the courts use an “eyeball approach” and “appearances do matter” with districts, *Shaw v. Reno*, 509 U.S. 630 (1993).

Criterion 5: Respect for Communities of Interest

Ms. Mac Donald explained that Council districts should respect communities of interest as much as practicable. She explained that generally what that refers to is that there is a contiguous population which means people are together geographically to some extent. She mentioned it does not help for residents within a community of interest to have 2 live in the northeast and 2 live in the southwest because they can’t be kept together; a very strange looking district line would have to be drawn to keep people together. She added there has to be some form of geographic nearness for communities of interest. She explained that communities of interest are not districts, they are much smaller and can be used as building blocks for districts, and sometimes they are just a couple of city blocks where people are working together and want to stay together. She mentioned there are no preexisting datasets available to define communities of interest; it is very specific to each jurisdiction and that is why they depend on people within

the community to define and share their communities of interest geographically so they do not inadvertently split people.

She mentioned everyone in the community defines communities of interest and the law doesn't limit the kinds of interests that bind a community; it can be people who work with the community, it can be an advocacy group, it can be someone who knows the area well and can help identify the community of interest. or it can be a business community of people who do not live here but have their businesses here and want to keep their businesses together as a community of interest. She also mentioned to keep in mind that the interests need not be limited to the current situation, but can also include common goals, i.e. communities working on recreational activities or policing. She expressed that interests cannot include affiliation with a political party or candidate. She mentioned they are hoping the community will be involved to help define communities of interest.

She mentioned with common interests, there are often economic interests or social interests. She explained economic interests can include a current situation, i.e. a common employer or a similar common employment in the area, lack of economic opportunities, or economic opportunities that they have. She mentioned goals could be to expand opportunities, to bring in development, or bring in businesses and jobs. She explained there are many social interests people organize for, i.e. schools, culture, transportation, parks, or dog parks and goals for social interests may include improving recreational opportunities (bringing in a dog park), public safety, or preserving historic resources (historic areas people want to keep together). She mentioned neighborhoods are often thought of as communities of interest; it is where people live together and want to work together or a homeowner's association.

She discussed how to document a community of interest. She mentioned handouts and maps are available on the City's districting website and also at this meeting. She suggested to the community to think about what generally bonds your community of interest, what is your commonality, what is your mission, and what is different outside the boundary of your community of interest, i.e., the neighborhood changes as you cross a particular street. She mentioned these things can help determine what the geography looks like for the community of interest. She explained the City will need to know where the community of interest is located within the City. She suggested communities of interest can draw boundaries using the handout map, Google maps, GIS/mapping program, or paper. She explained there will also be information on the website how to use the State's community of interest tool to map communities of interest and submit them to the City, not the State.

Ms. Mac Donald discussed components of districting. She indicated California law outlines the process which includes a website, 5 hearings, a draft plan development, posting requirements, public access (include translations and interpretation), and public input. She explained a minimum of five hearings is required and Oakley will have six She indicated two of the hearings must precede the draft map development. She mentioned the first hearing, today, is where the consultant provides an overview of the process and criteria, and collects communities of interest and public comments. She expressed that she realizes communities of interest may be an abstract idea as no one has had a chance to wrap their heads around it and talk to their neighbors about it so they can pause to get public comment and have Q&A. She mentioned the second hearing is where the Council begins to give direction for draft maps and collect more information regarding communities of interest. She mentioned they (consultant) can work on various map options after the second hearing. She shared that during the third hearing, the consultant presents visualizations, there will be a live map drawing(s) during the hearing with public input, and after the third hearing, the consultant works on various map options and posts

drafts online for comment. She explained during the fourth hearing, feedback on the draft map will be obtained, and live adjustments and input can be made during the hearing. She mentioned during the fifth hearing, feedback on the Final Map will be obtained and the reading of the ordinance will occur. She indicated during the sixth hearing, the Council will vote on the Finalized Map and consider adopting the ordinance.

She provided the schedule and location of meetings as follows:

August 31, 2021 at 6:30 p.m. – Oakley City Council Chambers

September 28, 2021 at 7:00 p.m. – Oakley City Council Chambers

October 5, 2021 at 6:30 p.m. -- Virtual Meeting

October 12, 2021 -- Draft Map(s) Posted Online for Comment

October 26, 2021 at 7:00 p.m. –Oakley City Council Chambers

November 9, 2021 at 7:00 p.m. – Oakley City Council Chambers

December 14, 2021 at 7:00 p.m. – Oakley City Council Chambers

She discussed why people should participate. She mentioned participation ensures the City knows about communities of interest so they are aware and do not accidentally split a community of interest, it gives the community a voice and make sure it has equal access to the political process, it encourages citizens to register, vote and remain politically engaged, and it helps shape a districting plan that provides communities of interest a meaningful opportunity to elect candidates who represent their interests on issues that are important to their lives. She encouraged everyone to use the slides she presented to understand the process. She also encouraged everyone to participate in the process, to testify, submit written testimony, send supporting information to the City, and provide information to the City about their community of interest or other topics the City needs to know about as soon as possible. She provided information how to contact the City: in person at 3231 Main Street, Oakley, California 94561, by email at districting@ci.oakley.ca.us, by phone at (925) 625-7013, or online at <https://www.ci.oakley.ca.us/districting/>.

Councilmember Fuller inquired if an at-large Mayor is being considered.

Mr. Cole explained there are two ways for districts to be formed; one is to have all 5 Councilmembers in districts, the other being 4 districts with an at-large Mayor. He further explained it used to be if a city wanted an elected mayor, it required voter approval, but recent law provides if in response to a CVRA lawsuit, a city can create 4 districts and 1 at-large mayoral district. He suggested the Council receive testimony this evening and mentioned it will be important to know as they go along in the process and will be helpful for the Council to give staff direction for the process.

Councilmember Fuller expressed he understands race cannot be a criterion for districting, but language can. He indicated there are a number of demographic minorities where their first language was English and many may be limited in their parents' or grandparents' native language. He inquired if the Council is only looking at language areas as ESL individuals or how that language situation may be divided up.

Ms. Mac Donald provided clarification regarding the slide covered in relation to his question. She gave an example of Latinos in California and explained Latinos are not considered a race under the CVRA, but are considered a language minority. She mentioned various groups that people may think of as racial minorities are actually language minorities and in general, is not necessarily an ESL community, though an ESL community could create a community of interest and say they need to stick together for representational purposes. She mentioned the Council can look at race and minority language status but it cannot be a predominate criterion. She mentioned it is measured based on what the U.S. Census and American community survey provide. She explained it is not necessarily the ability to speak English that would determine that, but rather the cultural history.

Councilmember Fuller commented that the incumbent situation seems to become a hang up for many districts. He inquired how it is handled if there are two incumbents in the same district and their terms expire at the same time. He also inquired how it would be handled if there are two incumbents from the same district and the term for one incumbent expires in two years and the term for the other incumbent expires in four years.

Mr. Cole explained if two incumbents end up in the same district, they get to run against each other. He mentioned the law provides that the Council cannot look at incumbency when drawing district boundaries.

Councilmember Fuller inquired if there are two incumbents in the same district and the term of one incumbent expires in 2022 and the term of the other incumbent expires in 2024, if the incumbent whose term expires in 2024 would have to run for re-election in 2022 and again in 2024.

Mr. Cole explained that there are three incumbents who were elected in 2020 at-large and they will serve their term through 2024. He mentioned as a practical matter when the Council adopts the ordinance, it will specify that only two of the districts can run in 2022 and three districts can run in 2024. He mentioned it raises the questions how to pick which districts will run and which will not and the law does not explain how to do it. He explained the districting process in Antioch where he recommended a hat draw which was done there and which is his intent to recommend here. He mentioned the Council can overrule him and decide to do it differently.

Councilmember Fuller commented the presentation was great but he is not sure if everyone in the community will understand communities of interest and if they do, if they may lose interest through the process to identify a community of interest. He inquired if there is any way to simplify it for that type of situation.

Ms. Mac Donald responded that they have already created handouts for explaining communities of interest, how to fill it out, and how to make it as accessible as possible.

Councilmember Williams inquired if Ms. Mac Donald has helped with districting for many small cities. She explained the Council is receiving feedback that Oakley is too small of a city to have districts. She mentioned outside of what the law says, she wants to know the practicality of it. She indicated she supports it as she believes it gets people galvanized behind a candidate and is a great idea but she would like to have a response because she is getting comments that people think Oakley is too small for districts and they are not necessary which she thinks is a little dismissive. She inquired what other cities of this size Ms. Mac Donald has helped establish districts and what benefits those cities have seen.

Ms. Mac Donald responded the City of San Juan Capistrano, special districts, and school districts are some that come to mind of smaller size. She mentioned reasonable people can disagree about the size of a jurisdiction that is too small for districts, but it doesn't help because it is the law. She mentioned she just had an inquiry for a population area of 6,000 people for redistricting which would be approximately 1,200 people per district. She mentioned there can also be a small jurisdiction which is geographically very big but not densely populated. She indicated it doesn't really matter how we feel about it because it is the law and that is the way the wind is blowing in California either because agencies have received a letter or they voluntarily are going in that direction.

Councilmember Williams inquired if they have seen any increase in civic engagement.

Ms. Mac Donald indicated with the City of San Juan Capistrano they had a great turn out, but now there is COVID so it makes it more difficult. She mentioned they had evening meetings and one on the weekend, but jurisdictions are all different. She mentioned there they had a particular group that really wanted this and a particular shape and because they got what they wanted she is not sure if they will have the same turn out with redistricting. She mentioned they are in unchartered territory with COVID. She indicated the public has the option to call in, the information will be on the website, they are available by phone, and they want to make information as accessible as possible to increase participation.

Councilmember Meadows commented that San Juan Capistrano has a population just under 36,000, but locally there is Martinez which is just over 38,000.

Mayor Higgins inquired if there is a District 5 and its term expires in 2022, but the Council draws districts for 2022 and District 5 is not chosen, if no one would representing District 5 until 2024.

Mr. Cole explained if the three existing incumbents all live in what becomes District 1 and the Council draws District 1 for 2022, you could still have someone run in that district and the incumbent is still an at-large elected until 2024. He mentioned what would be of concern is if Councilmember Williams were placed in District 1, Councilmember Meadows in District 2, and Councilmember Fuller in District 3, and they would run Districts 4 and 5. He mentioned if it shapes up that way it would be rational to possibly do it that way but one of the concerns is to make sure the protected class has a chance. He explained the idea behind the CVRA is to ensure protected classes are not disadvantages in the electoral system. He mentioned if one district ends up being the best district for that electoral class to have electoral success, then logically they would want to run that district because they want the remedy to be effected as quickly as possible. He indicated it is hard to provide an iron clad answer right now because the process is a little tricky, but they have to keep in perspective the goal is to enhance the power of the protected class in the electoral system and to remove the systemic disadvantages that the law recognizes they are in so that may be something they have to look at first as to which district runs in 2022.

Mayor Higgins inquired if they get colored dots so they know where the protected are located.

Ms. Mac Donald responded they can put demographics on the map for a visual of where people are living.

Councilmember Fuller inquired if there are three incumbents in District 1 for 2024, but it is drawn that they will be 2022 representative to that district and someone in that district pulls papers and

gets elected, that means in 2024, nobody could run for that district because they already have a representative for that district.

Mr. Cole confirmed that is correct.

Councilmember Fuller commented that on other hand, if someone has 2024 election date but makes the decision to run in 2022, they could take that seat and not be in position to run again until 2026; they get a full four years.

Mr. Cole responded it is complicated and tricky. He mentioned if there is a situation where all 3 current incumbents live in the same district, District 1, and District 1 is randomly pulled from a hat, he mentioned they can look at if they have 3 at-large 2020 winners and 1 district in 2022, it would be concentrating representation in one district so he thinks it is appropriate to look at, but his concern is they can't look at incumbency and they have to make sure the protected class' interest is paramount. He mentioned when looking at districts, if there is a district(s) that will maximize their electoral success, it will probably weigh the heaviest in the selection which districts will run first. He added he wants all of the facts before giving a definite answer.

Public comments

An online comment was submitted by Sean Ireland who commented that districts make sense in large communities that have diverse needs and minorities that could be unheard and impacted by unfair distribution of services, but in Oakley there may not be a difference from opposite ends of the city. Sean requested the Council consider capitulating to this requirement and push back as it will not serve the community and is not the intent of the district vs. at-large voting legislation.

John Amie was called upon. There was no response.

*2051: Dan Muelrath, Diablo Water District (DWD) General Manager, commented DWD went through the districting process in 2019, and mentioned DWD has about a 95% overlap with the City of Oakley and it would be great if DWD and City boundaries are relatively close, if not the same. He expressed he understands the City must look at its communities of interest. He mentioned he would like to see how close they can work together as they will be adjusting boundary lines in October or November based on the 2020 U.S. Census data. He wished the Council good luck in the process and mentioned he will follow up with Mr. McMurray.

*8099: Lindsay Waters requested clarification regarding boundaries and coming within the 5% margin for the population requirement divided equally. She inquired how this works with new building coming to Oakley; i.e., planned subdivisions.

Mr. Cole explained the City will be districting based on 2020 U.S. Census information and growth will be addressed in another 10 years after the 2030 U.S. Census in 2031, with redistricting at that time for the 2032 election cycle. He added that districts drawn this year will be in effect for the next 5 election cycles and there will be newly drawn districts in 2032.

John Amie was called upon again. There was no response.

Mayor Higgins read the written comment submitted by John Amie Which indicated in the staff report the financial impact is stated as "none" and he inquired if there is no charge for the consultant or if the City is incurring a financial impact for these and outside resources.

Mayor Higgins inquired if there is no fiscal impact.

Mr. Cole explained when the Council adopted the resolution to transition to districts, staff accounted for, identified and stated the financial impact in the staff report at that time and have budgeted for the financial impact, including legal, consulting and anticipated payment to the plaintiff's counsel.

*0838: An unidentified caller suggested that demographically newer home owners paying a higher property tax than other areas might be bound together which could be a talking point for candidates. He commented he is glad to see the City working in this direction. He requested the Council consider having a discussion with the community about having an elected mayor. He mentioned rotating mayors periodically leads to some differences in leadership styles and with the rapid growth of the City, having a dedicated mayor would be more consistent and the community could say the mayor is creating the agenda and making the Council and City Manager make decisions based on what the community wants; it would provide a single source of contact for directing action. He mentioned it seems like a district could be drawn up that includes higher taxed, new homes.

Mr. Cole explained the law does not currently look at economics or class based considerations such as the cost of homes or economic divisions within jurisdictions. He mentioned things to look at for communities of interest in regard to housing is if they are in the same subdivision, for example, Summer Lakes, a clearly defined subdivision, as opposed to doing an economic analysis of how much homes costs.

Ms. Mac Donald suggested the caller could provide a map and testimony of the community of interest he suggests to the City and Council can weigh that. She mentioned people that just moved in to newer homes may have different electoral needs than others. She encouraged everyone to tell them about their communities.

Mr. Cole commented the next meeting will be held on September 28, and staff will continue to perform outreach and bring more information back to the Council. He explained on September 28, the Council is not required to make decisions, but staff will be looking for some direction so the consultant can bring interactive maps to the Council.

Mayor Higgins read a message provided on Nextdoor by Katarina, a mother of a marine handling the line in Kabul, Afghanistan. She requested prayers for her son Lance Corporal Dillon Rockwell, his platoon, and a fellow marine in Antioch, Lance Corporal Oswaldo Ochoa, who is also serving. She mentioned she received an email from Lance Corporal Ochoa Gonzeles thanking her for offering a moment of silence for fallen soldiers in their platoon. Mayor Higgins read the names of the fallen soldiers in their platoon and requested a moment of silence.

5) ADJOURN

There being no further business, the meeting was adjourned at 8:01 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk

**Minutes of Oakley City Council/Oakley City Council Acting as the
Successor Agency to the Oakley Redevelopment Agency/Oakley
Public Financing Authority held
September 14, 2021**

1) OPENING MATTERS

1.1 Call to Order and Roll Call of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority

Mayor Sue Higgins called the meeting to order at 6:30 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. Vice Mayor Randy Pope and Councilmembers Aaron Meadows, Anissa Williams and George Fuller were also present.

1.2 Pledge of Allegiance to the Flag (Mayor Higgins)

Mayor Higgins led the Pledge of Allegiance to the Flag.

1.3 Introduction and Update from new Oakley Union Elementary School District Superintendent Jeff Palmquist

Superintendent Jeff Palmquist introduced himself. He extended his collaboration and friendship to the Council to work together for the community.

1.4 Proclamation Recognizing the August 26, 2021 deaths of 13 U.S. Service Members in Kabul, Afghanistan

Mayor Higgins read the proclamation into the record.

1.5 Proclamation Recognizing the Month of September as Library Card Sign up Month (Lisa Cano-Loomis, Community Library Manager)

Mayor Higgins presented the proclamation to Community Library Manager Lisa Cano-Loomis. Ms. Cano-Loomis thanked the Council.

1.6 Update from Community Library Manager Lisa Cano-Loomis

Community Library Manager Lisa Cano-Loomis provided a presentation. She mentioned September is Library Card Sign-Up Month and the library has partnered with local businesses to promote it. She shared new library card designs and photos of participating businesses. She explained in March 2020, there was a shelter-in-place order with many people working from home, the library held bilingual online story time, and it expanded its e-book and e-audio book collections surpassing 1 million checkouts by the end of 2020. She mentioned Contra Costa Library implemented COVID-19 testing sites at the Pinole and Ygnacio Valley library locations, made masks and mask clips on 3D printers, and a number of library workers served as disaster service workers. She mentioned in June 2020, the library offered front door service and its summer reading program. She explained the library was temporarily closed August through October due to poor air quality due to the N-95 mask shortage, but it is now open on poor air

quality days to the public as they have masks. She shared thereafter, the library continued programs such as STEAM take 'n' make kits and online videos, virtual teen Dungeons & Dragons, take 'n' make alphabet craft kits, and with the help of the Friends of the Oakley Library, they gave away 300 goodie bags at the City's Halloween event. She mentioned they also participated in the Dia de los Muertos event hosted by You, Me, We=Oakley!. She shared in February 2021, the library began lending Wi-Fi hotspots and in April 2021, the library moved furniture and installed plexiglass to prepare for opening to the public, it offered grab & go services, and in June through July, the library served as a cooling center. She explained that the library has to follow tighter COVID restrictions that apply to schools because the library is located on a school campus. She also mentioned in June 2021, the library welcomed people in, it hosted its summer reading program June-July 2021, a hidden crayons activity, and in August it offered free comic book days. She shared that the library offers many digital resources such as *The New York Times*, *The Wall Street Journal*, the *East Bay Times*, Kanopy, Rosetta Stone, OverDrive, ancestry.com, LinkedIn Learning, Brainfuse HelpNow, JobNow and VetNow, Learning Express Library, and Career Online High School. She indicated the library doors are open and they welcome everyone to come inside and say hello with a mask.

Councilmember Fuller inquired if Ms. Cano-Loomis can review what she said about hotspots and if someone has a library card if they can access wireless in the system the *East Bay Times* and *The New York Times*.

Ms. Cano-Loomis confirmed the newspapers can be accessed online with a library card.

Councilmember Fuller asked her to explain the hotspots.

Ms. Cano-Loomis showed a photo of a hotspot and mentioned a hotspot can be checked out for 3 weeks, it hosts up to 10 devices, and can be used at home or on the go.

Councilmember Fuller inquired if someone with a library card that does not have Wi-Fi access can check out the hotspot to access at home.

Ms. Cano-Loomis confirmed that is correct.

1.7 Update from Contra Costa County Library Commissioner Yolanda Pena-Mendrek

Contra Costa Library Commissioner Yolanda Pena-Mendrek thanked the Council for allowing her to continue serving Oakley as its Library Commissioner. She shared she is proud of some of the services increase in the county libraries. She mentioned the Library Commission has been advocating at the county, state and federal levels for better funding for libraries which has resulted in 121 hours increase in 17 libraries. She mentioned libraries are the hub of communities, allowing for job search, student research, and resources such as hotspots. She shared new Librarian, Alison McKee, replaced Mrs. Cervantes and much of the work done now was started by Mrs. Cervantes and they thank her. She also mentioned that libraries were closed due to poor air quality from the wild fires' smoke so the libraries have been teaching community members how to prepare a package if they should need to leave home immediately. She shared digital resources have passed 1 million checkouts online. She expressed hope for State funding to come to the library. She shared the library received \$15 million for literacy programs and with advocacy, they hope to be able to get more services and keep advocating on behalf of citizens.

2) PUBLIC COMMENTS

An online comment was submitted by Sheryl Mcchesney. Sheryl Mcchesney expressed concern regarding the City's planning and management with continued building without road infrastructure to sustain the new housing, She also expressed concern that removal of toxic asphalt in her neighborhood has not been addressed.

3) CONSENT CALENDAR

- 3.1 **Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency/Public Financing Authority Meeting held August 10, 2021 (Libby Vreonis, City Clerk)**
- 3.2 **Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)**
- 3.3 **Authorize the Interim City Manager to Execute a Consulting Services Agreement with Bellecci and Associates to Provide Design Services for Capital Improvement Project Number 247 – East Cypress Road Widening Project (Knightsen Avenue to Jersey Island Road) (Kevin Rohani, P.E., Public Works Director/City Engineer)**
- 3.4 **Authorize the Interim City Manager to execute a Construction Agreement with Monticello Tree Service, Inc. for the Construction of Capital Improvement Project Number 272 – Legless Lizard Preserve Fence Project (Kevin Rohani, P.E., Public Works Director/City Engineer)**
- 3.5 **Acceptance of subdivision improvements associated with Alicante Subdivision 9503 (Kevin Rohani, P.E., Public Works Director/City Engineer)**
- 3.6 **Acceptance of Subdivision Improvements Associated with The Vines Subdivision 9507 (Kevin Rohani, P.E., Public Works Director/City Engineer)**
- 3.7 **Acceptance of work associated with Civic Center Park Renovation Project - Capital Improvement Project Number 254 (Kevin Rohani, P.E., Public Works Director/City Engineer)**
- 3.8 **Consideration of a Resolution Approving the City's Investment Policy for Fiscal Year 2021/2022 and Authorizing the Interim City Manager to Execute an Agreement with PFM Asset Management LLC (PFMAM) for Investment Portfolio Management Services (Tim Przybyla, Finance Director)**

No public comments were submitted for the Consent Calendar.

Councilmember Meadows requested item 3.7 be pulled so he may abstain from voting.

Mayor Higgins pulled item 3.8 for correction.

It was moved by Councilmember Fuller and seconded by Councilmember Meadows to approve the remainder of the Consent Calendar. Motion was unanimous and so ordered. (5-0)

Item 3.7

Councilmember Meadows announced he would abstain from voting. It was moved by Vice Mayor Pope and seconded by Councilmember Fuller to approve item 3.7. AYES: Fuller, Higgins, Pope, Williams. ABSTENTION: Meadows.

Item 3.8

Interim City Manager Joshua McMurray clarified for the record that the first two paragraphs of the staff report refer to fiscal year 2020/2021 which should be corrected to refer to fiscal year 2021/2022.

It was moved by Vice Mayor Pope and seconded by Councilmember Fuller to approve item 3.8 with the staff report amended. Motion was unanimous and so ordered. (5-0)

4) PUBLIC HEARINGS

4.1 Summer Lake North Development Agreement Assignment and Term Extension (DA 01-21) – Amendment to the existing Development Agreement between the City of Oakley and Encore Oakley, LLC for the property known as Summer Lake North located within the East Cypress Corridor Specific Plan (Ken Strelo, Principal Planner)

Principal Planner Ken Strelo presented the staff report.

Councilmember Williams inquired if the developer would be held to today's standards if the development agreement extension is granted.

Mr. Strelo explained that typically with development agreements for tentative maps, the vesting tentative map itself is what vests the standards of which it is adopted, including impact fees or fees that apply to the project. He mentioned things that could change with this development agreement in the future would be new impact fees that would be required for health and safety. He mentioned the original development agreements refers back to those maps. He explained one of the main purposes of the development agreement is to extend the life of that map and to give the developer assurance moving forward when putting money into a project.

Councilmember Williams inquired if there is a future change, if they would pay an increase or if the City would need to adopt language.

Mr. Strelo responded that fee escalators for impact fees will still apply.

Mayor Higgins commented that the disclosure language was not in the last document regarding oil and gas drilling and if it was not in the last document, she doesn't want to include it. She mentioned the developer could not build homes there and instead drill for oil and gas so it would be like giving them a blank card.

Mr. Strelo explained he believes specific areas in the East Cypress Specific Corridor Plan were approved as part of the Specific Plan and have oil drilling sites on them and even with the newly adopted tentative map, those sites still exist. He mentioned this specific disclosure language was not in the approved tentative maps; it was in the County's tentative map for the old Cypress

Lakes project. He explained Summer Lake North and Summer Lake South were called Cypress Lakes. He indicated by the time the City incorporated, Summer Lake South was already under construction and Summer Lake North, subject to this one, came back with a revised tentative map and with that revised tentative map, the City adopted its own standard conditions of approval which included the City's own standard disclosure statements, different from what the County had approved. He explained an owner came forward and had found the disclosure language in an old County document that had been approved and indicated they would appreciate if the developer includes it which the developer accepted.

Councilmember Meadows inquired if this is disclosure language for the builder to provide to the buyer of each home at the time of purchase.

Mr. Strelo indicated that is correct. He explained there are no new rights to existing property or establishing any new use of the property; the disclosure statement covers these things that could happen in that area, i.e., oil drilling, horse riding, and a kennel nearby.

Mayor Higgins inquired if they are they going to build a horse riding ring on Cactus Lane.

Councilmember Fuller commented he is appreciative of the disclosure statement he received with his home 10 years ago and he believes this is appropriate if buying near a dog kennel, for example, because home owners may not want to hear barking. He indicated he is not sure why they would want to exclude it.

Interim City Manager Joshua McMurray explained the disclosure further protects the developer and future home buyers. He mentioned the developer is in the audience and may want to speak.

Trent Sanson and Mike Evans with DeNova Homes were present. Mr. Sanson concurred with staff recommendations. He explained the disclosure is a non-issue; they are home builders and it protects them and home buyers where there might be preexisting mineral rights.

Councilmember Fuller commented there may be horse stables, cattle and other animals in that area. He mentioned in Chino and Cerritos, new homes were built near the cattle causing conflict so the disclosure statement helps the cattle and kennel owners in that home buyers make an informed choice to move there and it protect the home buyers in that they are aware of it and can make their decision.

Paul Seger submitted a written comment and requested to speak. His written comment expressed concern regarding City staff trying to shield developers from requirements in the currently available General Plan update. He mentioned staff's recommendation is to waive the first reading and introduce an ordinance approving the Summer Lake North Development Agreement Assignment and term extension which he believes lacks a public input process and is usually reserved for urgency issues, and he believes the ordinance is being rushed to circumvent the impending General Plan update. He also mentioned Diablo Water District is not opposing the development, but expressed that the project should be done in an environmentally responsible manner with costs mitigated upfront so future homeowners and agencies are not burdened. He indicated it could result in the City passing future costs on local special districts which would be unconscionable and should not be allowed.

Mr. Strelo mentioned in response to the written comment, he read it and staff's recommendation is to waive first reading and introduce the ordinance. He explained waiving the first reading of

the ordinance is standard in the City of Oakley and it means the City Clerk would not have to read the entire ordinance into the record after it is introduced. He mentioned it is standard to look at development agreements under the stipulations of which they were approved and looking at a term extension and determining whether those protected rights are worth giving to the developer for that extended period of time or not. He mentioned the Summer Lake North project is not part of the approved East Cypress Corridor Specific Plan so this development or a very similar developer as it has been modified is something that was foreseen when the City sought after annexing all of this property into the City and this development would eventually bring that to fruition. He mentioned staff recommends this extension.

City Attorney Derek Cole explained development agreements are approved by ordinance; they are agreements but also legislative acts of the Council so they are hybrids. He further explained the ordinance is not only saying the development agreement is being amended; the ordinance itself is a formal act the Council is taking, but the Council is not introducing any new provisions or new components other than the disclosure language which is part of the agreement. He mentioned the first reading of the ordinance is where the Council typically would spend the most time. He mentioned he understands the process oriented comment but on this issue, it is truly a formality and the meat of the issue has been fully explained by staff.

Paul Seger commented he is President and liaison for Diablo Water District and the District has been having this conversation. He read his written comment into the record.

Liz Elias commented she wonders what the City will do for funds when a lawsuit hits for soil liquefaction. She mentioned this is not something that can be mitigated within a reasonable cost and indicated soil surrounded by water cannot be stabilized; there will be incursion, how fast and how soon, no one can predict. She also mentioned sea level rise is real as is climate change, and they can't pretend it isn't happening because it doesn't suit their agenda. She commented that plans must often change in light of new data. She mentioned that we may be in a drought now but storms will return and building in such an area is nothing less than foolhardy. She mentioned the City already lost a lawsuit involving this sort of thing in 2006 and suggested to try learning from that mistake.

Vice Mayor Pope commented the original agreement expires in 2025; he believes Paul Seger said it expires in 2022. He inquired if the Habitat Restoration project has started.

Mr. McMurray responded it is 2025 and the project has started on the property to the west, part of the northern preserve.

Vice Mayor Pope inquired if that project and this project are the flooding concerns raised by the speaker.

Mr. McMurray explained that is correct and both projects will build levees according to FEMA standards.

Vice Mayor Pope inquired if the disclosure provides that this project will not do those things but their neighbors might have these current conditions and if they choose to move here, they will be a neighbor to it.

Mr. McMurray responded that is correct.

It was moved by Vice Mayor Pope and seconded by Councilmember Fuller to waive the first reading and introduce the ordinance. Motion was unanimous and so ordered. (5-0)

Trent Sanson with DeNova Homes thanked the Council for its consideration and mentioned he looks forward to working with the Council and City staff.

5) REGULAR CALENDAR

5.1 Appeal of Administrative Citation Hearing Decision Regarding 2140 Megan Drive (CONTINUED FROM AUGUST 10, 2021 MEETING) (Libby Vreonis, City Clerk)

City Clerk Libby Vreonis mentioned this hearing is an appeal of administrative citation hearing decision which upheld a citation issued to a property owner for a commercial vehicle parked in a residential driveway, a violation of the City's municipal code. She mentioned as the matter has been continued from August 10, before moving forward with the entire staff report, she would like to confirm if the property owner is present. Hearing no response, she indicated to the Council that she will ask the City Attorney to explain options.

City Attorney Derek Cole mentioned this is the second time the hearing has been continued and the first time it was noticed, the City Clerk received a voice mail about an hour before the meeting advising the property owner could not attend. He explained the City Clerk relayed that information to the Council and the Council gave the property owner an additional meeting to attend. He mentioned the City Clerk provided notice to the property owner that the hearing would be scheduled tonight. He opined the City has made all available, reasonable effort to make sure the property owner was aware of this hearing, had an opportunity to present at this hearing, and had he called again or sent an email to ask for further time, staff could have presented that to the Council. He indicated there are two options; the Council can hear the matter or continue the hearing one additional time and provide the property owner notice there will be no further continuation and he is expected to attend the next meeting to be heard in person or if he wants to submit anything in writing.

One online public comment was submitted by C J Sveen. Mr. Sveen suggested the City focus on vagrants hanging out in the Downtown and putting sidewalks on Main Street next to the Downtown rather than a van. He inquired why the City continues to harass residents and infringe on their personal rights and freedoms. He suggested "vanlife" is becoming a necessity with the current housing crisis and maybe it is being used for other things which he listed.

Councilmember Fuller expressed he would like to hear the matter today. He mentioned the truck is no longer there and the property owner could not re-register it as a private vehicle. He commented that staff has been patient. He indicated he is ready to make a motion after Council discussion to move ahead and approve.

Vice Mayor Pope commented that they don't lose anything by making one last effort. He mentioned he read all of the materials and he is not sure what additional information can be presented but he would like them to have the opportunity.

Mr. Cole commented if it is the pleasure of the Council to continue the matter, it needs to take a vote and specify if it wants it to be continued to the next meeting.

Councilmember Williams agreed with Vice Mayor Pope that the Council should give one last attempt.

Councilmember Meadows commented it should move forward.

Mayor Higgins commented staff should reach out one more time.

It was moved by Vice Mayor Pope and seconded by Councilmember Williams to continue the appeal hearing to October 12, 2021 and for staff to give appropriate notice to the property owner. AYES: Higgins, Meadows, Pope, Williams. NOES: Fuller. (4-1)

5.2 Cal Cities Annual Conference Resolution Packet (Joshua McMurray, Interim City Manager)

Interim City Manager Joshua McMurray presented the staff report. He explained there are two resolutions to be addressed at the Cal Cities' conference in which Mayor Higgins has been designated the voting delegate and Councilmember Williams the alternate voting delegate. He mentioned the first resolution relates to allocation of sales tax in relation to in-state online purchases and if approved by Cal Cities' voting members, it will ask the legislature to more fairly distribute sales tax throughout the state. He mentioned sales tax is complex and this resolution would have real impact to Oakley with the opening of the Logistics Center and Amazon site in Oakley. He mentioned Staff recommends the Council not take action on this resolution, but the Council can provide voting direction to the Mayor. He mentioned the second resolution asks the legislature to address regulatory authority and funding for railroad issues directly related to homelessness, graffiti and illegal dumping. He mentioned there are one active and one inactive railroads in Oakley and it seems prudent to support that, but it is up to the Council to provide voting direction to the Mayor. He mentioned no action is required; the Council can provide the Mayor with input.

Councilmember Meadows commented he is good with it as recommended.

Vice Mayor Pope commented he actively opposes resolution one and actively supports resolution two.

6) REPORTS

6.1 INTERIM CITY MANAGER (a) Interim City Manager

Interim City Manager Joshua McMurray announced that Movie in the Plaza will occur September 18 and the movie will be *The Lion King (2019)*. He also announced the Heart of Oakley Festival is scheduled for Saturday, September 25, 11am-5pm. He mentioned the targeted General Plan updated CEQA comment period closes September 20.

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

(a) Reports from Council Liaisons to Regional Committees, Commissions and Boards AND Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency

Councilmember Fuller reported he attended the playground opening. He complimented the work of Mr. Rohani for the work that went into it. He also reported he attended a meeting with Senator Glazer where the focus was local control and SB 9 (Glazer voted no). He mentioned Senator Glazer is an advocate for post-secondary education and mental health, one of the health issues plaguing us post-pandemic. He also reported he met with Supervisor Burgis. He explained they work together on the Delta Protection Commission meeting, they are both environmentalists, and they both would like to expand the library, but they have their differences where they would like to see it go. He mentioned Diablo Water District had a meeting and sent a letter through on the General Plan with concerns which is online to review. He expressed East Contra Costa Fire Protection District (ECCFPD) was a disappointment in his mind and it is again currently not moving forward. He added that Chief Helmick is resolving differences and it is financially feasible and for now it is not happening, but tomorrow they are going to get together and maybe they will vote to send it through but as of right now it is not happening and in the meanwhile it is falling apart. He shared Hercules has stepped away from the agreement will not be participating.

Mayor Higgins reported she had an opportunity to attend the Glydways demonstration which was a lot of fun and she looks forward to it in the future.

(b) Requests for Future Agendas

Councilmember Fuller requested a work session and alternatives what to do if fire consolidation continues to stall. He explained there is a need for fire protection in the Oakley community and the Fire District is not giving reasons why it is not moving forward.

7) WORK SESSIONS

7.1 American Rescue Plan Act Discussion (Joshua McMurray, Interim City Manager)

Interim City Manager Joshua McMurray explained that the City has received a distribution of \$5.1 million in American Rescue Plan Act (ARPA) funds and has hired HDL ECONSolutions to provide consultation to the City regarding how funds may be allocated. He introduced Sandy Meyer with HDL and mentioned she will provide a presentation.

Sandra Meyer, Senior Advisor with HDL, provided an overview of ARPA and what funding can be used for. She explained that Oakley has been allocated \$10,177,190 and has received an initial allocation of \$5,088,595 (50%). She also explained funds must be allocated by December 31, 2024 and spent by December 31, 2026. She mentioned the next payment will be disbursed 12 months after the first disbursement received July 2021. She reviewed some options for uses of ARPA funds. She presented a timeline for next steps, including a business needs survey in late September, stakeholder meetings and public engagement in October, and deciding on ARPA strategy and funding allocations during the November 9 regular City Council meeting.

Councilmember Fuller inquired if the purpose of the meeting today is to alert the Council and community how to proceed, but they are not looking for input.

Mr. McMurray responded that input is helpful. He explained it will take multiple years to spend the money so they may want to look to areas of immediate need. He mentioned staff will use

Engage in Oakley for the public and business community to engage and will provide feedback how to proceed and staff will bring back results in November.

Councilmember Fuller commented he supports 24/7 childcare. He mentioned he is sure Amazon will be running operations 24/7 and first responders may have need. He indicated small businesses need support. He mentioned he would like to know where they are and what the City can do.

Councilmember Meadows expressed his preference is to upgrade enterprise software and bring broadband or fiber into commercial light industrial areas to attract businesses.

Councilmember Williams mentioned with COVID exposure, kids must remain out of school for a period of time even if they have not tested positive which is not a good solution for working families and single-parent families. She suggested should this situation arise again, she would like something that alleviates stress for parents to be able to work. She mentioned the same with restaurants; this may not be the only pandemic and they need to come up with ways to protect them. She agreed with expanding broadband as it will provide a reason for businesses to come to Oakley and provide better jobs for people.

Vice Mayor Pope expressed he would like to improve Oakley's capability to respond to emergencies and pandemics, including surge capacity, beefing up the CERT program, increasing capabilities for residents to help each other, establishing a radio repeater for CERT, and installing a community generator at the Recreation Center as he sees emergency response being centered there. He mentioned life/safety is a first priority. Secondary, he mentioned he would like the City to help small businesses, including restaurants, but they are not the only ones. He mentioned he would like the survey to ask if anyone suffered from the eviction moratorium, not just benefitted. He agreed with bringing in fiber broadband as the system wasn't always able to handle use during the shelter-in-place and to bring it to core areas where they can then be distributed to other areas. He inquired why race data is collected for the survey.

Ms. Meyer explained that it falls under voluntary questions.

Vice Mayor Pope commented he would like to treat people equally and not ask the question because it opens it up to unjustified accusations of prejudice, otherwise, he support the survey going out and outreach.

Mayor Higgins mentioned there is a crisis nursery in Concord that operates 24/7. She inquired if the City could do something similar where it could allocate funds toward businesses to go to Oakley people through a voucher system.

Ms. Meyer explained it may work if there is a good reporting system that shows it benefits Oakley residents.

Mayor Higgins commented that CocoKids in Antioch provides vouchers. She inquired if funds can help get services like the Putnam House in Concord for homeless, addiction, and/or mental health.

Ms. Meyer explained it would have to be verified funds are benefitting Oakley residents or businesses.

Mayor Higgins commented she likes safety. She inquired if funds can be used for ADA compliance for street components that need to be a certain way.

Ms. Meyer explained use of funds must be directly associated with the pandemic crisis.

Councilmember Fuller commented he would support the Mayor's request.

Paul Seger commented as a public citizen. He mentioned the conversation is different than before which was to finish infrastructure projects and roads. He mentioned \$10 million may move fast. He inquired how much of the funds would be used toward administering checks and balances if helping people with homelessness, mental health, and rental utility assistance.

Mr. McMurray responded that the contract with HDL is slightly over \$50k. He commented that many things mentioned are not things cities provide or have wherewithal to track and provide detailed reporting as required. He mentioned the Federal government allows the City to hire people to help administer the funds and that is why they are having this discussion.

Mr. Seger commented with helping small businesses, he would guard against any type of business getting a windfall profit or opportunity to advance their personal wealth. He suggested to keep it fair and mentioned it seems like the Council is going in the right direction.

Liz Elias commented that homeless is an excellent use of funds. She inquired how it would be verified that homeless live in Oakley since they have no address. She suggested with businesses and business loans that it be mandated they provide what they suffered is actually related to the pandemic.

Mr. McMurray thanked everyone for direction. He mentioned staff will release the survey and bring the item back in November.

7.2 Discussion regarding the 55-Acre Oakley Regional Park (Joshua McMurray, Interim City Manager)

Interim City Manager Joshua McMurray mentioned it has been brought to his attention this item has received a lot of social media comments and he wants to be clear this is a discussion to get feedback on a concept, a polo field, that was brought to the City and the Council will not take action tonight. He mentioned a grant application has already been submitted to the State for the first phase of the park and the plan approved by the Council in 2019 includes 3 baseball fields and parking associated with it. He mentioned the City also has the Burroughs property and as it is waiting to dispose of property, the City expects to receive funding possibly for additional phases of the park. He introduced Claude Alix Bertrand to provide more detail on his proposal.

Mr. Bertrand shared that he spoke with the previous Mayor regarding hosting polo tournaments in Oakley, but the issue was parking; private land was to be used and there is no way to house the number of cars for the tournaments so they discussed where the tournaments might be held. He shared that polo is the most expensive sport in the world, its sponsors are of the biggest names and brands, and there is a significant number of people tournaments bring in which benefits community businesses. He shared he is an Oakley resident and Oakley has a rich equestrian history so why go to rich areas like Marin to play when tournaments can be hosted here. He mentioned the former Mayor suggested the park and looking at the plans with very little changes, a polo field could work at the park. Mr. Bertrand shared he owns the most

successful polo magazine in the world that tournament advertisers and sponsors support. He provided an example of a tournament held in Santa Fe, New Mexico. He suggested Oakley could have 1-2 tournaments in the summer and the field could be used for other equestrian events when not in use for polo which keeps the identity of Oakley alive.

Councilmember Williams shared that she played polo in high school and agrees the tournaments draw a significant amount of spectators and money. She inquired where the barns are going to go for the horses in the plans.

Mr. Bertrand responded that horses are trucked in and existing barns would require very little for them to be kept. He mentioned it would only be for pre-tournament; the horses do not need a permanent place to live. He mentioned if Oakley had a local team, the barns could house them.

Vice Mayor Pope commented it is very intriguing and different, but ties into the history of Oakley and its equestrian community. He mentioned the Council has discussed as Oakley has grown how to keep Oakley close to its roots with equestrian history. He inquired if the entire equestrian community could use the field.

Mr. Bertrand mentioned facilities could have multi-use equestrian events and polo events would bring in tens of thousands of people. He shared Maserati was a sponsor in Santa Fe, and beverage, brewery, and wine producers have tents with ticketed admission and celebrity attraction.

Vice Mayor Pope commented he envisions tournaments to be big, glittery, glam events. He inquired how many times per year they would be held.

Mr. Bertrand responded he would be cautious and do two per year.

Vice Mayor Pope inquired about the remainder of the year.

Mr. Bertrand suggested it could remain a green and open area, park like, or other equestrian events could reserve the field. He mentioned the tournaments would require reservation for one to two weeks before and a week after. He mentioned for 6 months out of the year, Oakley has the right climate; tournaments may take up 8 weeks of the 6 months and the community can host other equestrian events for the remainder. He inquired if the Council has watched Grand Prix events where horses jump obstacles.

Vice Mayor Pope indicated he has only watched it on the Olympics.

Mr. Bertrand mentioned there would be a field to do it.

Vice Mayor Pope commented it appears as big as a soccer field. He inquired if leagues could play soccer, football or baseball on it when not in use. He inquired what participation from the City he is looking for.

Mr. Bertrand indicated the City builds it and allows them to come in to promote and launch events.

Vice Mayor Pope inquired about funding.

Mr. Bertrand provided an example where it cost \$50 million to produce a tournament. He mentioned he cannot give a guaranteed number, but the tournaments would be bringing in the wealthiest companies if the City gives a place where they can have events year after year to warrant their expense. He mentioned the City of Santa Fe negotiated with NetJets for it to have more runway time at its airport.

Vice Mayor Pope commented it sounds very conceptual.

Mr. Bertrand explained if he has approval for a field, he can go to sponsors whom will pay the City to have naming rights.

Councilmember Meadows inquired if it would be 1-2 events.

Mr. Bertrand responded there would be 1-2 tournaments at first.

Councilmember Meadows inquired what the projected revenue would be.

Mr. Bertrand explained he is concerned Oakley wouldn't have enough resources; i.e., hotels, restaurants, to supply these people. He mentioned in Santa Fe, every hotel within a 100-mile radius is booked. He shared from previous experience, this is a huge income-producing event.

Councilmember Meadows shared he is not going to say no; he is okay moving forward to investigate types of uses, but he explained there has to be a financial benefit to the City to do this. He expressed he is not in favor of the plan for the park without the polo field, and being that is his opinion, he believes staff would need to rework the site. He commented there is big money to host tournaments for soccer, baseball, softball, etc. He shared he heard end of last year, San Diego thought it would lose \$350-\$500 million from losing tournaments to COVID. He expressed there is benefit to families and youth to have sports complexes, but there also is economic benefit to the Oakley community; there may need to be discussion for multi-use fields, but the City can't go out and build polo fields if there is no economic benefit to the City, and if there is, maybe it is something to be looked at.

Mr. Bertrand inquired what economic benefits the City has with the way it is designed now.

Councilmember Meadows commented there are only 3 baseball fields so tournaments cannot be hosted; soccer fields overlap baseball field diamonds. He mentioned he thinks it could have a better layout.

Mr. Bertrand commented a polo field can provide an economic benefit to the City; the City will get a piece of the pie rather than it going to Marin.

Councilmember Meadows inquired why they would leave Marin to go to Oakley.

Mr. Bertrand responded that he will bring it; it is what he does.

Councilmember Meadows asked Mr. Bertrand if they will come because of him.

Mr. Bertrand suggested Councilmember Meadows Google him. He mentioned this is not something any city in Contra Costa County has experienced.

Councilmember Meadows inquired if polo was played at Golden Gate Park and what happened.

Mr. Bertrand commented the field was destroyed and later restored, but the City didn't have money to maintain it.

Councilmember Meadows inquired if polo is still played there.

Mr. Bertrand mentioned it has not been a playable field since 10-12 years ago or more.

Councilmember Fuller inquired how Mr. Bertrand will ensure the polo tournaments do not overtake the park which is being built for the region as recreational area for children to play. He commented horses are rugged and inquired who maintains the field for use. He mentioned international financing with municipalities makes him queasy.

Mr. Bertrand explained that there are sponsors, not financing. He mentioned international companies have U.S. locations and sponsors. He expressed he hopes the tournament is so successful that they have to limit it to a certain number of people and have security in place.

Councilmember Fuller inquired if the tournaments have huge turnout, how Mr. Bertrand would keep tournaments limited to that area so people can continue to use the remainder of the park.

Mr. Bertrand explained it is ticketed and can be sold out, there would only be 1-2 events to start, and it is up to us how to shape it. He mentioned the way the field is built will determine how to maintain it.

Councilmember Williams commented it looks like both are regulation fields and she agrees the plan as designed doesn't bring much to the City for revenue. She inquired if he has the regulations size and what the comparison regulations are for other sports, if various sports will be played on the field.

Mr. Bertrand explained regulation field tournaments are more income producing. He mentioned a private San Diego club which hosts 2 tournaments each month and rents its fields to soccer for kids certain other days and it is also closed other days to prepare for tournaments. He mentioned everyone is in search of fields, so the polo field could provide multi-use.

Mayor Higgins mentioned when the Council looked at the site, she envisioned 4-H. She expressed the multi-use field would be all-encompassing to Oakley's sister cities and provide income for all of us as Oakley would not alone be able to handle the amount of people. She indicated this is a huge leap and she really likes it.

Mr. Bertrand commented if he was in their shoes, and he heard a shiny opportunity, he would want to do due diligence and ensure there is income to the City. He mentioned he can assure the Council this is income producing, like a direct vein to bring money to the City. He mentioned the only way it wouldn't happen is if the City doesn't build the field and they cannot host the events.

Councilmember Meadows commented he is not telling Mr. Bertrand he is opposed, but he wants to see a pro forma business plan written around this.

Mr. Bertrand commented he could provide something written or perhaps look at what has been elsewhere, but it would not make sense.

Councilmember Meadows commented that staff needs to look at it and maybe it is not this exact location.

Vice Mayor Pope commented that 3 regulation soccer fields can fit within the polo field and if can be used for soccer, it can be used for football, but the park would lose 1 baseball field and the picnic area. He mentioned the conceptual plan from 11 years ago has been modified and this is not a blueprint. He indicated there is demand for baseball fields. He shared the existing conceptual plans has a middle area designed for an outdoor amphitheater and event rental space, the Gilbert house which was saved for an event center, the slough which provides water access, and trails that can be accessed to connect to East Bay Regional Park District, farmer fields to keep Oakley's heritage, farmer housing for 4-H to have access for its animals, and a horse ring. He commented he believes the park is trying to be everything for everyone which may end up doing a number of things not very well. He expressed he thinks the polo field could fit there in a way where there would not be any giving up when it is not a polo field; it could be used to host an outdoor concert one evening and a polo event the next week.

Mr. Bertrand mentioned Coachella is a concert held in Indio, California at the end of summer and is the largest American concert ground on polo fields. He mentioned the polo field could accommodate so many different things and could be an anchor to bring in other events and financial benefit to the City.

Councilmember Meadows inquired what the seating arrangements would look like around the polo field.

Mr. Bertrand explained there are tents where people gather. He mentioned tickets are sold for the tents, the tents are somewhat removed from the field and there is also seating close to the field.

Gerald Grewats submitted an online public comment and expressed meadows, picnic areas and other features would have to be eliminated to accommodate a polo field. He suggested the ambassador buy acreage in Oakley to play this exclusive sport.

Rebecca Mears submitted an online public comment and expressed opposition to a polo field in this planning project as it is not a sport commonly played in this area and would not be useful to the community. She suggested something that is multi-use and is for all ages. She provided a list of ideas to consider.

Mayor Higgins called for public comments.

Lindsay Waters inquired if the public is expected to complete a blue comment card and has a 3-minute limit for work sessions.

Mayor Higgins confirmed that is correct.

Ms. Waters commented she loves the concept and what it could bring to Oakley, but it seems the cart is before the horse; Oakley does not even have enough firemen for the City so what are we doing entertaining this idea before figuring that situation out. She added roads, maintenance, and ingress/egress would need to be addressed.

Liz Elias commented she enjoyed watching polo games at Golden Gate Park, but it is not something Oakley needs; it caters to an elitist mentality, it is very expensive to own and

maintain a string of polo ponies plus extras and all that goes with owning and maintaining horses, it limits participants to the wealthy, and Oakley is not such a community. She mentioned Oakley is not one of the more well-to-do communities on this side of the Bay; therefore, participants would all likely be from out of town. She added it would be expensive to build and maintain, and we are in a drought so admission may need to be charged. She inquired if Oakley citizens could afford the gate fee to attend. She mentioned Oakley needs recreation for all citizens, not only ball fields for kids and certainly not for elitist venues. Instead, she suggested a water park, municipal swimming pool, indoor ice and roller skating rink, community theatre, campground, or library. She expressed there are so many better options.

Paul Seger commented as a private citizen. He commented he found pictures from 2006 and they almost always included equestrian staging areas. He mentioned the regional park is to serve all and he thinks people will be upset if the Council takes away ideas shared of past. He also mentioned the General Plan states to encourage and support ball fields at school yards where they already have vast fields of watered grass, rather than creating parks for that. He suggested the Council play with the design and invite 4-H and equestrian people for input. He mentioned Oakley would need restaurants and hotels, but this would make Oakley a destination point. He mentioned it is viable to have barrel racing and other things for use of the field.

Mr. McMurray commented he has heard general interest to the explore idea from at least 3 Councilmembers.

7.3 City Manager Recruitment - Community Forum (Derek Cole, City Attorney)

City Attorney Derek Cole announced a presentation from Maria Hurtado, Executive Recruiter with Peckham & McKenney, regarding the City Manager recruitment.

Maria Hurtado provided the presentation. She mentioned a community survey was administered August 1-August 15 and discussed how it was distributed. She shared that 244 responses were received, 227 from the English survey and 17 from the Spanish survey. She shared the top 5 personal attributes desired, the top 5 career experience desired, and the top 5 local issues a new City Manager should be aware of from both the English and Spanish survey results. She shared a paragraph that was included in the official Peckham & McKenney recruitment brochure to reflect the results of the community survey. She explained the filing deadline is September 22, preliminary interviews will be conducted October 1-6, recommendation of candidates will occur October 12, and panel interviews will be held October 26. She mentioned the community survey provided community input and this forum tonight can provide community input. She posted two questions on the screen for everyone to consider: 1) What important attributes do you feel the next City Manager should possess? and 2) What would you like the City Council to consider when selecting a new City Manager?

Arnold Fitzpatrick submitted a written comment and also verbally commented he hopes a qualified female has applied and the most important skills of a City Manager is someone who is very knowledgeable about Oakley's form of government, knows the pros and cons of a non-citizen elected mayor, knows the necessity of a high degree of honesty and transparency, the ability to work harmoniously and well with the City Council-giving them a high degree of respect, listening to their ideas and input, keeping the Council and citizens informed and updated on the City's operations and news as soon as possible, have a healthy and mature ego, a true team work person, someone who knows the value of a city library, and is committed to have building a new Oakley library a high priority item, and who can appeal to the Oakley citizens who have grant writing skills to come forward to write a grant for a new public library.

Mr. Cole mentioned the purpose of the work session is to share the survey results and allow the public to provide thoughts on what the City should look for in a new City Manager. He mentioned the Council will have an opportunity to screen and pick a candidate, but this provides an opportunity for the Council to hear what the people want. He mentioned the Council can provide comments to Ms. Hurtado now. He shared he understand there are a good number of candidates who have submitted applications so far so the City can pat itself on the back as it is a good city and the Council will have a good, but perhaps difficult decision to make.

Councilmember Williams inquired if there will be more community input forums.

Ms. Hurtado responded there were many things discussed and the two that they landed on were to start with the community survey followed by the community forum during the Council meeting. She mentioned during COVID, it is very difficult to get people to come out to a separate meeting.

Councilmember Williams inquired if there would be any stakeholder meetings.

Mr. Cole responded at this stage no; the idea was to hear directly from the public. He mentioned if there is a desire of the council for further outreach to specific organizations they can do that.

Councilmember Williams expressed she is always in favor of more community input and engagement, but unfortunately, looking around the room, there are not a lot examples of people wanting a voice in this and she doesn't know if that is because we didn't broadcast enough. She mentioned the Council started this journey to hear from people and be transparent, and she is uncertain if the survey results are good numbers. She expressed the Council discussed having stakeholders and strong community leaders be part of the process and she wants to make sure they are getting all of that.

Mr. Cole responded they broadcasted this as strongly as they could. He mentioned sometimes despite our best intention and outreach, a lot of input is not received. He provided an example of districting in which there was very little presence. He mentioned staff has worked with Ms. Hurtado to advertise it. He mentioned it is one of the best survey results for things that have been broadcasted. He shared he hears from his colleagues that as meetings return to in-person, attendance seems to drop off.

Ms. Hurtado mentioned 277 is a good outcome. She shared surveys conducted typically result in 30 responses on average with 0 Spanish speakers. She mentioned she believes the results were so good because of the level of outreach through the collective effort of staff. She shared that business owners participated in both the English and Spanish surveys so there was a good mix of responses. She provided some level of detail regarding responses and mentioned if there is a particular segment the Council would prefer for them to reach out to, she is happy to do so.

8) CLOSED SESSION

**8.1 CITY ATTORNEY PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957**

Mayor Higgins announced the closed session item.

8.2 Report Out of Closed Session (Derek Cole, City Attorney)

9) ADJOURN

There being no further business, the meeting was adjourned at 10:00 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk



MEMORANDUM
Office of the City Attorney

Date: September 16, 2021
To: Mayor and Members of City Council
Cc: Joshua McMurray, Interim City Manager
From: Derek P. Cole, City Attorney
Subject: Closed Session Report-Out Memo

FOR CONSIDERATION AT THE CITY COUNCIL MEETING OF SEPTEMBER 28, 2021

Background and Analysis

The City Council considered the following closed session item during its meeting held September 14, 2021:

CITY ATTORNEY PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957

Direction was provided to staff. There was no reportable action.

Fiscal Impact

None.

Recommendation

Receive and file this report.

Attachments

None.

ORDINANCE NO. 07-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING A DEVELOPMENT AGREEMENT AMENDMENT TO THE EXISTING DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF OAKLEY AND ENCORE OAKLEY, LLC FOR THE PROPERTY KNOWN AS SUMMER LAKE NORTH LOCATED WITHIN THE EAST CYPRESS CORRIDOR SPECIFIC PLAN – SUMMER LAKE NORTH DEVELOPMENT AGREEMENT ASSIGNMENT AND TERM EXTENSION (DA 01-21)

RECITALS

WHEREAS, the City has enacted a Development Agreement Ordinance, Title 9, Chapter 3 of the Municipal Code establishing the procedures and requirements for the consideration of development agreements pursuant to California Government Code Section 65864 et seq; and

WHEREAS, on July 27, 2021, Civic Summer Lake North, LLC. (“Applicant”) filed a request for approval of a Development Agreement Amendment (DA 01-21) to modify the existing development agreement by and between the City of Oakley and Encore Oakley, LLC, for the property known as Summer Lake North located within the East Cypress Corridor Specific Plan (“Project”). Proposed amendments to the development agreement include 1) assigning the agreement to Civic Summer Lake North, LLC, and 2) extending the term of the development agreement from February 13, 2025 to February 13, 2032. The site is zoned SP-1 (East Cypress Corridor Specific Plan) District. The project area is located within Planning Area 2 of the East Cypress Corridor Specific Plan, generally north of East Cypress Road, east of Bethel Island Road, and south and west of Sandmound Boulevard. APNs 032-340-006, 015, and 017; 032-370-008, 009, 019, 033, 035, and 037; and 032-470-038; and

WHEREAS, on February 13, 2006, the City Council adopted Ordinance 02-06 approving the Development Agreement between the City of Oakley and Shea Homes Limited Partnership for the Summer Lakes Properties, which was recorded on April 7, 2006; and

WHEREAS, on November 8, 2011, the City Council adopted Ordinance 24-11 approving the Amendment to the Development Agreement between the City of Oakley and Shea Homes for the Summer Lakes Properties located in the East Cypress Corridor Specific Plan Area, which was recorded on September 27, 2012. This Amendment extended the term of the agreement from February 13, 2018 to February 13, 2025; and

WHEREAS, on March 30, 2018, the Oakley City Manager approved the Amendment to the Development Agreement between the City of Oakley and Shea Homes for the Summer Lakes Properties located in the East Cypress Corridor Specific Plan Area, which was recorded on April 3, 2018. This Amendment approved a partial assignment of the Development Agreement between Shea Homes and Encore Oakley, LLC; and

WHEREAS, the request to transfer rights and extend the term of the Development Agreement does not result in any physical environmental impacts not already analyzed in the Summer Lake North Tentative Map 9307 and Development Agreement East Cypress Corridor Specific Plan Environmental Impact Report Addendum, adopted by Ordinance 24-11 in conjunction with a previous extension of the Effective Date and Term of the Development Agreement. The aforementioned Addendum was to the Revised East Cypress Corridor Specific Plan Environmental Impact Report (State Clearinghouse # 2004092011) (“East Cypress EIR”) certified on March 13, 2006 and the East Cypress Corridor Specific Plan Supplemental EIR (State Clearinghouse # 2004092011) (“Supplemental East Cypress EIR” or “Supplemental EIR”) certified on March 10, 2009; and

WHEREAS, on or before September 3, 2021, the Notice of Public Hearing for the project was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and at the project site. The notice was also mailed out to all owners of property within a 500-foot radius of the project’s boundaries, interested agencies, and to parties requesting such notice, and published in the Contra Costa Times newspaper; and

WHEREAS, on September 14, 2021, the City Council opened the public hearing at which it considered the Project’s Development Agreement and Amendments, Staff Report, Oakley 2020 General Plan, the City’s Zoning Ordinance, and the East Cypress Corridor Specific Plan, and all comments received in writing and all testimony received at the public hearing (together the “Record”), and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and introduced this ordinance to approve the project, as revised by the City Council during its deliberations; and

WHEREAS, development of the Project in accordance with the Development Agreement will be consistent with the approved Vesting Tentative Map for the project and will provide for orderly growth consistent with the goals, policies, and other provisions of the General Plan; and

WHEREAS, in exchange for the foregoing benefits to the City, the Development Agreement First Amendment vests Developer’s right to develop the Project as approved by the City Council, subject to the terms and conditions contained in the Development Agreement First Amendment and the conditions of approval for the Vesting Tentative Map and other discretionary approvals for the Project. The Development Agreement First Amendment is intended to grant Developer a vested right to develop the project as provided therein, and to provide the City with certain binding assurances with respect to the nature, scope and timing of such development and related public improvements; and

WHEREAS, for those reasons, the City has determined that the project is a development for which the Development Agreement First Amendment is appropriate in order to achieve the goals and objectives of the City’s land use planning policies; and

WHEREAS, on the basis of (a) the foregoing Recitals, (b) the City of Oakley 2020 General Plan, (c) the East Cypress Corridor Specific Plan, (d) the East Cypress Corridor Specific Plan Environmental Impact Report (“EIR”), Supplement EIR, and Addendum to the Revised East Cypress Corridor Specific Plan EIR, and (e) the specific conclusions set forth below, as supported by substantial evidence in the Record.

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

SECTION 1. Findings

Pursuant to Chapter 9.3 of the Oakley Municipal Code, the City Council of the City of Oakley hereby finds and determines as follows:

- A. Regarding the application requesting approval of a Development Agreement Amendment (DA 01-21) to modify the existing development agreement by and between the City of Oakley and Encore Oakley, LLC, for the property known as Summer Lake North located within the East Cypress Corridor Specific Plan:
1. The Project is consistent with the objectives, policies, general land uses and programs specified in the Oakley 2020 General Plan. The Project will consist of a single-family residential housing and commercial development, parks, open space, trails, and a storm-event levee. The Project is consistent with Policies 2.2.1 through 2.2.6 and other residential development policies in the Oakley 2020 General Plan: it is a predominantly residential master-planned development; the scale and appearance of the proposed structures will be compatible with the existing character of the City; it will not introduce incompatible uses into existing residential areas; it will reasonably avoid disruptive traffic; and it will pay its fair share for necessary public services and infrastructure;
 2. The Project is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the project’s approved vesting tentative map has been found to be in substantial compliance with the East Cypress Corridor Specific Plan;
 3. The Project is in conformity with public convenience, general welfare and good land use practice. The Addendum to the Revised East Cypress Corridor Specific Plan Environmental Impact Report (State Clearinghouse # 2004092011) (“East Cypress EIR”) certified on March 13, 2006 and the East Cypress Corridor Specific Plan Supplemental EIR (State Clearinghouse # 2004092011) (“Supplemental East Cypress EIR” or “Supplemental EIR”) certified on March 10, 2009, identified and provided mitigation measures for significant environmental impacts associated with development of the Project and East Cypress Corridor Specific Plan The Development Agreement Amendment authorizes development consistent with the certified EIR and approved entitlements;
 4. For the reasons set forth in Finding 3, the Project will not be detrimental to the health, safety and general welfare; and

5. The Project will not adversely affect the orderly development of property. The Project will enhance the orderly development of property by assuring that improvements to the property within the East Cypress Corridor Specific Plan Area are consistent with the General Plan and development, as approved in the East Cypress Corridor Specific Plan.

SECTION 2. Approval of the Amendment to the Development Agreement

The City Council hereby approves the Summer Lakes North Development Agreement Amendment and Term Extension (DA 01-21) (Exhibit "A"), and authorizes and directs the Mayor to sign it.

SECTION 3. Recordation of Development Agreement

Within ten (10) days after the Mayor executes the Development Agreement, the City Clerk shall submit the Agreement to the County Recorder for recordation.

SECTION 4. Effective Date and Posting

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

PASSED, APPROVED AND ADOPTED this 28th day of September, 2021 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

Civic Summer Lake North, LLC
1500 Willow Pass Court
Concord, CA 94520
Attn: David B. Sanson

ASSIGNMENT OF DEVELOPMENT AGREEMENT

This ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT AND CONSENT OF CITY (the “**Assignment**”) is made as of the ____ day of _____, 2021 (“**Acquisition Date**”), by and between ENCORE OAKLEY, LLC, a Delaware limited liability company (“**Assignor**”), and CIVIC SUMMER LAKE NORTH, LLC, a Delaware limited liability company (“**Assignee**”), and executed for acknowledgment purposes by THE CITY OF OAKLEY, a municipal corporation of the State of California (“**City**”), with reference to the following facts:

RECITALS

A. Assignor’s predecessor-in-interest, Shea Homes Limited Partnership, a California limited partnership, and the City entered into that certain Development Agreement dated February 13, 2006, recorded in the Official Records of Contra Costa County, State of California (the “**Official Records**”) on April 7, 2006 as Instrument No. 20060109298 as amended by that certain Amendment to the Development Agreement between the City of Oakley and Shea Homes for the Summer Lake Properties in the East Cypress Corridor Specific Plan Area dated October 25, 2011 and recorded in the Official Records on September 27, 2012 as Instrument No. 2012-0238270-00 (as amended, the “**Development Agreement**”).

B. Concurrently herewith, Assignee acquired fee title to the Property as more particularly described on **Exhibit A** attached hereto (the “**Property**”) from Assignor on the date first written above (“**Acquisition Date**”).

C. Assignor desires to assign to Assignee those interests, rights, obligations, conditions and requirements under the Development Agreement to the extent related to the development of the Property (collectively, “**Benefits and Burdens**”), and Assignee desires to accept the assignment of such Benefits and Burdens, subject to the terms, conditions and restrictions set forth in this Assignment.

D. Assignee meets the requirements of Section 18.1 of the Development Agreement for obtaining the City’s consent to an assignment of Assignor’s rights thereunder with respect to the Property.

E. Section 18 of the Development Agreement requires consent of the City to the assignment.

NOW THEREFORE, in consideration of the foregoing facts and the mutual covenants and conditions herein below set forth, it is agreed:

1. Assignment. For good and valuable consideration, the receipt of which is hereby acknowledged, and in accordance with Section 18 of the Development Agreement, Assignor hereby assigns, transfers and conveys to Assignee the Benefits and Burdens under the Development Agreement with respect to the Property and delegates to Assignee all of the Benefits and Burdens under the Development Agreement that accrue after the Acquisition Date of this Assignment under the Development with respect to the Property. Upon the execution of this Agreement and the written consent of the City, Assignee shall become substituted for Assignor as the “Developer” under the Development Agreement with respect to the property. Assignee acknowledges that this Assignment assigns only the Benefits and Burdens with respect to the Property.

2. Acceptance and Assumption. Notwithstanding any other provision of this Agreement, Assignee hereby assumes and agrees to perform all of the Benefits and Burdens under the Development Agreement with respect to the Property.

3. Term. Pursuant to Section 11.2 of the Development Agreement, the Development Agreement is hereby amended to modify Section 4 “Effective Date and Term,” and specifically Section 4.2 “Term,” to reflect extending the expiration date of the Development Agreement an additional seven (7) years to February 13, 2032.

4. Recordation. This Assignment shall be recorded in the Office of the Contra Costa County Recorder.

5. Disputes. If there is any dispute, action, lawsuit or proceeding relating to this Assignment, or any default hereunder, whether or not any action, lawsuit or proceeding is commenced, the non-prevailing party shall reimburse the prevailing party for its attorneys’ fees, expert witness fees and all fees, costs and expenses incurred in connection with such dispute, action, lawsuit or proceeding, including, without limitation, any post-judgment fees, costs or expenses incurred on any appeal, in collection of any judgment or in appearing in any bankruptcy proceeding.

6. Further Assurances. Each party hereto covenants and agrees to perform all acts to prepare, execute and deliver such written agreements, documents, instruments, statements, filings and notices as may be reasonably necessary to carry out the terms and provisions of this Agreement.

7. Authority. Each party to this Assignment represents and warrants to the other that the person executing this Assignment on its behalf has the right, power, legal capacity and authority to enter into and to execute this Assignment on behalf of the respective legal entities of the Assignor and the Assignee.

8. Amendment. This Assignment may only be amended or modified by a written instrument signed by all of the parties hereto.

9. Successors. This Assignment shall be binding upon and inure to the benefit of the heirs, successors and assigns of the respective parties hereto. Assignee shall have the right to reassign these rights and obligations only in connection with a conveyance of the fee title to the Property.

10. Entire Agreement. This Assignment sets forth the entire understanding between the parties hereto with respect to all matters discussed herein and supersedes any and all prior agreements whether written or oral regarding such matters. Should any term, covenant, condition or provision of this Assignment be held by a court of competent jurisdiction or otherwise by law rendered invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Assignment, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

11. Counterparts. This Assignment may be executed in several counterparts and, when so executed, shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatory to the original and same counterpart.

12. Notices. All notices shall be in writing and shall be given in the manner prescribed by Section 23 of the Development Agreement. Pursuant to Section 23 of the Development Agreement, the address for Assignee is:

Civic Summer Lake North, LLC
1500 Willow Pass Court
Concord, CA 94520
Attn: David B. Sanson
(925) 685-0110
dave@denovahomes.com

With a copy to: Civic Summer Lake North, LLC
1500 Willow Pass Court
Concord, CA 94520
Attn: Dana C. Tsubota
(925) 685-0110
dana@denovahomes.com

13. Defined Terms. All capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Development Agreement.

14. Disclosure Statement. The following statement shall be recorded at the County Recorder's Office for each parcel:

“This document shall serve as notification that you have purchased land in an area which contains the following existing approved land uses:

1. Dog kennel and large animal veterinary services.
2. Horse riding ring on Cactus Lane.
3. Horse stables and keeping of cattle and other animals.
4. Oil and gas drilling.”

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have entered into this Assignment as of the Effective Date.

“ASSIGNEE”

Civic Summer Lake North, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

“ASSIGNOR”

ENCORE OAKLEY, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

CITY OF OAKLEY CONSENT

The City hereby consents to the covenants, terms and conditions of the foregoing Assignment Agreement. In accordance with Section 18.3 of the Development Agreement, City hereby releases Assignor from the Benefits and Burdens.

By: _____ Date: _____
Joshua McMurray
Interim City Manager

APPROVED AS TO FORM:

By: _____
Derek Cole
City Attorney



STAFF REPORT

DATE: September 28, 2021

Approved and Forwarded to the City Council

TO: Joshua McMurray, Interim City Manager

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

SUBJECT: Resolution Approving a Budget Amendment, Authorizing the Interim City Manager to Execute an Addendum to the Agreement with the Consultant for Construction Support Services Related to Capital Improvement Project (CIP) 215 – Downtown Parking Lot Project and Authorizing staff to purchase asphalt, aggregate base, and parking lot light poles and associated hardware directly from suppliers for the project

Background and Analysis

The development of downtown Oakley has been a priority for the City Council for many years. The goal for the community is to have a downtown that is thriving and vibrant, and will serve as a solid foundation for the economic vitality of Oakley for decades to come.

As part of the Strategic Goals of the City Council in 2014, the downtown “Visioning” project undertook a year-long comprehensive review of downtown Oakley. This process involved various stakeholders; from a City Council sub-committee, downtown merchants and property owners, staff, and a professional consultant team. This process was very effective, as it developed an overall plan for the reconstruction of downtown Oakley that began in 2016 and has continued into the construction of the current Downtown Parking Lot and roadway infrastructure improvements.

Staff has determined, that to keep the project schedule on track, pre-ordering the parking lot light poles and associated hardware from the factory would be beneficial to the City. In addition to its cost effectiveness, the City would not have to pay any cost markups of over \$10,000 by the contractor. There are long lead time items (approximately 5 months) to manufacture and deliver the parking lot light poles and associated hardware to the site. With this approach, the City will order and secure the parking lot light poles and associated hardware. This will have the parking lot light poles and associated hardware delivered to the site by early 2022, when the concrete and

paving operations are completed and to line up with the timeline for the installation of the parking lot light poles.

This parking lot and roadway infrastructure improvements project will also utilize a large volume of asphalt and aggregate baserock, which is furnished from a local supplier in Antioch. By purchasing the asphalt and aggregate baserock directly from the supplier, the City will save the mark up of over \$17,000 that the contractor would add for this material to the project.

The pre-ordering of the parking lot light poles and associated hardware, and direct purchasing of the asphalt and aggregate baserock, is a prudent way to secure the needed materials for the project and also save dollars for the City of Oakley. This approach has been used by the City on other projects successfully, resulting not only in cost savings to the City, but also timely procurement of materials and delivery to the project site. The construction cost of the project was approximately 25% below the Engineers Estimate and a great deal and value for the City of Oakley.

Construction Support Services are an important element in this project because of the complexity of the design and coordination work involved. The following summary has been prepared in order to better understand the distribution of the work efforts for the construction of this project among various parties.

The key components of the construction for this project are:

- Day-to-day Construction Inspections: The City Public Works Inspector will monitor and inspect the contractor's daily work; measure and document quantities of material used on the project and insure compliance with the plans and specifications.
- Coordination with the design team during construction: City Engineering staff will work closely with the contractor and the design team to provide responses to inquiries and questions that may arise during the course of the project's construction.
- Construction Support Services: This work requires the project consultant to review all shop drawings and various product submittals for the construction, provide design clarifications and information, and attend various meetings.

In order to ensure consistency and quality control on the project, staff now proposes to amend the BKF Engineers, Inc. contract to include support for the construction phase of the project from this firm.

BKF Engineers, Inc. will be assigned the task of providing Construction Support Services for this project along with their sub-consultants, as outlined in the attached proposal and scope of work. Staff recommends approval of the amendment to the BKF Engineers, Inc. contract to provide Construction Support Services in an amount not to exceed \$59,950.

Fiscal Impact

The approval of this resolution will not impact the City of Oakley FY 2021/22 General Fund Budget. The proposed budget amendment will reduce CIP No. 258 FY 2021/22 Street Repair and Maintenance project by \$354,000 in the Street Maintenance & Rehab Fund, and increase CIP No. 215 Downtown Parking Lot Project by \$354,000 in the General Capital Projects Fund; and will assist in lowering the costs of construction and expediting construction time, which will save dollars for the City.

Staff Recommendation

Staff recommends that the City Council adopt the resolution approving a budget amendment, moving \$354,000 of appropriations from Fund 235 to Fund 201 for the completion of CIP 215, authorizing the Interim City Manager to execute an addendum to the agreement with the consultant for construction support services for this project; and authorize staff to purchase asphalt, aggregate base, and parking lot light poles and associated hardware directly from suppliers for the project.

Attachments

1. Resolution
2. Budget Adjustment Form

RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING A BUDGET AMENDMENT, AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN ADDEMDUM TO THE AGREEMENT WITH THE CONSULTANT FOR CONSTRUCTION SUPPORT SERVICES RELATED TO CAPITAL IMPROVEMENT PROJECT (CIP) 215 – DOWNTOWN PARKING LOT PROJECT AND AUTHORIZING STAFF TO PURCHASE ASPHALT, AGGREGATE BASE, AND PARKING LOT LIGHT POLES AND ASSOCIATED HARDWARE DIRECTLY FROM SUPPLIERS FOR THE PROJECT

WHEREAS, as part of the Fiscal Year 2021/22 Budget, the City of Oakley approved a Capital improvement Program (CIP); and

WHEREAS, on June 23, 2020, the Oakley City Council approved the Disposition and Development agreement with R&R Pacific Construction, Inc. for the purchase of 0.23 Acres of land located North of Main Street and East of Oakley Plaza for construction of a commercial building and construction of a parking lot and associated roadway infrastructure; and

WHEREAS, the construction of this project has started and to keep the project schedule on track, pre-ordering the parking lot light poles and associated hardware from the factory will be beneficial to the City for timely delivery and cost savings; and

WHEREAS, the pre-purchasing of asphalt and aggregate baserock directly from the supplier will also save costs for the City and eliminate contractor markups; and

WHEREAS, a total budget adjustment of \$354,000 is needed for expenses related to the construction of the Downtown Parking Lot Project and its associated roadway infrastructure; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley hereby approves a budget amendment moving \$354,000 of appropriations from Fund 235 to Fund 201 for the completion of CIP 215, authorizing the Interim City Manager to execute an addendum to the agreement with the consultant, BKF Engineers, Inc., for construction support services related to this project and authorizing staff to purchase asphalt, aggregate base, and parking lot light poles and associated hardware directly from suppliers for the project.

PASSED, APPROVED AND ADOPTED this 28th day of September, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

ATTEST:

Sue Higgins, Mayor

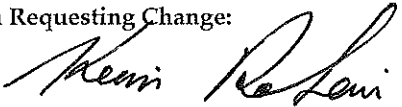
Libby Vreonis, City Clerk

Date

BUDGET TRANSFER/REVISION REQUEST FORM

Date Received in Finance 9/28/2021	Division Public Works	Activity CIP funds transfer	Budget Adjustment # BA-05
Source of Funding <input checked="" type="checkbox"/> From Existing Budget Appropriations <input type="checkbox"/> From Donations, Fees or Grants <input type="checkbox"/> From Unappropriated Fund Balance		Type of Transfer <input type="checkbox"/> Intra-Division Transfer (within a division) <input type="checkbox"/> Inter-Division Transfer (between divisions) <input checked="" type="checkbox"/> Interfund Transfer (between funds)	Reason for Request Move \$354,000 from CIP 258 to CIP 215 to cover the cost of materials and design consulting

	Description	Fund	Account Number	Project#	Project Phase/Task	Amount	
						Increase	Decrease
1	Construction CIP 258	235	235-75-258-0101				354,000.00
2	Construction CIP 215	201	201-75-215-0101			354,000.00	
3							
4							
5							
6							
7							
8							

Division Requesting Change:  _____ Division Head Signature	Finance Division Action: _____ Accounting Manager Signature
9-15-2021 _____ Date	_____ Date
Prepared by (print name and initial) _____ _____ Date	Director of Finance Signature _____ _____ Date
The above information has been reviewed, is complete and accurate and the appropriations and/or unappropriated funds are adequate to support the request	
City Council Action: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input type="checkbox"/> Not Required	City Manager Action: <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved <input checked="" type="checkbox"/> Not Required
_____ Resolution Number	_____ Date
9/28/2021 _____ Council Meeting Date	_____ City Manager Signature
	_____ Date



STAFF REPORT

DATE: September 28, 2021

TO: Joshua McMurray, Interim City Manager

Approved and Forwarded to the City Council

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

SUBJECT: Acceptance of work associated with Capital Improvement Project Number 260 – Fiscal Year 2021-2022 Street Restriping Project

Background and Analysis

The City's adopted FY 2021/22 Capital Improvement Program (CIP) Budget designates funding for various infrastructure improvement projects. This is consistent with the City's goals to improve the quality of the City's public infrastructure and to enhance the quality of life for our residents.

The City's CIP Project No. 260 included the restriping of various City streets to help maintain visible stripes and delineations that are marked for usage by motorists and pedestrians. The work performed under this project focuses on the streets that are not in the plan for resurfacing in the next two years, and need the striping for lane delineation (centerline, edge line, crosswalk, pavement marking, etc.) to provide safer streets for the community.

This project was successfully completed by Chrisp Company who provided enhanced markings at crosswalks for pedestrians in addition to centerline and edge line markings that enhanced the safety for the travelers on City streets.

Fiscal Impact

This project was completed on time and under the budget for a total of \$57,466.50.

Staff Recommendation

Staff recommends that the City Council Adopt the Resolution accepting CIP No. 260– FY 2021/22 Street Restriping Project as constructed by Chrisp Company to be complete, and to direct the City Clerk to file a Notice of Completion for the project with the County Recorder.

Attachments

- 1) Resolution
- 2) Notice of Completion

RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ACCEPTING AS COMPLETE THE WORK PERFORMED BY CHRISP COMPANY FOR THE CONSTRUCTION OF CAPITAL IMPROVEMENT PROJECT NO. 260 – FISCAL YEAR 2021/22 STREET RESTRIPING PROJECT

WHEREAS, City staff, prepared plans, special provisions, and cost estimates related to CIP No. 260 – FY 2021/22 Street Restriping Project; and

WHEREAS, on July 13, 2021, by adopting Resolution No. 84-21, the City Council awarded a construction contract to Chrisp Company for the construction of CIP No. 260 – FY 2021/22 Street Restriping Project; and

WHEREAS, Chrisp Company has satisfied the contractual requirements necessary for the acceptance of CIP No. 260 as complete.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that CIP Project No. 260 – FY 2021/22 Street Restriping Project is hereby accepted as complete.

BE IT FURTHER RESOLVED AND ORDERED, that the City Clerk is hereby directed to file a Notice of Completion for CIP No. 260 with the County Recorder. The Notice of Completion is hereby attached as Exhibit A.

PASSED, APPROVED AND ADOPTED this 28th day of September, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

PURSUANT TO GOVERNMENT
CODE §6103 NO FEE IS REQUIRED
FOR THE RECORDATION OF THIS
DOCUMENT

WHEN RECORDED MAIL TO:

City Clerk
City Of Oakley
3231 Main Street
Oakley, Ca 94561

RECORDING REQUESTED BY:

City Of Oakley
3231 Main Street
Oakley, Ca 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**NOTICE OF COMPLETION
CIP No. 260 – FY 2021/22 Street Restriping Project**

NOTICE IS HEREBY GIVEN THAT:

The CITY OF OAKLEY, a political subdivision of the State of California, located at 3231 Main Street Oakley, California 94561, did, on July 13, 2021, enter into an agreement with Chrisp Company for construction of Capital Improvement Project Number 260 – FY 2021/22 Street Restriping Project located on the streets of: Main Street, Laurel Road and Empire Avenue in Oakley, California 94561.

The Owner's nature of interest or estate in the property described below is in fee.

The work described in the contract documents was to furnish all material, labor, and equipment necessary to complete the CIP No. 260 – FY 2021/22 Street Restriping Project on the streets of: Main Street, Laurel Road and Empire Avenue in Oakley, California 94561.

On September 28, 2021, said contract, as a whole was completed and the work was accepted by the City Council of the City of Oakley.

I hereby certify under penalty of perjury that the facts set forth in the foregoing Notice of Completion are true and correct.

Executed at Oakley, Contra Costa County, State of California, on September 28, 2021.

Date: _____

By: _____
Libby Vreonis, City Clerk
City of Oakley, California

VERIFICATION

I have read the foregoing NOTICE OF COMPLETION and know the contents thereof; the same is true of my knowledge. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this 28th day of September 2021 at Oakley, California.

Date: _____

By: _____
Libby Vreonis, City Clerk
City of Oakley, California



Agenda Date: _____

Agenda Item: _____

STAFF REPORT

Date: September 28, 2021
 To: City Council
 From: Joshua McMurray, Interim City Manager
 Subject: **Adopt a resolution declaring properties as “Surplus” and direct Staff to provide the notices required by AB 1255 and AB 1486**

Summary and Background

Two specific laws relating to City-owned surplus properties, AB 1255 and AB 1486, became effective January 1, 2020. Both laws provide regulations for cities to prepare a list of its surplus land, and to then make the surplus land available to affordable housing developers, school districts, and other public agencies before disposing of the property. The list of surplus land must also be reported to the California Department of Housing and Community Development (HCD). The term “surplus” is explained as properties “*in excess of its foreseeable needs*” and that are “*no longer necessary for the agency’s use.*”

There are a number of City-owned properties that would meet the definitions provided by these new laws. The purpose of this staff report is to provide information regarding these properties and to seek the City Council’s approval of the list of surplus properties identified in Table 1.

Table 1: Proposed Surplus Properties

	Property Address and APN	Parcel Size	Condition
1.	4891, 4901 and 4911 Teakwood Drive 035-322-019, 035-322-020, 035-322-021	0.14 acres each	vacant
2.	204 2nd Street 035-132-002	0.09 acre ~1,800 sq ft building	vacant office
3.	95 Laurel Road 033-302-026	1.0 acre	vacant
4.	3980 Empire Road 034-010-033	0.39 acres	vacant sliver

September 28, 2021

Surplus Properties

5.	Neroly Road at Empire Road 034-040-028	3.98 acres	vacant
6.	5400 Neroly Road 037-050-014	2.2 acres	vacant
7.	1033 Main Street 037-050-013	0.57 acres	vacant
8.	3960 Main Street 035-181-004 and 005	0.589 acres	vacant
9.	2950 Main Street 037-150-030	0.32	vacant
10.	2990 Main Street 037-150-026	0.91	vacant

Further, we seek City Council's direction to submit the list to HCD and specific entities mentioned in these new laws. Specifically, those to be notified of the surplus properties list are:

- low- and moderate income housing to housing sponsors that have notified the California Department of Housing and Community Development of their interest in surplus land;
- county park and recreation departments and regional park authorities land that have jurisdiction over the area where the land is located, and the State Resources agency;
- school districts in the city that have jurisdiction over the area where the land is located; and,
- to any county, city, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.

Any entity receiving a written notice of availability has 60 days to notify the City in writing of its interest in purchasing or leasing the surplus land. If the City receives multiple notices of interest from entities to whom the notice was sent, the City is required to give first priority to the entity that agrees to use the site for affordable housing purposes as specified in the regulations. If more than one entity proposes the same number of affordable units, the city must give priority to the entity that proposes the deepest average level of affordability.

The city is required to negotiate in good faith with the interested entity for at least 90 days. If a price or terms cannot be agreed upon during that time period, or if no entity

September 28, 2021

Surplus Properties

expresses interest after the initial 60 days, the City may dispose of the properties without further regard to the regulations of AB 1255 and AB 1486.

There are serious remedies and significant penalties for cities who do not properly follow the provisions of AB 1255 and AB 1486.

Fiscal Impact

Undetermined

Recommendation

Adopt the resolution declaring the properties listed in Table 1 as “surplus” and direct Staff to provide the notices required by AB 1255 and AB 1486.

Attachments

1. Resolution
2. Aerial maps of the property locations

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY DECLARING PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT CERTAIN REAL PROPERTY OWNED BY THE CITY AND NOT NECESSARY FOR THE CITY'S USE

WHEREAS, the City of Oakley ("City") is the owner in fee simple of certain real property located at various locations within the City and described in Exhibit "A" attached hereto and made a part of hereof ("Properties"); and

WHEREAS, under the Surplus Property Land Act, Government Code Sections 54220-54233 ("Act"), surplus land is land owned in fee simple by the City for which the City Council takes formal action in a regular public meeting declaring the land is surplus and not necessary for the City's use. The land must be declared either surplus land or exempt surplus land; and

WHEREAS, under the Act, land is necessary for the City's use if the land is being used, or is planned to be used pursuant to a written plan adopted by the City Council, for City work or operations; and

WHEREAS, City staff has evaluated the Properties for their potential to be used for City work or operations; and

WHEREAS, City staff has determined that the Properties are not suitable for the City's use; and

WHEREAS, the City Council desires to declare that the Property is surplus land and not necessary for the City's use; and

WHEREAS, the Act requires that before the City Council disposes of the Property or engages in negotiations to dispose of the Property, the City shall send a written notice of availability of the Property to certain designated entities; and

WHEREAS, the accompanying staff report provides supporting information upon which the declaration and findings set forth in this Resolution are based;

NOW, THEREFORE, the City Council hereby resolves as follows:

SECTION 1. The above recitals are true and correct and are a substantive part of this Resolution.

SECTION 2. The City Council hereby declares that the Properties are surplus land and not necessary for the City's use. The basis for this declaration is that the properties are of a relatively large size and no planned city facility or building that the City can financially afford is feasible for the site.

SECTION 3. Staff is hereby directed to send a notice of availability, to the entities designated in Government Code Section 54222 ("Designated Entities") by electronic mail or by certified mail.

SECTION 4. This Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”). City staff has determined that the designation of the properties as surplus does not have the potential for creating a significant effect on the environment and is therefore exempt from further review under CEQA pursuant to State CEQA Guidelines Section 15060(c)(3) because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of the Resolution does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. If and when the properties are sold to a purchaser and that purchaser proposes a use for the property that requires a discretionary permit and CEQA review, that future use and project will be analyzed at the appropriate time in accordance with CEQA.

SECTION 6. The officers and staff of the City are hereby authorized, jointly and severally, to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution, and any such actions previously taken are hereby ratified and confirmed. Such actions include negotiating in good faith in accordance with the requirements of the Act with any of the Designated Entities that submit a written notice of interest to purchase or lease the Property in compliance with the Act.

The foregoing resolution was introduced at a regular meeting of the Oakley City held on the 28th day of September 2021, by Councilmember _____, who moved its adoption, which motion being duly seconded by Councilmember _____, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

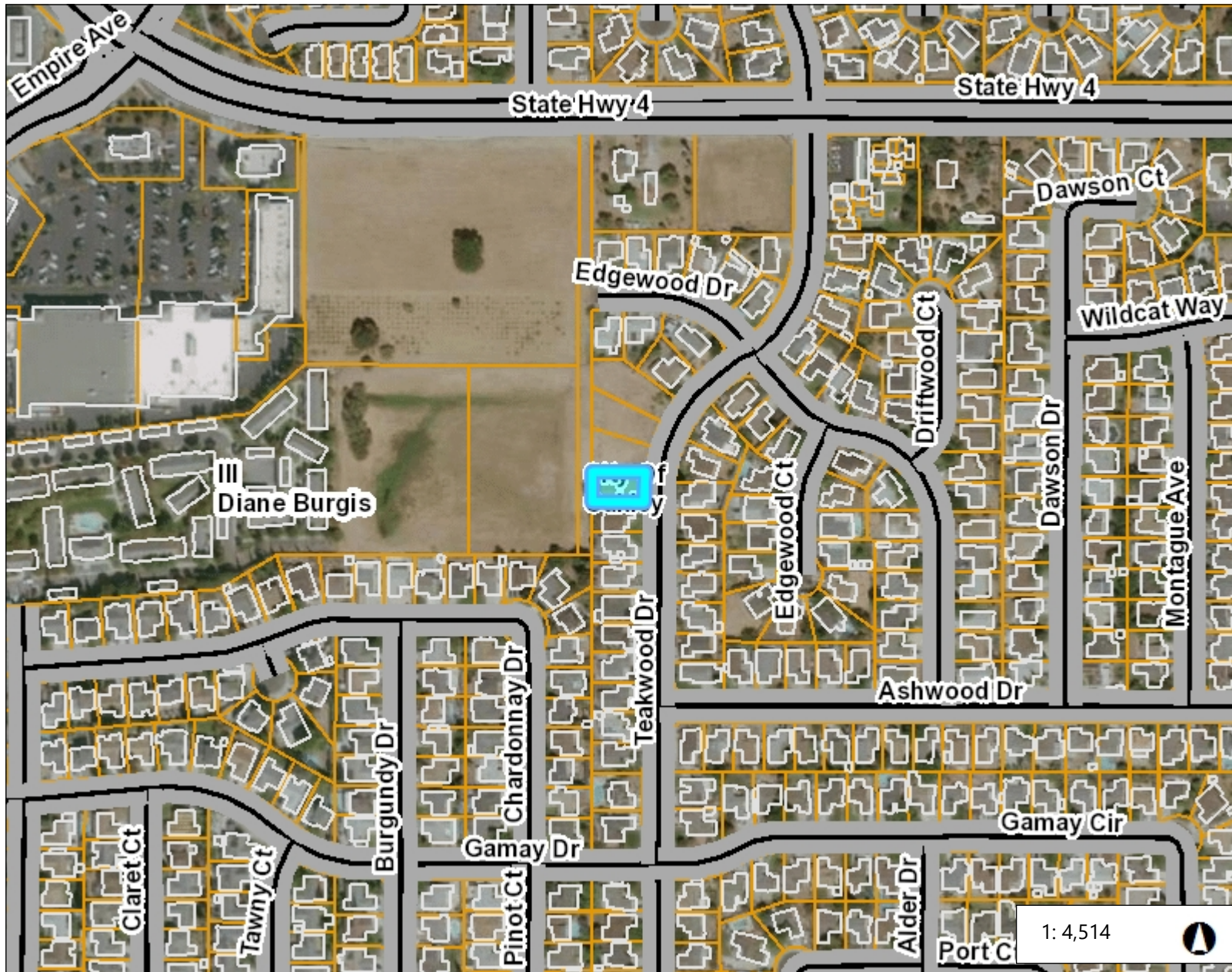
Libby Vreonis, City Clerk

Date

Exhibit "A"

	Property Address and APN	Parcel Size	Condition
1.	4891, 4901 and 4911 Teakwood Drive 035-322-019, 035-322-020, 035-322-021	0.14 acres each	vacant
2.	204 2nd Street 035-132-002	0.09 acre ~1,800 sq ft building	vacant office
3.	95 Laurel Road 033-302-026	1.0 acre	vacant
4.	3980 Empire Road 034-010-033	0.39 acres	vacant sliver
5.	Neroly Road at Empire Road 034-040-028	3.98 acres	vacant
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7.	1033 Main Street 037-050-013	0.57 acres	vacant
8.	3960 Main Street 035-181-004 and 005	0.589 acres	vacant
9.	2950 Main Street 037-150-030	0.32	vacant
10.	2990 Main Street 037-150-026	0.91	vacant

4891 Teakwood Drive APN 035-322-019



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

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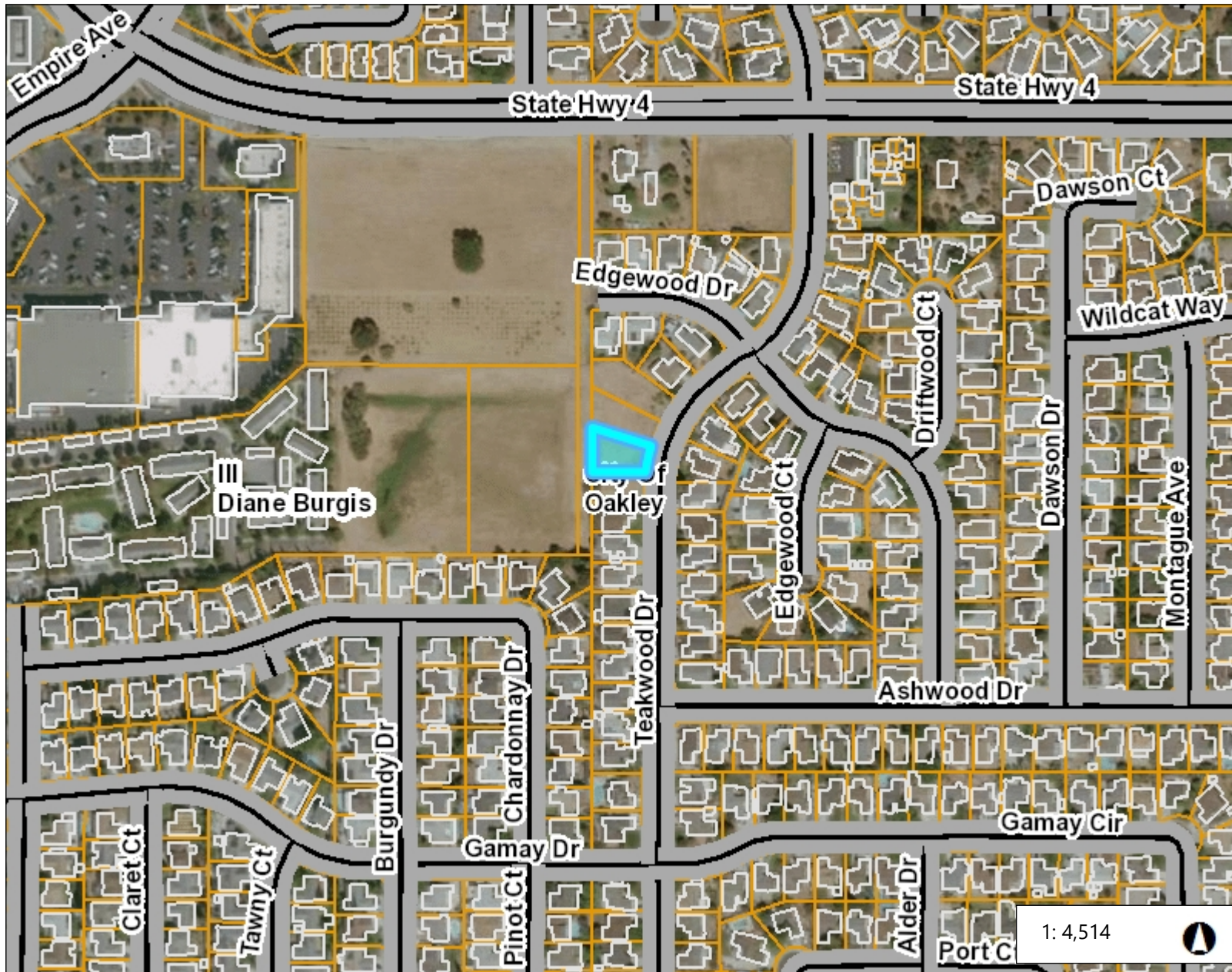
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Contra Costa County -DOIT GIS

4901 Teakwood Drive APN 035-322-020



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
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- High Resolution 30cm Imagery
- Citations

1: 4,514



0.1 0 0.07 0.1 Miles

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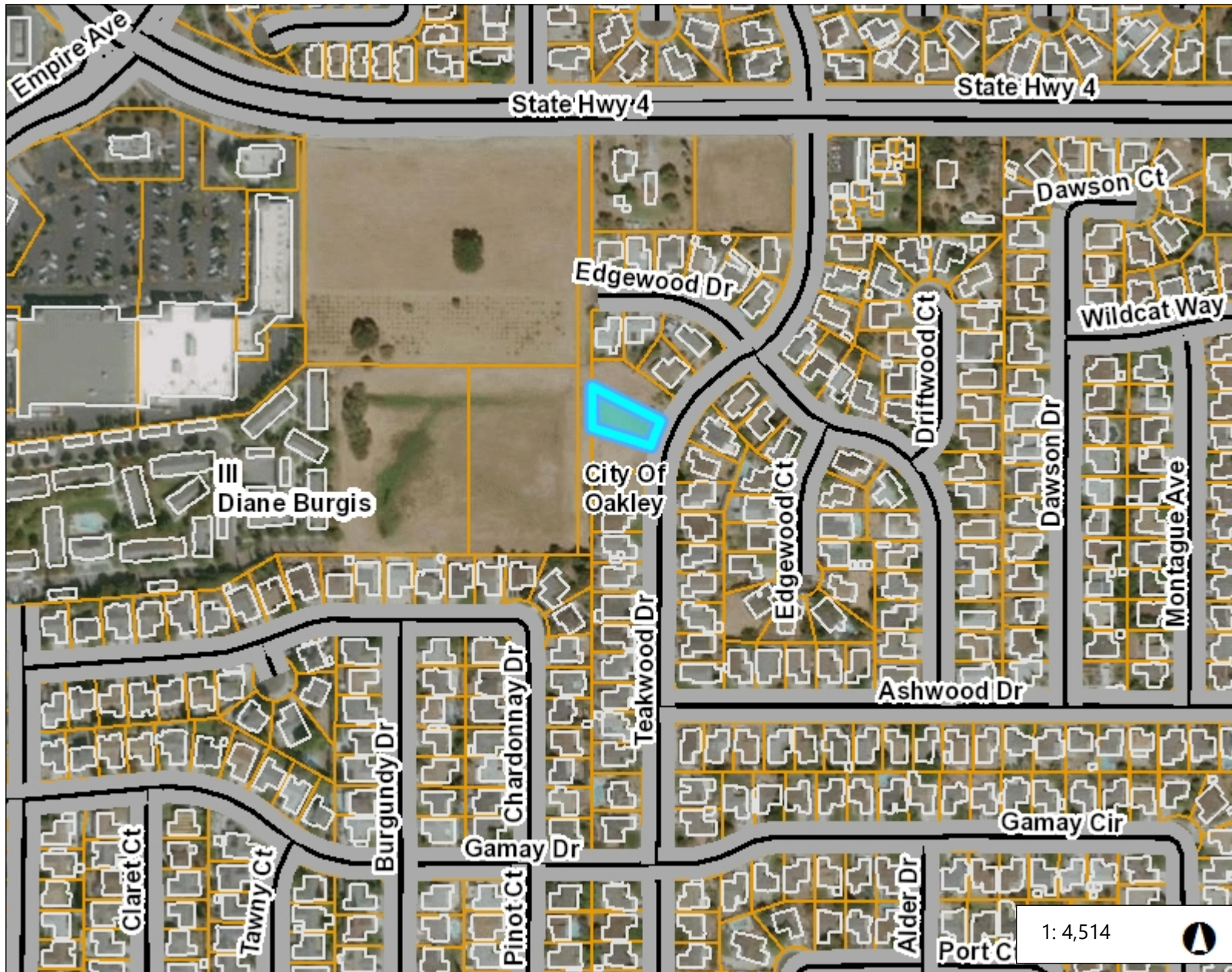
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Notes

Contra Costa County -DOIT GIS

4911 Teakwood Drive APN 035-322-021



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
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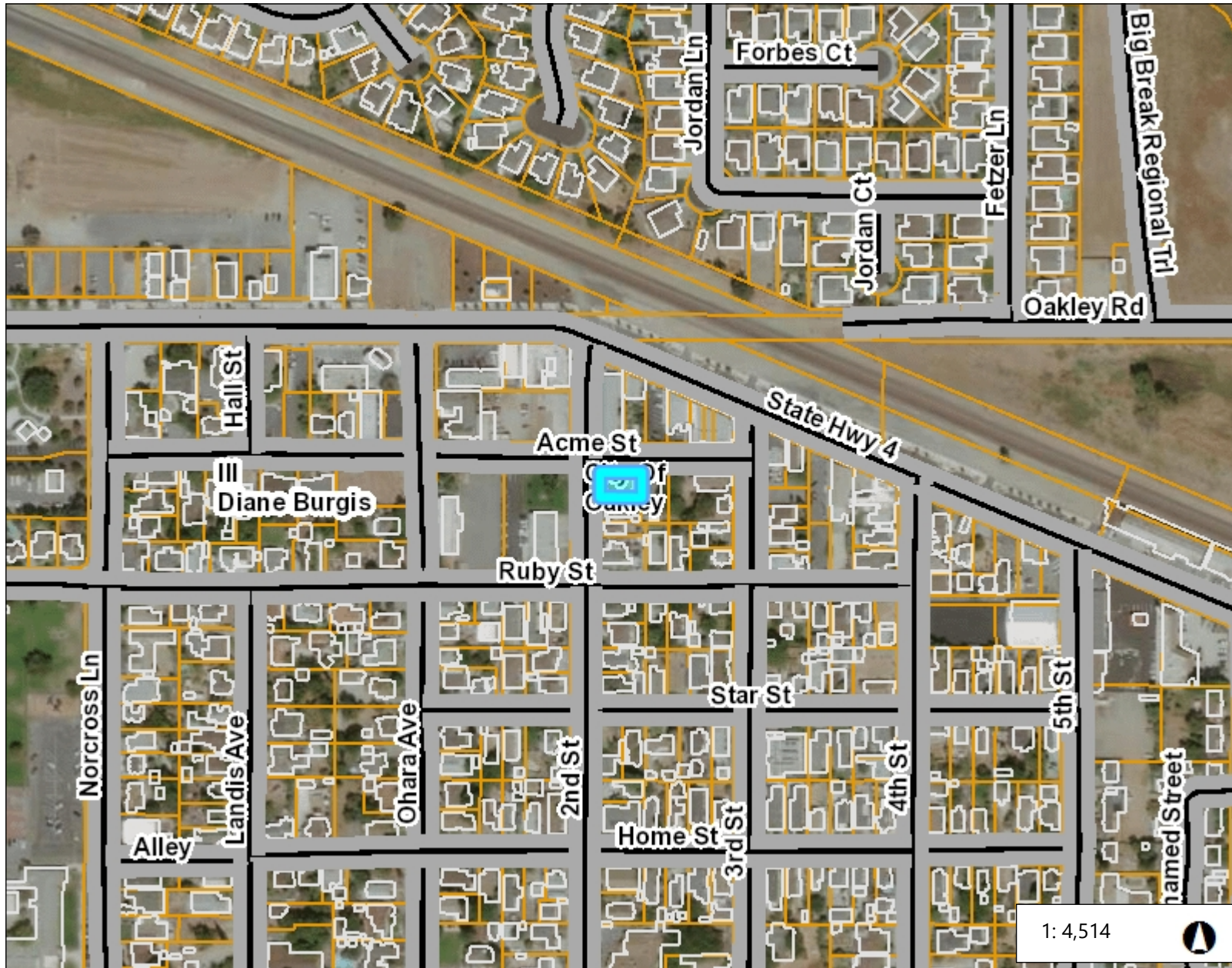
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Notes

Contra Costa County -DOIT GIS

204 2nd Street APN 035-132-002

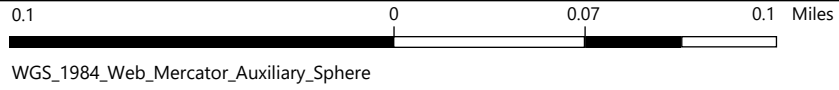


Legend

- Board of Supervisors' Districts
- City Limits
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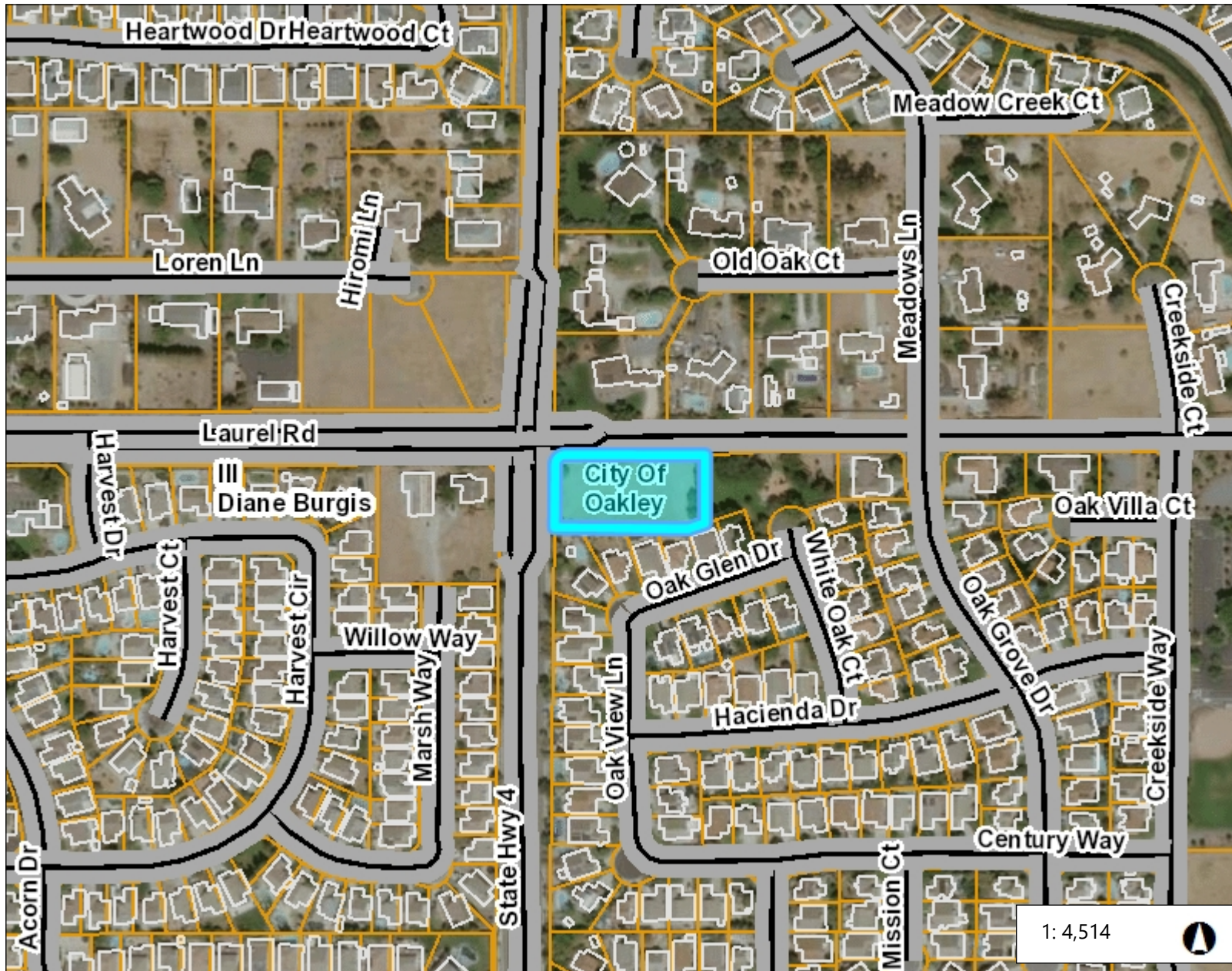
Notes

Contra Costa County -DOIT GIS








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THIS MAP IS NOT TO BE USED FOR NAVIGATION



Legend

-  Board of Supervisors' Districts
-  City Limits
- Unincorporated
-  Streets
-  Building Outlines
-  Assessment Parcels
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- High Resolution 60cm Imagery
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- Citations

Notes

Contra Costa County -DOIT GIS

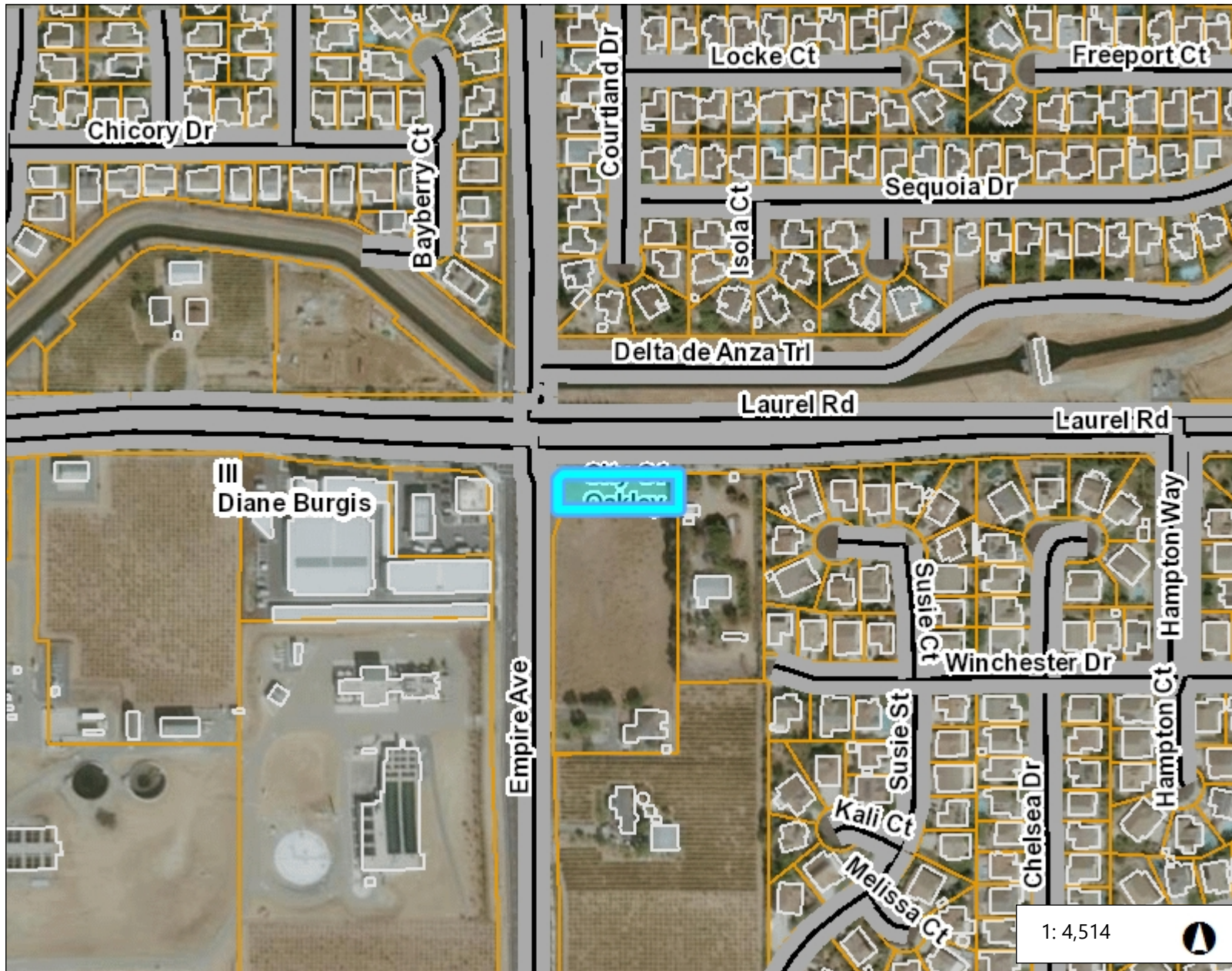
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

3980 Empire Road APN 034-010-033



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

1:4,514

0.1 0 0.07 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

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THIS MAP IS NOT TO BE USED FOR NAVIGATION






Notes

Contra Costa County -DOIT GIS

Neroly Road/Empire Road APN 034-040-028



Legend

-  Board of Supervisors' Districts
-  City Limits
- Unincorporated
-  Streets
-  Building Outlines
-  Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

Notes

Contra Costa County -DOIT GIS

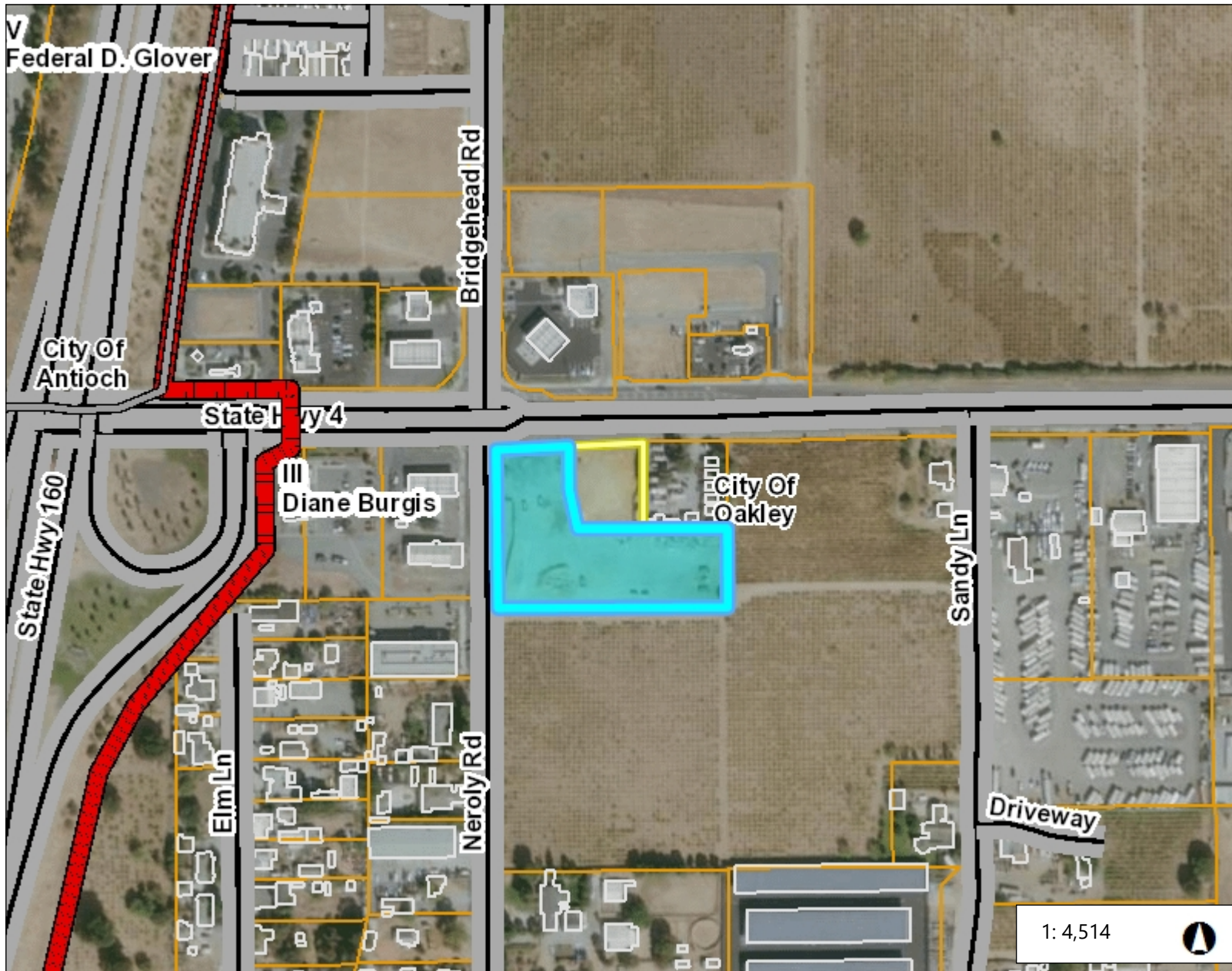
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

5400 Neroly Road APN 037-050-014



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
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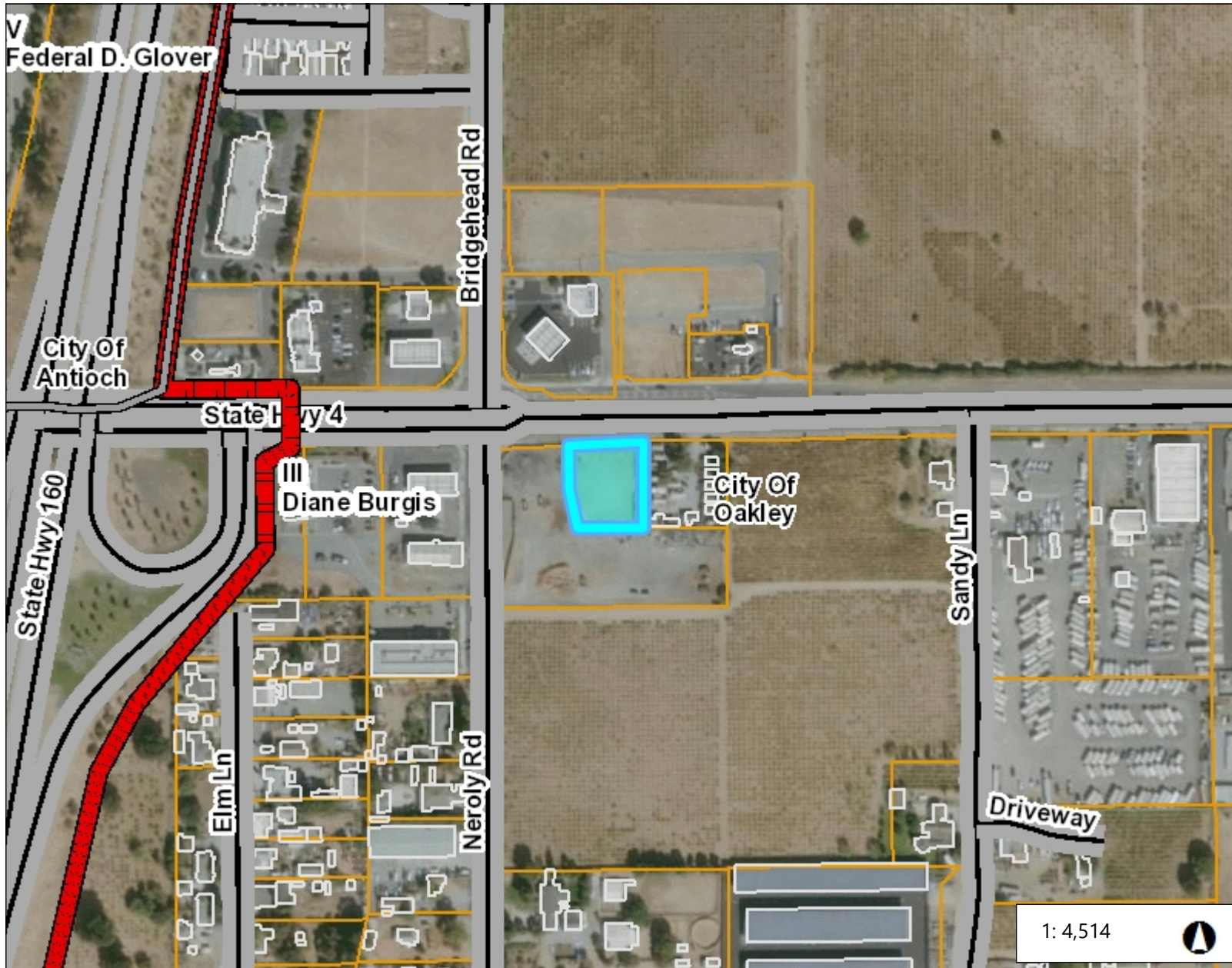
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Notes

Contra Costa County -DOIT GIS

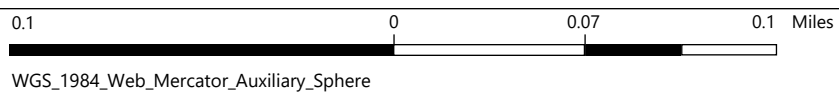
1033 Main Street APN 037-050-013



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

1:4,514



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

Contra Costa County -DOIT GIS

3960 Main Street APN 035-181-005



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

1: 2,257

0.1 0 0.04 0.1 Miles

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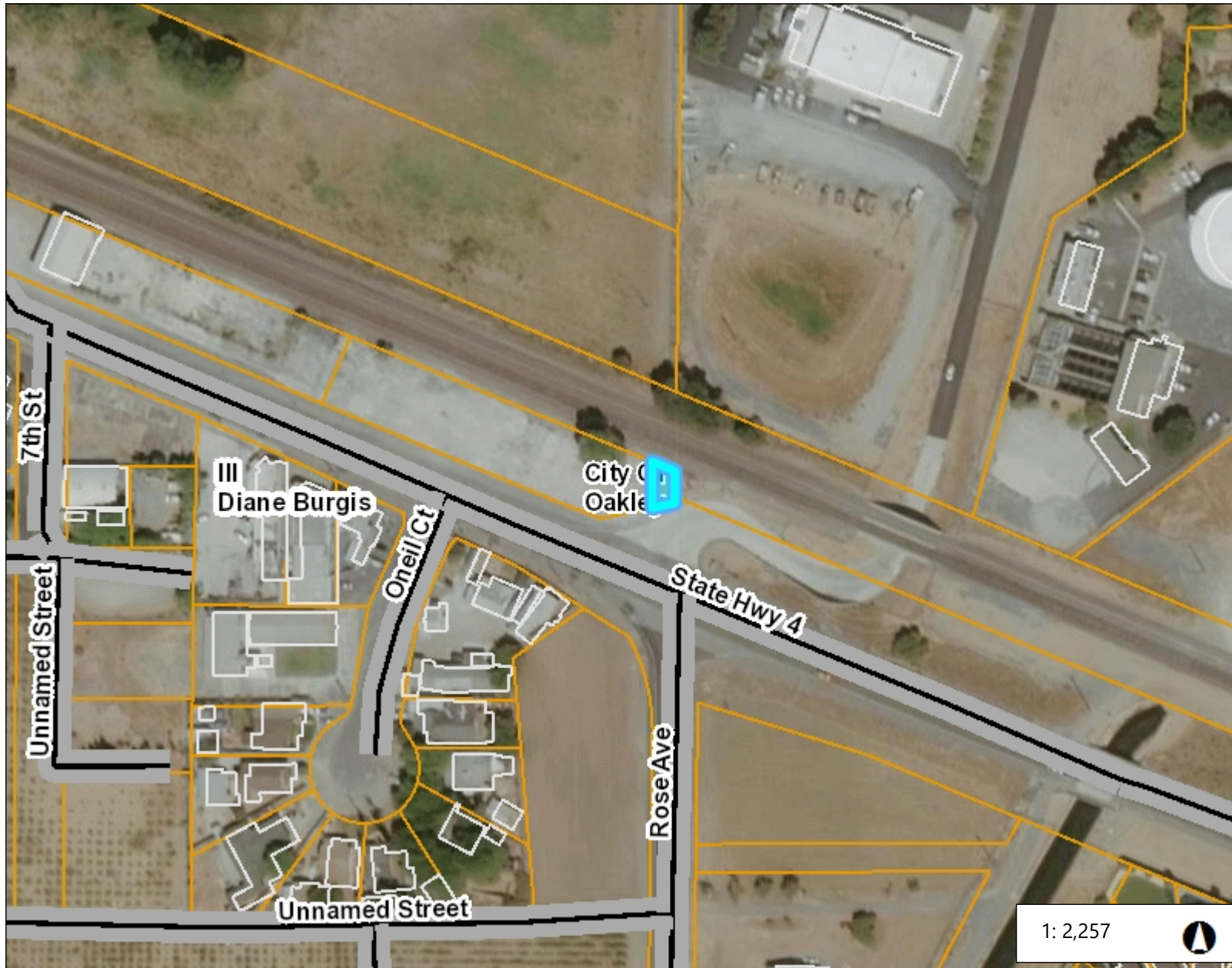
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Notes

Contra Costa County -DOIT GIS

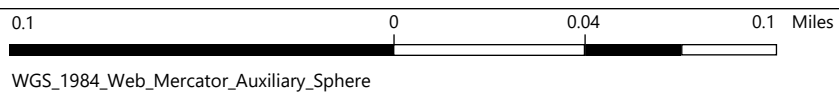
3960 Main Street APN 035-181-004



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

1: 2,257



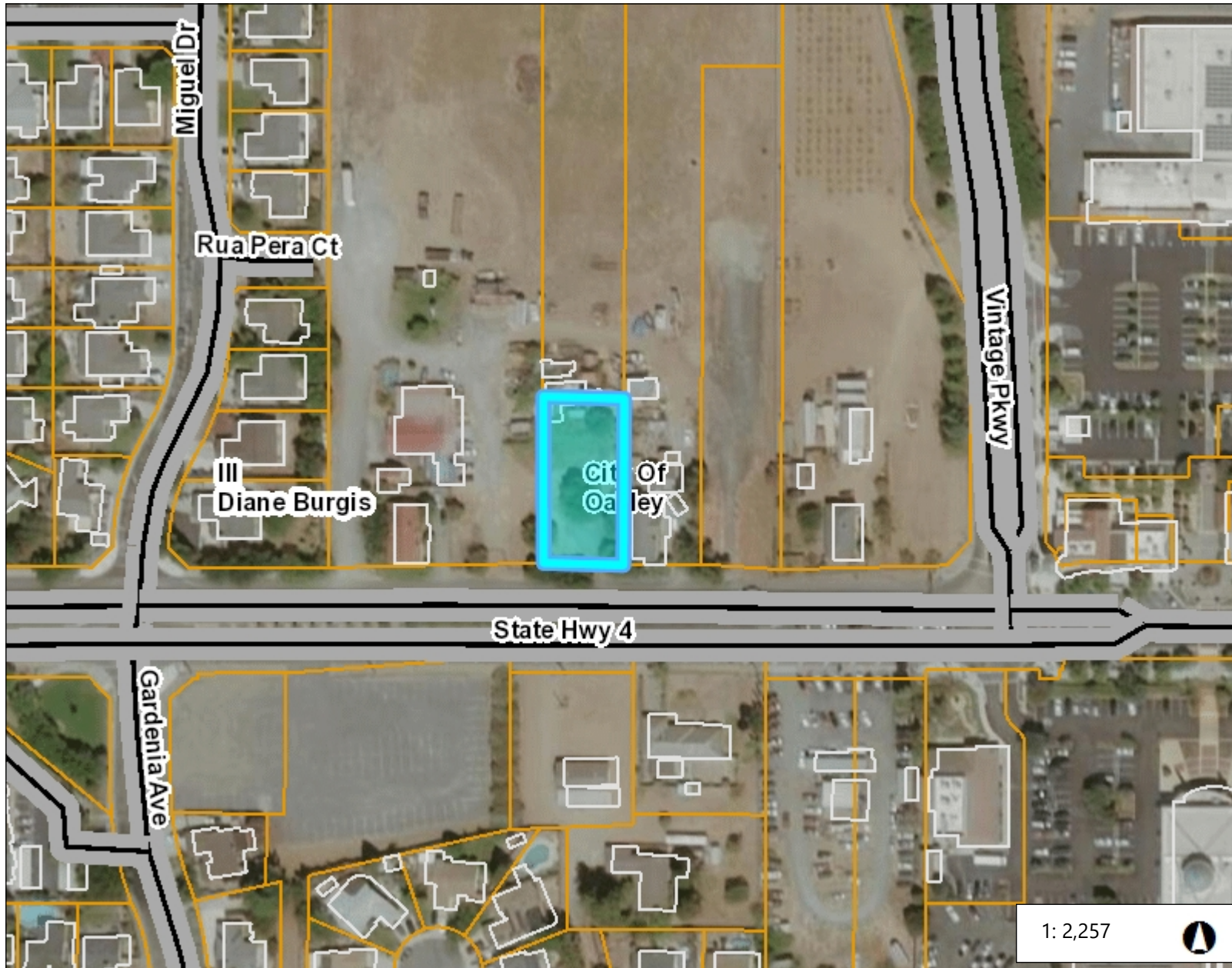
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Notes

Contra Costa County -DOIT GIS

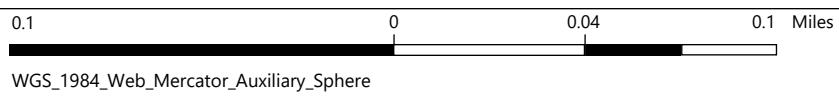
2950 Main Street APN 037-150-030



Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

1: 2,257



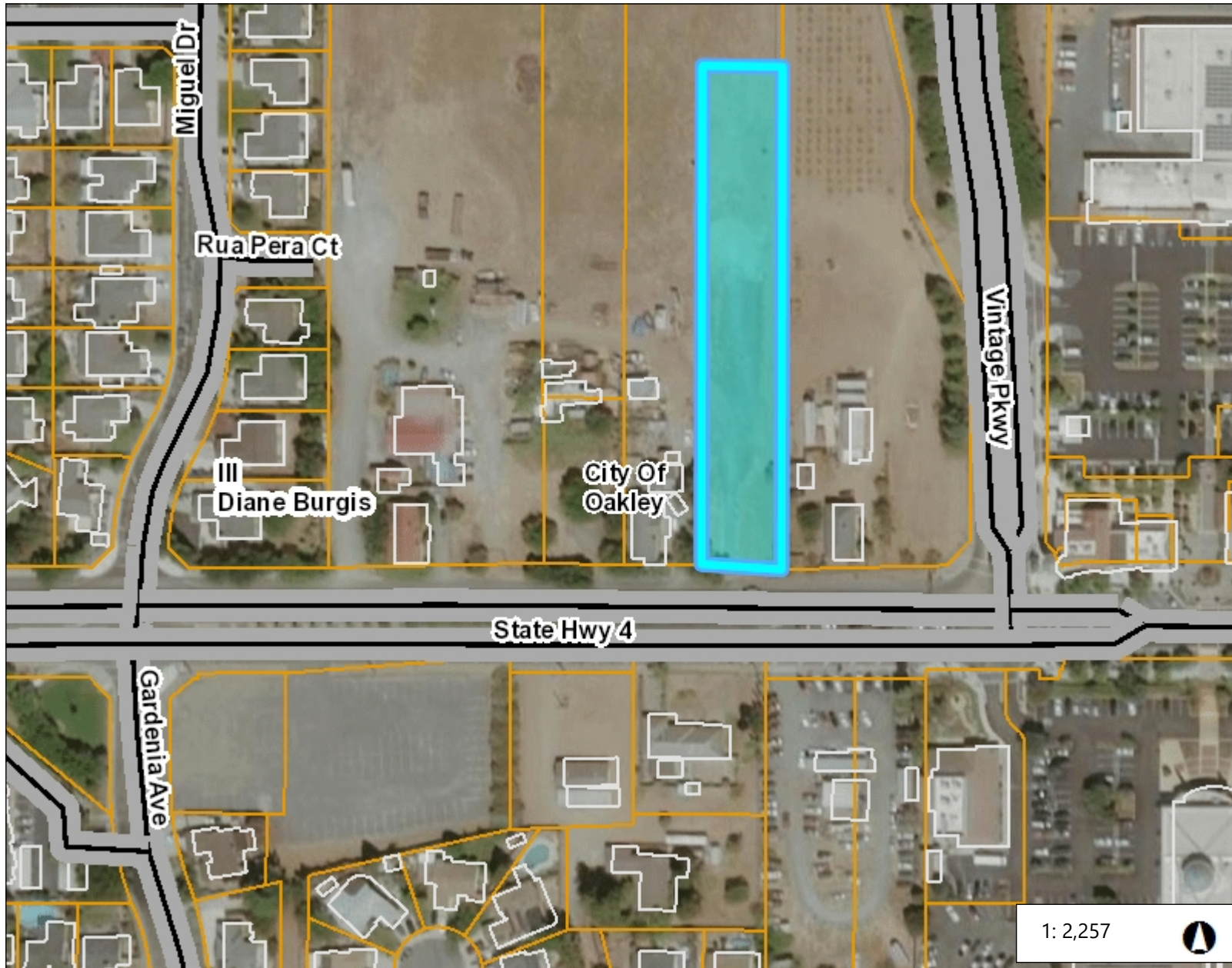
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Notes

Contra Costa County -DOIT GIS

2990 Main Street APN 037-150-026

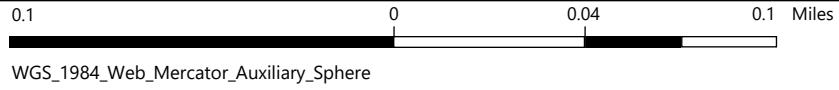


Legend

- Board of Supervisors' Districts
- City Limits
- Unincorporated
- Streets
- Building Outlines
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

Notes

Contra Costa County -DOIT GIS



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STAFF REPORT

Date: September 28, 2021
To: Joshua McMurray, Interim City Manager
From: Nancy Marquez-Suarez, Asst. to the City Manager/HR Director
SUBJECT: **Adopt Resolution Delegating Authority for Determining Industrial Disability to the City Manager Pursuant to Government Code Sections 21156 and 21173**

Summary and Background

The City of Oakley is a contracting agency with California Public Employees' Retirement System (CalPERS) for local safety and non-safety members. CalPERS administers a disability retirement program.

When CalPERS notifies a contracting agency that an application for industrial retirement has been filed with CalPERS, the Public Employees' Retirement Law (PERL) requires that the employing agency make two key determinations, (1) whether an employee is incapacitated or "disabled" from performing his/her job duties and (2) if so, whether his/her disability is an "industrial" disability. The determinations need to be based on competent medical or psychiatric opinion. The contract agency must then certify its determination to the CalPERS Board, which will approve or disapprove the application for disability retirement based on the contracting agency's determination.

Under PERL, an employee is disabled if his/her condition renders him/her substantially incapable of performing his/her work duties either permanently or for an extended, uncertain period of time exceeding twelve months. Under PERL, an employee's disability is "industrial" if the disability resulted from an injury or disease arising out of and in the course of his employment. Industrial disability retirements by law apply only to safety employees.

While non-safety (all other non-safety employees) are able to apply for Disability Retirement (non-industrial), CalPERS makes the final determination as to disability under PERL in these instances. Whereas, for safety employees, in both industrial disability and non-industrial disability applications, it is the agency who makes the determination and must then certify its determination to the CalPERS Board, with the

CalPERS Board approving or disapproving the application based on the contracting agency's determination.

The City Council may delegate its authority to (1) make determinations regarding disability under Government Code 21152 (c); (2) make determinations whether such disability is industrial; and (3) certify such determinations and all other necessary information to CalPERS.

The accompanying resolution is the sample resolution provided by CalPERS, delegating the authority to make these determinations to the City Manager. Staff recommends the delegation in order to protect employees from having their personal information disclosed in public. Furthermore, it should allow for the determinations to be made promptly, thus allowing the employee to more quickly be placed on the CalPERS' retirement roll. Keep in mind, by this stage in the process, it would not be unlikely for an employee to have exhausted Labor Code 4850 compensation (salary continuation at their full rate of pay for up to a year), temporary disability payments (two thirds of their weekly pay up to a cap) augmenting with their own sick, comp time and floating accruals (if they have not yet exhausted) and at this point may very well only be receiving advanced disability pension payments from the agency. Advanced disability pension payments are no more than 50% of the average monthly pay rate for the last three years.

Fiscal Impact

The cost of an industrial disability retirements are included in the annual employer contribution rates determined by the PERS Actuarial Division for each application.

Recommendation

Adopt the resolution delegating authority to make determinations regarding industrial disability to the City Manager.

Attachments

1. Resolution
2. Sample Resolution From CalPERS Resource Guide

RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY DELEGATING AUTHORITY FOR DETERMINING INDUSTRIAL DISABILITY TO THE CITY MANAGER PURSUANT TO GOVERNMENT CODE SECTIONS 21156 AND 21173

WHEREAS, the City of Oakley (hereinafter referred to as Agency) is a contracting agency of the Public Employees' Retirement System; and

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such Law; and

WHEREAS, the City Council of the City of Oakley has determined upon legal advice that it may delegate authority under Government Code section 21173 to make such determinations to the incumbent of the office/position of City Manager; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley delegate and it does hereby delegate to the incumbent of the office/position of City Manager, authority to make application on behalf of the Agency pursuant to Government Code section 21152 (c) for disability retirement of all employees and to initiate requests for reinstatement of such employees who are retired for disability;

BE IT FURTHER RESOLVED that the City Council of the City of Oakley delegate and it does hereby delegate to the incumbent of the office/position of City Manager authority to make determinations of disability on behalf of the Agency under Government Code section 21156 and whether such disability is industrial and to certify such determinations and all other necessary information to the California Public Employee's Retirement System.

PASSED, APPROVED AND ADOPTED this 28th day of September, 2021 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

SAMPLE RESOLUTION NO. 3 – DELEGATION OF AUTHORITY

RESOLUTION OF _____
(Name of governing body)

(Name of agency)

WHEREAS, the _____ (herein referred to as Agency)
(Name of agency)

is a contracting agency of the California Public Employees' Retirement System;

WHEREAS, the Public Employees' Retirement Law requires that a contracting agency determine whether an employee of such agency in employment in which he/she is classified as a local safety member is disabled for purposes of the Public Employees' Retirement Law and such disability is "industrial" within the meaning of such Law:

WHEREAS, _____ has determined upon legal
(name of governing body)

advice that it may delegate authority under Government Code section 21173 to make such determinations to the incumbent of the office/position of _____.
(title)

NOW, THEREFORE, BE IT RESOLVED:

that the _____ delegate and it does hereby delegate
(name of governing body)

to the incumbent of the office/position of _____, authority to make
(title)

application on behalf of the Agency pursuant to Government Code section 21152 (c) for disability retirement of all employees and to initiate requests for reinstatement of such employees who are retired for disability;

BE IT FURTHER RESOLVED that _____ delegate and it
(name of governing body)

does hereby delegate to the incumbent of the office/position of _____
(title)

authority to make determinations of disability on behalf of the Agency under Government Code section 21156 and whether such disability is industrial and to certify such determinations and all other necessary information to the California Public Employees' Retirement System.

(Signatures and other notations by governing body named including vote count)



STAFF REPORT

DATE: September 28, 2021

Approved and Forwarded to the City Council

TO: Joshua McMurray, Interim City Manager

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

SUBJECT: Approval of Consulting Services Agreement by Park Engineering, Inc. for On-Call services related to Private Development Projects Construction Management and Inspection Services

Background and Analysis

The City of Oakley utilizes a wide range of consultants and contractors across all departments to augment City staff as needed to accommodate the workload activities. One of the areas that this approach is used is in Private Development project services. Since the volume of private development activity fluctuates with the overall economic climate of the region, the Community & Economic Development and Public Works Departments use staff augmentation as needed to process and manage the development project workloads. This gives the City the ability to be responsive to the needs of development community while being cost effective. This approach gives the organization flexibility and agility to adjust to the level of service needed by private developers that frequently change as the regional economic climate changes.

The Community & Economic Development Department is responsible for all planning activities related to private development projects and inspection of the new structures that are built as part of these projects. The Public Works Department is responsible for managing the construction and inspection of all site related work, underground utilities, parks and landscaping, levees, and street infrastructure for the private development projects

The construction of two (2) of the largest residential development projects in Oakley are getting started. These projects are: the Grand Cypress Preserve and Summer Lake North and are located at the far eastern end of East Cypress Road from Jersey Island Road to Bethel Island Road. These new subdivisions will collectively construct nearly 4,000 new homes, in addition to major infrastructure improvements. These improvements are much needed in that part of Oakley, with levels of complexity that are unique to such large master plan development projects.

The magnitude of these two (2) development projects is far more than the current City staffing levels can accommodate and will require a construction team to manage and inspect these construction projects which will span several years.

Staff has reached out to four (4) local consulting firms that provide staff augmentation to municipalities for project construction management and inspection with an emphasis on expertise for levee and earthwork construction. The Grand Cypress Preserve and Summerlake North projects will construct major flood protection levees that will surround the new residential subdivisions, in addition to hundreds of thousands of cubic yards of earthwork and major hauling operations.

In response to staff solicitation from consultants, only Park Engineering, Inc.; a local Contra Costa County firm, stated that they could provide the construction management and inspection for the City of Oakley. Staff had follow-up meeting with this firm to refine the scope of work and expectations; and were made to feel comfortable that this firm has the technical expertise and experienced staffing to provide solid service to the City. Park Engineering, Inc. provides similar services to a number of other municipalities in Contra Costa County and their references were very happy with the services this firm has provided for their agencies.

The economic climate of the SF Bay Area has been booming, and continues to grow at a rapid pace. All municipalities, consultants, and contractors are keeping very busy in addition to absorbing the high construction costs.

Fiscal Impact

Approval of the resolution will authorize the Interim City Manager to execute a professional services agreement with Park Engineering, Inc. for a not-to-exceed amount of \$200,000 per fiscal year, beginning September 28, 2021 through June 30, 2024. Private development project deposits will fund the services on an as needed basis. There will not be any City General Funds used in this contract.

Staff Recommendation

Staff recommends that the City Council adopt the resolution approving the Professional Services Agreement with Park Engineering, Inc. for "On-Call" Private Development project Construction Management and Inspection services and authorizing the Interim City Manager to execute the agreement

Attachments

1. Resolution
2. Proposal

RESOLUTION NO. XX- 21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, APPROVING THE PROFESSIONAL SERVICES AGREEMENT WITH PARK ENGINEERING, INC. AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT FOR ON-CALL PRIVATE DEVELOPMENT PROJECTS CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES

WHEREAS, City of Oakley uses various consultants and contractors on an as-need basis to assist City staff on processing and managing private development projects; and

WHEREAS, Park Engineering, Inc. has been selected as the best suited firm to provide private development construction management and inspection services to the City; and

WHEREAS, the need for this type of private development construction support service has greatly increased primarily due to the large number of subdivision developments being approved and constructed; and

WHEREAS, the costs associated with the agreement will be funded by private development projects and not the City's General Fund; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley that the Professional Services Agreement with Park Engineering, Inc. is hereby approved, and the Interim City Manager is authorized to execute the agreement beginning on September 28, 2021 through June 30, 2024 for an amount not-to-exceed \$200,000 per fiscal year.

PASSED, APPROVED AND ADOPTED this 28nd day of September, 2021 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTENTIONS:

APPROVED:

ATTEST:

Sue Higgins, Mayor

Libby Vreonis, City Clerk

Date



September 20, 2021

Mr. Kevin Rohani, PE
Public Works Director/ City Engineer
Public Works Department
City of Oakley
3231 Main Street
Oakley, CA 94561

RE: Proposal to Provide City of Oakley As-Needed Construction Management
and Inspection Services for Private Development Projects

Dear Kevin:

Park Engineering, Inc. is very pleased to provide this proposal for As-Needed Construction Management and Inspection Services to the City of Oakley to oversee Private Development construction projects.

We understand that several large development projects are underway, and we are committed to the City to provide the resources needed to ensure that the development projects are constructed to the satisfaction of the City.

Kevin Emigh will be our Project Manager for this project and be the main contact with the City. Kevin will be responsible for providing the City with the appropriate Park Engineering resources for completing these projects. Kevin has been involved with major development projects for cities in Contra Costa County and understands the needs of private development projects. He will make sure that the City receives the staffing and support when needed.

As principal in charge, I will be responsible of any contractual issues and supporting the City and the project team where needed.

We are very excited to be working the City. If you have any questions or need additional information, please do not hesitate to contact me. I can be reached anytime on my mobile number at (925) 818-3756 or by E-mail at jpark@park-eng.com.

Orinda Office

372 Village Square
Orinda, CA 94563
Tel: 925-257-2508
Fax: 925-401-7030

Emeryville Office

3960 Adeline Street, #3
Emeryville, CA 94608
Tel: 925-257-2508
Fax: 925-401-7030

Sincerely,

A handwritten signature in blue ink that reads "Jaemin Park". The signature is fluid and cursive, with the first name "Jaemin" and the last name "Park" clearly distinguishable.

Jaemin Park, PE
President

Park Engineering will perform all the duties required the City needs to ensure that the development construction work meets the City's standards and those of regulatory agencies. We will be reporting to the City and representing the City on the project and to the public. Some of the tasks that we will be performing include but are not limited to:

PRE-CONSTRUCTION PHASE

- Perform constructability review of construction documents.
- Assist the City in developing construction standards and inspection documentation standards.
- Developing construction filing system.
- Developing standard forms for tracking materials incorporated into the work, reporting work performed, notifications of any deficiencies, resolution and acceptance, and other necessary forms for the management and inspection of the work.
- Prepare a pre-construction meeting agenda for Project Manager's review and comment. Conduct pre-construction conference with developer.

CONSTRUCTION PHASE

Construction Coordination

- Represent the City as the single point of contact for all communications and coordination between the developer, utility companies, regulatory agencies, local businesses and residents, and the testing firm.
- Report to the City's Project Manager, including sharing all correspondence, to ensure that the City is kept up to date on all project matters.
- Manage submittals from the contractor and review for compliance with City requirements.
- Coordinate, manage and respond to Requests for Information (RFI's) submitted by the contractor where City response is needed. Keep track of any responses between contractor and designer to ensure that the City is kept up to date on any issues or changes.
- Coordinate and conduct meetings with the contractor, designer and oversight agencies for RFI's, when appropriate to resolve and clarify complex issues.
- Schedule necessary quality assurance sampling and testing of materials for the project to ensure quality of materials meets the City standards.
- Answer questions from the public concerning the project work and schedule.
- Our resident engineers and construction inspectors will be available to answer questions on an ongoing basis. They will report the current status of the project's schedule to the City on a daily, weekly and monthly basis, as needed or requested.

Contract Administration

- Park Engineering will use a contract management system, which is based on the Caltrans Construction Manual and Caltrans Local Assistance Procedures Manual. Electronic forms and document control system will be implemented at project start up that will be customized to fit the needs of the City and the project.

- Park Engineering will receive all contractor correspondence and prepare and transmit responses with.
- We will review and approve contractor submittals when required by the construction contract plans and specifications including traffic control plans, Water Pollution Control Plans, and various mix designs.
- Park Engineering will review contractor's labor compliance requirements such as certified payrolls to ensure that any agreements and any regulatory requirements are met.

Schedule Control

- Review and approve change requests that require adjustments to City standards.
- Support all project work with documentation to meet the contract requirements for acceptance.
- Review contractor's planned schedule for conformance with the specifications and for reasonableness of the sequence and duration of the activities.
- Review work progress as compared to the planned schedule and notify contractor and City Project Manager of schedule slippage.
- Identify actual and potential problems associated with the construction project and recommend sound engineering solutions.

Construction Inspection

- Inspect the construction elements of the project as required by the construction contract plans and specifications.
 - ✓ Perform all field inspection activities to monitor compliance with the contract plans and specifications. Record all items of work, materials incorporated, materials tested, and any other pertinent information in a daily diary for permanent record of events.
 - ✓ Project photographs and video documentation of project progress and major work components will be done on a weekly basis and kept for permanent records to support disputes and verify quality for acceptance.
 - ✓ Schedule necessary quality assurance sampling and testing of materials for the project to verify compliance with the specifications.
 - ✓ Arrange for specialty inspection, such as welding inspection or source inspection of materials when needed to verify compliance with the contract.

Materials Testing

- Make arrangements to perform necessary quality assurance sampling and testing when needed.
- Analyze records of materials used in the project in accordance with ASTM and California Standard Test Methods.
- Review test data and materials certifications submitted by the contractor and suppliers for compliance with the contract requirements.

POST-CONSTRUCTION PHASE

- Conduct, review, and follow up on inspection work to assure completion of the contract including any punch list items of work.

- Inspect work as it is completed. Develop and issue punch list for any needed corrections as the work progresses.
- Perform final inspection of all work for acceptance.
- Review as-built drawings, report of completion and all required documents for project close-out for the City.
- Prepare and transition official construction records, record drawing and project files to the City.

LEVEL OF EFFORT

Based on the information that we have gathered to date; the construction management team will start with one construction manager/resident engineer with support from two construction inspectors. Staffing levels will be adjusted to match the workload and the City's requests. Below is a range of standard billing rates for the specific staff level.

SCHEDULE OF STANDARD BILLING RATES

Hourly Billing Rates for Proposed Disciplines to Meet Scope of Work:

Kevin Emigh, PE – Project Manager/ Construction Manager: \$180.00 Per hour

James Beauchamp, EIT - Assistant RE/ Construction Inspector \$140.00 Per hour

**3% escalation per calendar year in January.*

PROJECT TEAM

Kevin Emigh, PE will be the **Project Manager** of the team, providing oversight and managing Park Engineering resources. Kevin will perform periodic checks not only with the inspectors, but also the City to ensure satisfied results. Kevin will make sure that the City has the staffing needed when needed.

James Beauchamp, EIT, Sr. Construction Inspector

James has spent over 22 years in construction management and worked on major development projects including Dougherty Valley Development. James was involved with the parks, and schools at Dougherty in addition to the bridges, utilities, mass grading and roads. James has also worked on levees, creeks, trails and many other types of projects throughout the Bay Area.

KEVIN EMIGH, P.E., PROJECT MANAGER/RESIDENT ENGINEER/TECHNICAL SUPPORT

Years of Experience

33

Education

B.S. Civil Engineering, Cal Poly, San Luis Obispo 1988

Licenses and Registrations

Professional Engineer: California, #C50833, 1994

Key Qualifications

Kevin has 33 years of experience in engineering, project management and construction management of roads, bridges, utilities, flood control, airports, buildings and other structures, signals and lighting, landscaping and streetscapes, and other public works infrastructure projects. Kevin has extensive experience with project planning and funding, coordination with oversight agencies and funding agencies, and managing projects through design, project advertising and bidding, construction management and oversight, and project acceptance and close-out. He has thorough knowledge of public works construction standards, Caltrans standards including local assistance procedures, and Federal construction standards for FHWA, FEMA and FAA. Kevin has managed projects ranging in construction values of \$250,000 to over \$25 million. He was managed pavement rehabilitation projects including full depth reclamation (FDR), Cold-in-place Recycling (CIR), grind and overlay, micro surfacing, cape seals and slurry seals. Kevin has managed complete streets projects including bike lanes and pedestrian improvements, as well as complete new developments including new streets and bridges, signalized intersections, parks, playgrounds and all underground utilities including storm drains, water, sewer, electrical, gas, and communication. Kevin is an expert with local agency public works projects and has worked with municipalities throughout the San Francisco Bay Area for his entire career.

Representative Project Experience

Kevin spent majority of his career working for Contra Costa County Public Works Department, providing project management, construction management, construction administration, and design of roadway, bridge, and public works infrastructure projects throughout Contra Costa County. He has worked in the capacity of division manager, project manager, resident engineer, construction inspector, project engineer, and design engineer with the last 15 years of his career as the Design/Construction Division Manager in responsible charge of the design and construction of over 140 county roadway and flood control infrastructure projects totaling over \$400 million. He brings a very strong agency perspective on how to administer projects. He has contributed to numerous constructability/bidability reviews and value engineering studies. Below is a sample list of relevant construction projects that Kevin managed during this time at the County.

- **Contra Costa Local Streets and Roads Preservation Project, El Sobrante - \$5.5M**
This project was Phase 2 to the San Pablo Dam Road Walkability project. The road from El Portal Drive to Tri Lane (approx. 3.5 miles) was milled and overlaid. Signal loop detectors at seven intersections were replaced and striping was adjusted to maximize the inclusion of bike lanes throughout the length of the project. The second half of the project was placement of a micro-surfacing on Vasco Road from the county line approximately 5 miles to the north towards Brentwood. This work was done at night with significant traffic control for both the application of the micro-surfacing and pavement markings.
- **San Pablo Dam Road Walkability Project, El Sobrante - \$1.5M**
The project was located along San Pablo Dam Road between El Portal Drive to Appian Way in El Sobrante. The project included reconstructing and widening the sidewalks on both sides of the street through the business district, installing irrigation systems, tree wells and street trees, benches and trash receptacles. Daily coordination with fronting businesses was necessary both to mitigate their parking and access to their front doors. There was significant utility relocation during construction as

multiple PG&E vaults had to be relocated in the sidewalk areas. The project was community based and supported by the El Sobrante Municipal Advisor Council. The Historic Society had brass plaques made that were cast into the sidewalks to signify the businesses that had been in the area and deemed historic.

- **Balfour Road Shoulder Widening Project, Brentwood area - \$4.3M**

The project was on Balfour Road between Sellers Road and Bixler Road. The original plan was to widen this three miles stretch by 18 feet to the south to provide twelve-foot lanes with 8 foot shoulders. There was significant utility relocation both before and during the work. PG&E had to relocate a transmission line and AT&T had multiple telecom lines. During the widening it was decided to incorporate cold-in-place recycling to the entire existing road. The quantity of base failure repairs needed justified the change to have the contractor complete the full roadway rehabilitation. The CIR method using foaming emulsion alternative for the process was used.

- **Byron Highway and Camino Diablo Intersection Improvements, Byron - \$2M**

The project modified and raised the intersection of Byron Highway and Camino Diablo adjacent to the BNSF railroad crossing. Significant coordination was necessary with the RR both before and during the project to reconstruct their crossing, including approaches, crossing arms, electrical system and lighting and all of this had to be re-timed with the newly constructed signal at the intersection. Widening was done on the approaches on Byron Highway to provide a left turn lane for the signal and to improve drainage for the area. The existing drainage system was modified, and new pipes and inlets installed along with water quality features at the outfalls.

- **Buchanan Field Airport Runway Reconstruction - \$4.8M**

The first of the two major runways at Buchanan Airport was reconstructed using cold-in-place recycling(emulsified asphalt) methods. FAA initially required a full depth reconstruction, but a cement treated base was found under the old pavement. Recycling the old asphalt was approved by FAA so CIR was allowed as an option. A new 2-inch overlay was placed on the CIR base and all new airport lighting was installed along with new runway pavement markings.

- **Kirker Pass Reconstruction and Overlay, Pittsburg area - \$1.2M**

Kirker Pass Road was reconstructed from just east of North Hess Road and the Pittsburg city limit. The contractor utilized cold-in-place recycling (emulsified asphalt) method on the entire stretch of road. Edge grinding at the median was necessary to re-establish the drainage patterns and not bury the scuppers and a rubberized asphalt overlay was applied the reconditioned based material. The raised median at the intersection of Nortonville Road was reconstructed and new high reflective signs were installed and new thermoplastic striping was applied to the entire project.

- **Port Chicago Hwy and Willow Pass Road bike and Pedestrian Improvements, Baypoint - \$750,000**

This project included widening of Port Chicago Highway and Willow pass Road to provide for construction of a continuous sidewalk from Weldon Street to Weldon Lane (approx. 1500'). The newly widened area also provided a bike lane and connectivity to the Delta De Anza Trail. The signal was modified with new mast arm for the new lane configurations, the detectors were replaced, and a new controller installed.

- **Buchanan Field Airport Hangar Improvements - \$650,000**

This project was on the airport property, but outside of FAA jurisdictional areas. The access bay pavement between the aircraft hangars were reconstructed using full depth reclamation (FDR) process. Over time and due to the proximity to Walnut Creek Channel, the subgrade held moisture and the pavement had severe deterioration and cracking. FDR was used to reconstruction the structural section, re-grade the section to drain and then overlaid with 2 inches of Type A HMA overlay. The electrical lighting systems were also upgraded that connected the area to the adjacent taxiways.

- **Kirker Pass Road Northbound Truck Climbing Lane - \$15M**

The project improved safety and reduced congestion along Kirker Pass Road by constructing a truck climbing lane in the northbound direction. The project is approximately 1 mile in length, beginning at the Concord Pavilion and ending at the northern Hess Road intersection. Road widening required significant retaining walls due to the existing slopes and drainage adjacent to the roadway. The project also includes pavement rehabilitation on the north and south bound lanes between the City of Concord/County limits to approximately 4,200 feet north of North Hess Road for a total of about 1.6 miles. The total project length is about 2 miles. The project is funded by Federal grants, State SB1 funds, and local County funds.

- **San Pablo and Wildcat Creeks Levee Remediation - \$2M**

FEMA mandated levee remediation to raise freeboard to 100-year flood requirements. Work involved installation of sheetpile walls, levee fill, concrete walls, and HMA pavement to raise levee roads. The project required close environmental monitoring and coordination with various entities including East Bay Regional Park District and County Flood Control District. The project was funded by local County funds and State funds.

- **Vasco Road Safety Improvements Project, Phase I (Federally Funded) - \$8.5M**

This \$8.5 million transportation safety improvement project included construction of a half-mile concrete median barrier, widened approximately 1 mile of Vasco Road, widened one single span bridge, constructed drainage, stormwater and erosion control facilities, constructed wildlife crossing systems, directional fencing and Kit Fox and Tiger Salamander jumpouts, and a new concrete retaining wall, MSE wall, (2) soldier pile walls and (2) soil nail walls.

- **Dougherty Valley Development, Contra Costa County, San Ramon, CA**

This project was constructed by Contra Costa County as the Dougherty Valley Development that was turned over to become part of the City of San Ramon. The development included numerous individual projects ranging in construction cost between \$100,000 and \$20,000,000. These were federally funded projects and developer funded projects and consisted of County oversight and inspection of brand-new city roadways, traffic signal installations, various types of box culvert construction, concrete box girder bridge construction, parks, schools, storm drain and new utility installations. Some specialty projects included the construction new schools (K-12), high school artificial turf soccer field, and parks.

JAMES BEAUCHAMP, EIT

CONSTRUCTION ENGINEER/ASSISTANT RESIDENT ENGINEER/CONSTRUCTION INSPECTOR

Years of Experience

22

Education

B.S. Civil Engineering, Cal Poly San Luis Obispo, 1999

Certifications and Training

Engineer in Training (EIT) #646, Jan-2006
 Class 1 Operator – Water Treatment
 Confined Space Certified

40-Hour HazMat Certified
 Class 2 Operator – Water Distribution

Key Qualifications

James Beauchamp has spent over 22 years in the construction industry working as a construction inspector for Caltrans and other public and transit agencies on public works and highway construction projects. He is proficient in the execution of construction contracts, as well as construction inspection at the city, state and federal levels. His experience includes oversight for projects that include concrete bridges, pipeline, water and sewer, water treatment, roadway and freeway AC installation, pile driving, new and existing city intersection and streetscape construction/rehabilitation, and utilities. James believes in giving his best to his work, and works diligently to complete projects successfully, on time and within budget. He can work independently with the contractor and as a member of a team to get the project to a successful completion.

Project Experience

- **San Rafael Street Resurfacing 2018-2019, City of San Rafael, CA - \$2.8M**
 James is the Construction Inspector on this project that includes installation of hot mix asphalt and/or micro-surfacing treatments at various locations throughout the City. This project also includes installation of ADA compliant curb ramps, curb, gutter, and sidewalk.
- **Measure Q Pavement Repair Project 8, City of Concord, CA - \$1.3M**
 James was the Construction Inspector on this locally funded street improvement project that resurfaced multiple local roads, along with installation of replacement pavement delineation. Work also included new concrete curb & gutter, ADA compliant curb ramps and cross street valley gutters. James worked closely with the City and construction contractor to keep the public informed of the upcoming work to minimize No Parking impacts.
- **2017 Storm Damage Slide Repair Projects, City of San Rafael, CA - \$1.8M (combined)**
 James was the Construction Inspector on three simultaneous slide repair projects, resulting from the heavy rains of the 2016/17 winter months. These FEMA funded slide repair projects include the installation of soil nail/tie-back retaining walls and regrading of adjacent slopes at three private property locations. Work also includes drainage improvements, slope stabilization and roadway restoration above and/or below the slide areas. James is working closely with City staff on this high public interest projects, especially the residents directly impacted by the slides.
- **Chilco Street Utility Undergrounding, City of Menlo Park, CA – private development (Facebook)**
 James was the Construction Inspector for the City on the developer permit project that replaced existing storm drain, domestic water system, reclaimed water systems and sewer related to the Facebook Campus development. James was the full-time inspector to ensure contract compliance by the developer’s contractor building the facilities that the City took over upon completion.
- **2017 Annual and Measure J & L Paving Rehabilitation Project, City of Orinda, CA - \$10M**
 James was the Assistant Resident Engineer/Construction Inspector on this citywide pavement rehabilitation project. The project work consisted of improvements occurring on 65 different streets

within the City. Roadway rehabilitation was primarily through Full Depth Reclamation (FDR) with an HMA overlay, extensive drainage and concrete curb & gutter replacement work. Other work consisted of utility adjustments, replacement of HMA dikes & swales and roadway delineation. The project was locally funded with the use of both City funds and Contra Costa County Measure funds.

- **Moraga Road Utility Undergrounding, Sidewalks & Pavement Resurfacing Projects, Town of Moraga, CA - \$2.7M**

James was the Assistant Resident Engineer/Construction Inspector on these three projects for the Town of Moraga that were construction simultaneously.

- ✓ **Utility Undergrounding, \$1.7M**

A Rule 20A project with PG&E for the Town to convert existing overhead utilities to new underground facilities along one of the main roadways for the Town. Work consisted of extensive daily traffic control for vehicles and pedestrians to perform the installation of new joint trench and utility vault systems. Work performed not only for PG&E, but also AT&T and Comcast relocation to underground facilities. Close coordination with utility crews was also necessary for each utility performing their conversion work to underground, while maintaining service to the existing residents along Moraga Road. The project also required coordination with other Town construction projects along Moraga Road and for projects utilizing Moraga Road as their project's detour.

- ✓ **Bicycle & Pedestrian Improvements, \$160k**

A federally funded project to construct about 300 LF of sidewalk to connect two critical side streets along Moraga Road. Project required reconstruction of residential driveways, coordination with the local post office and the Town's concurrent Utility Undergrounding Project.

- ✓ **Resurfacing Project, \$800k**

A federally funded project that will remove and replace the top 3-inches of existing Moraga Road from St. Mary's Road to Draeger Road. With the majority of the project consisting of only a 2-lane road, daily one-way traffic control will be required to complete the contract work on one of the Town's busiest roadways. Advance notice and monitoring of traffic control will be critical to the community outreach on the project. Concrete curb ramps, base failure repairs, slurry seal and final pavement delineation will also be a part of the contract work. This project is anticipated to start in early spring of 2017.

- **California Avenue Streetscape Project, City of Palo Alto, CA - \$6.9M**

James was the Assistant Resident Engineer/Construction Inspector on this streetscape and street improvement project, which included the widening of sidewalks, creation of two new plazas near Park Avenue and Birch Street, a new fountain near the Caltrain station, new street furniture, new streetlights and landscape elements and a reduction of lanes from four to two. The work also involved the replacement of an old water main under California Avenue.

- **San Francisco International Airport Runway Safety Area Program, San Francisco, CA - \$223M**

James was the Assistant Resident Engineer/Construction Inspector on this federally mandated runway safety area program at San Francisco International Airport constructed in two phases, that involved the lengthening of runways, installing Engineered Material Arresting System (EMAS) and installing new runway lights. The project works included demolition, excavation, grading, PCC and HMA paving, electrical and lighting and installing engineered material arresting system. Coordination with operations and traffic control tower to ensure that all work is completed without disrupting airport operations. Because SFO is essentially landlocked, construction options were limited. The airport's four intersecting runways are sandwiched between the San Francisco Bay on the right and Highway 101 on the left. Extensions sufficed for the airport's two longest runways, known as the 10-28s. But improving its North-South runways, 1R-19L and 1L-19R, involved installing an Engineered Material Arresting System (EMAS) from Zodiac Aerospace on both ends of both runways. Each is a bed of

crushable concrete material similar to those used for runaway truck ramps on highways. James provided day to day inspection of contractor's work, documenting all work in daily reports including photos, measuring and verifying quantities, scheduling materials testing, and coordinating with airport operations. He also supported responses to RFI's, Contra Change Orders, submittals, and project schedules.

- **Oakland International Airport Taxiway Project, CA - \$25M**

James was the Assistant Resident Engineer/Construction Inspector on this taxiway improvement project at Oakland International Airport. The project was part of the Port's preparatory work for the federally mandated Runway Safety Area Program. Project work included demolition, excavation, grading, and PCC and HMA paving. Coordination with airport operations, and adjacent contractors for the BART Oakland Airport Connector Project was required. James provided day to day inspection of contractor operations, preparing daily reports, scheduling materials testing, project documentation and filing, correspondence, responding to RFI's and CCO requests, and providing oversight to BART contractors representing the Port.

- **VTA Freight Rail Relocation, Santa Clara Valley Transportation Authority, San Jose, CA - \$35M**

James was the Assistant Resident Engineer/ Construction Inspector on this project to relocate Union Pacific freight rail lines in the Cities of Fremont and Milpitas. This project consists of relocating freight rail tracks to clear UPRR right of way purchased by the VTA. This work includes the relocation of Kinder Morgan and Chevron petroleum pipelines by means of horizontal directional drilling under existing roadways and creeks. The bores are up to 6000 lineal feet in length and up to 130 feet in depth. This contract also includes the relocation of fiber optic lines for MCI, Verizon, Sprint, AT&T, Quest, and Level 3 by means of horizontal directional drilling and installation of joint trenches. It also includes \$30M of improvements, including the construction of box culverts at four creeks, demolition of two existing railroad bridges, seismic retrofit of the Able Street Bridge, modification to existing grade crossings at Kato and Dixon Landing roads, construction of new embankment and trackway for new freight rail tracks. This project also requires close permit coordination with the City of Fremont, City of Milpitas, Santa Clara Valley Water District, Department of Fish and Game, Army Corp of Engineers, Regional Water Quality Control Board.

- **Roadway Realignment, Town of Tiburon, CA**

James was Resident Engineer for roadway and median realignment of Tiburon Boulevard. His duties included management of the contract according to the State of California Standard Specifications; including Caltrans ROW permitting, design plan review, tracking of quantities, progress payments and change order review.

- **On-Call Construction Management and Inspection (Dougherty Valley Development), Contra Costa County, San Ramon, CA,**

James was Resident Engineer for County Public Works on a variety of projects ranging in construction cost between \$100,000 and \$20,000,000. These were federally funded projects and developer funded projects and consisted of County oversight and inspection of brand new city roadways, traffic signal installations, various types of box culvert construction, concrete box girder bridge construction, parks, schools, storm drain and new utility installations. Some specialty projects included the construction new schools (K-12), high school artificial turf soccer field, and parks. Responsibilities also included overseeing day to day construction activities, supervising both County and consultant inspectors, and coordination with developers, utility companies, local City representatives, and closeout acceptance with the Town of San Ramon and Contra Costa County.

- ✓ **North Dougherty Road Bridge, Contra Costa County, CA**

James served as the Resident Engineer for a CIP 310'L X 129.5'W box girder bridge supported by, 5 – 72" columns cast on 78"X 140' CIDH Piles, and abutments. James' duties included coordinating with all parties, including the Town of San Ramon Public Works, the developer, the contractor, County engineering, Fish and Game, and other creek protection and utility agencies. Duties also included providing direct supervision over County and consultant inspectors, inspecting the project according to plans, incorporating the State of California Standard Plans and Specifications dated July 2002 and special provisions, determining/verifying grades utilizing 4-scale drawings, observing fully-cased CIDH excavating operation (oscillator/excavating crane method), observing reinforcing steel (verifying size, grade, spacing and clearance), observing concrete placement, and sampling / casting compressive strength test specimens according to Caltrans testing methods 539/540, as well as pile driving operations at the abutments and verifying blow counts, and observing erection of falsework and earthwork (including grading of creek and rock slope protection installation) and SWPPP management.

✓ **South Dougherty Road Bridge, Contra Costa County, CA**

James served as the Resident Engineer for this CIP 295'L X 123'W box girder bridge supported by, 8 – 60" columns cast on 66"X 110' CIDH Piles, and abutments. James' duties included coordinating with all parties, including the Town of San Ramon Public Works, the developer, the contractor, County engineering, Fish & Game, and other creek protection and utility agencies. Duties also included providing direct supervision over County and consultant inspectors, inspecting the project according to plans, incorporating the State of California Standard Plans and Specifications dated July 2002 and special provisions, determining/verifying grades utilizing 4-scale drawings, observing fully cased CIDH excavating operation (oscillator/excavating crane method), observing reinforcing steel (verifying size, grade, spacing and clearance), observing concrete placement, and sampling / casting compressive strength test specimens according to Caltrans testing methods 539/540, as well as pile driving operations at the abutments and verifying blow counts, and observing erection of false work and earthwork (including grading of creek and rock slope protection installation) and SWPPP management.

• **South Trunk Sewer Line: Forensic Exploration and Rehabilitation, City of Dixon Public Works, Dixon, CA – \$2 M**

James was the construction inspector for the City of Dixon's project to excavate and evaluate the reasons their 3- year- old, 1 million dollar 42" VCP sewer main was never used. The main was found to have an influx of ground water 10 times over acceptable rates. James was responsible for overseeing the replacement construction of all (30 each at approximately 20' deep) manholes, which were cast in place bases with 60"/84" to 36" pre-cast, T-lock lined segment towers, as well as localized segment linings and pressurized joint grouting. Work was conducted throughout the winter, thereby requiring a massive dewatering effort and SWPPP management. Included in the project was the coordination of all third party individuals (involved with the original construction) interested in observing the excavation, forensics and testing of the original system. James was requested to give a deposition on the forensic results determined from the excavation and removal of the existing system and he participated in the resulting court proceedings as an expert witness for the City of Dixon. Major efforts were conducted to project endangered species on or adjacent to this project.

• **Fairmont Ave Construction and Rehabilitation, City of El Cerrito Public Works, CA - \$2 M**

James was the primary construction inspector for the rehabilitation and beautification of 6 blocks of Fairmont Avenue from San Pablo Avenue to Coronado Street. This project included the realignment of sidewalks, curbs and gutters, lane modifications, new street lighting, new signal installation and irrigation. Fairmont Avenue is an urban artery in the downtown area of the city and one of James'

daily focus points was moving traffic through and around the construction areas with little disruption. His inspection services entailed verifying all street cuts, demolitions, and excavations, installations of the underground systems and inlets, and all materials used in this project. This was a highly visible project, with intense vehicle and pedestrian control, including a local school for the blind, active local businesses, a shopping mall and a BART station that all had to work smoothly during construction.

- **Manganese Water Treatment Facility Construction, City of Lathrop Public Works, CA - \$2.8 M**
This project involved the construction of a Well #21 Manganese Water Treatment Facility for the City of Lathrop. It was one of three new facilities being constructed to accommodate the massive area population growth. This site consisted of a double Manganese Tank – water filtration system, external back flush tank and pond with a main Control Building. James was responsible for the implementation of all design standards during construction, negotiations with the contractor and the city, as well all material testing, construction, system flushing and final water quality testing. He was also responsible for SWPPP management and water quality testing.
- **Mokelumne No.3 Aqueduct Seismic Upgrades, East Bay Municipal Utility District (EBMUD), Holt, CA - \$30 M**
James was a construction inspector for the Seismic upgrading on the No. 3 - 10 ft. diameter, above-ground Mokelumne pipeline, which was the largest of three pipelines that transported water from the Pardee Dam across the San Francisco Bay Delta wetlands. James performed field inspections and negotiated pile acceptance for the 60'x 12" steel 'H' pile driving operations to reinforce the existing pile caps, the construction review of the expanding pile caps, as well field support for the installation of new seismic cross bracing and dampener systems. He was also responsible for SWPPP management. Major efforts were conducted to project endangered species on or adjacent to this project.
- **I-880 at U.S. 101 Widening Project, Valley Transportation Authority (VTA), Santa Clara, CA**
James was the construction inspector responsible for segments of the final paving on the Highway 880 widening project. He was responsible for inspecting and documenting the construction of the newly aligned on and off ramps, AC mainline freeway paving of additional new lanes and final overlays of the entire freeway sections. Highway 880 was closed in one direction or completely during the work that was performed at night. James reported directly to Caltrans during this time. Safety was a vital issue with the freeway closures as well as construction alongside active traffic.
- **U.S. 101 / Bailey Ave Interchange Improvements, VTA, San Jose, CA - \$23.6 M**
James assisted the Resident Engineer in the administration of this project, which involved the construction of a new freeway interchange to connect Bailey Avenue with Route 101 in the city of San Jose and County of Santa Clara. It included entrance and exit ramps, an over-crossing structure and a bridge over Coyote Creek. He performed field inspection, checked the contractor's work for compliance with the plans and specifications, documented contractor activity in daily reports and prepared calculations and documentation of pay quantities for work performed by contractors. Coordination with various regulatory agencies was also necessary for the work involving the Coyote Creek. He was also responsible for SWPPP management. Major efforts were conducted to project endangered species on or adjacent to this project.
- **Bay Meadows Mix-Use Facility Construction, City of San Mateo Public Works- \$28 M**
James was the construction inspector for the developer- built, Bay Meadows Mixed–Use Facility as well as various other public works construction projects throughout the City of San Mateo. Reporting directly to the City's construction manager, James provided inspection, project documentation and reporting for city encroachment permit work, street resurfacing, sewer main installation, city

roadways and intersection realignment, traffic signal installations, relocation of underground utilities, and permit inspection.

- **Bay Area Rapid Transit (BART) Fiber Optic System and Cell Tower Network, \$30K to \$4.5M**
James was a construction inspector and civil engineer for BART Telecom Revenue Division. He helped design cable structure above ground and through tunnel sections, which included multiple access points for 3rd party customers at city train stations and along the ROW. The engineering and designs were tricky because the cable systems needed to weave through an electrified (64K Volts) train system that was designed to run people and trains only. This was a new fiber system that had to find a continuously protected path through the maze of existing utilities, 70 mph trains and the flow of pedestrians. James helped manage the sub-contracting crews and contracts, inspected the construction of track line fiber-optic artery systems and cell towers within the BART ROW.
- **Field Superintendent, MFSNT Communications, Adesta, CA**
Mr. Beauchamp supervised a crew of field engineers overseeing construction crews, with regard to the design engineering; city, state and federal permitting; traffic control; construction and closeout of an 8-duct fiber-optic system through 17 Bay Area cities, stretching from San Francisco to San Jose.
- **Contracts Manager, MFSNT Communications, Adesta, CA**
James oversaw most aspects of the project finances, schedule and monthly progress payments of sub-contractors and suppliers. Work consisted of constructing fiber-optic network loops all around the San Francisco Bay Area. James was also responsible for reporting finances and work progress directly to the owners such as: MCI, WorldCom, Level 3, Williams, BART, Sprint, and AT&T.
- **Field Engineer, Caltrans District 5, Monterey, CA**
James monitored and inspected the seismic retrofit of three 1930's concrete arch bridges along Highway 1. He also participated in the emergency erosion control of landslides south of Lake Tahoe, California. James was responsible for all aspects of the project including contract administration, coordinating construction staking and materials testing, coordinating with utility companies and other agencies. He was responsible for document control, coordinating with various agencies, coordinating construction inspection, and providing as needed construction inspection.
- **Field Superintendent, Metropolitan Fiber Systems. Peter Kiewit Telecom Division**
James, with a small team of field engineers, engineered and surveyed a 1,000-mile fiber-optic system route for the Alyeska Pipeline Company during his pursuit of his Civil Engineering degree. He supervised multiple crews of sub-contractors for the construction of the 200-mile Southern leg of the system. Work in the Alaskan outback was arduous and included river boring, trenching, plowing, rock cutting, and cliff rock mounting of fiber optic conduits, State and Federal permitting, private and public relations, bartering of property rights, field reporting; quantities, T&M, production, accidents. James was the sole field contact and personally responsible within his sector for all construction, accidents, environmental restrictions and safety while along the pipeline.

Districting the City of Oakley



Karin Mac Donald
Q2 Data & Research, LLC
August 31, 2021

The California Voting Rights Act

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- The 2001 California Voting Rights Act (CVRA) expands on the Federal Voting Rights Act by making it easier for members of a protected class to prove that at-large elections ‘dilute’ their voting strength.
- Many jurisdictions including Cities and Special Districts throughout California have transitioned from ‘at-large’ to ‘by-district’ elections prompted by the CVRA
- Other jurisdictions have decided on their own to transition to ‘by-district’ elections.

The Process

3

- The CVRA has strict timelines and requirements for hearings
- There are 5 hearings that must take place
- 2 hearings must be held prior to creating a draft map
- Draft map(s) must be posted for feedback
- At the fifth hearing, the Council can adopt the new district boundaries
- The process the City of Oakley is entering into is called 'districting'

Criteria and Laws

4

- U.S. Constitution
 - Population Equality
- Federal Law
 - Voting Rights Act
- California Elections Code
 - Process and Criteria

Criteria for mapping:

5

- There are 5 Criteria used for drawing districts
- Equal population
- Compliance with the Federal Voting Rights Act (FVRA)
- Contiguity
- Compactness
- Respect for Communities of Interest

- Also: disregard Incumbents, Candidates and Political Parties

Criterion 1: Equal Population

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- The US Constitution requires districts to have reasonably equal populations, e.g., “one person, one vote”
- 14th Amendment (Equal Protection)
 - Prohibits intentional discrimination because it is a violation of equal protection (the jurisdiction is treating residents differently because of race, and thus not according them equal protection under the law).
- 15th Amendment
 - Bans racial discrimination in voting

Ideal Population Per District

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To Compute the ideal population for each type of district:

$$\text{Total population} \div \# \text{ of districts} = \text{Ideal POP}$$

Oakley total Population from 2020 Census: 43,357

Ideal population for Oakley City Council Districts?

$$43,357 \div 5 = 8,671 \text{ people per/district}$$

How Equal Is Equal?

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- Different standards for different jurisdictions
 - Congressional Districts held to ‘strict scrutiny’
 - Lower level districts have more flexibility
- Districts must be reasonably equal
 - Some deviation above and/or below the ideal population is allowed
 - Generally up to $\pm 5\%$ is used in FVRA compliance

Criterion 2: Federal Voting Rights Act (FVRA), Section 2

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- Prohibits the denial or abridgement of voting rights on the basis of *race or language minority status*. (42 USC § 1973)
 - FVRA defines “language minority” as Asian, Native American, Alaskan Native or Spanish heritage. Does not apply to other language groups.
- Prohibits practices that have the purpose or effect of discriminating on the basis of race or language minority status.
- Applies nationwide, to ALL jurisdictions that conduct elections.

FVRA and districting: Vote Dilution

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- Electoral systems can limit the “ability to elect a candidate of choice” by a protected class of voters in various ways:
 - Example: at-large election systems can make it impossible for even a large minority group to elect a candidate of choice, when the majority votes against them.
 - Example: single-member districts can be drawn in ways that minimize voters’ ability to elect a candidate of choice.
- Systems that limit ability to elect in this way are said to “dilute” minority voting strength.

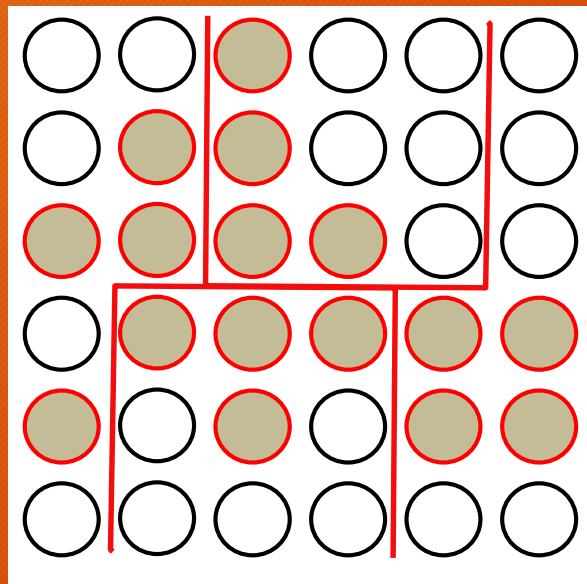
FVRA Section 2: Methods of Vote Dilution

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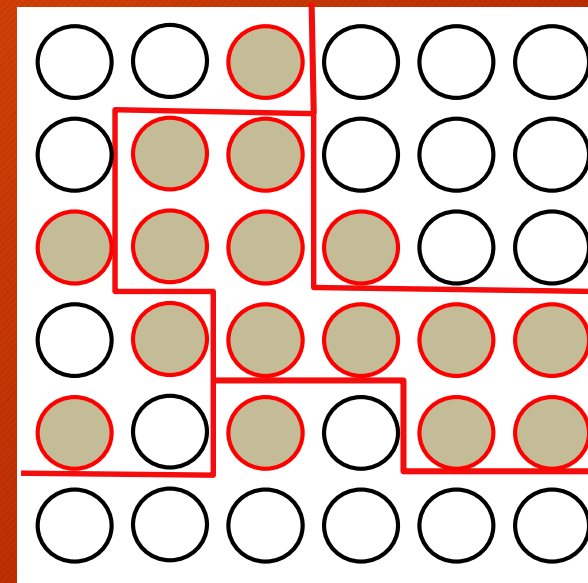
- A districting plan can dilute minority voting strength through two main ways:
- “Cracking”
 - Dividing up a politically viable population concentration so it doesn’t constitute a majority in any district.
- “Packing”
 - Drawing high proportion minority population into one district when it could be politically viable in more than one district

FVRA Section 2: Methods of Vote Dilution

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“Cracking”



“Packing”

Race and Districting

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- Supreme Court opinions have limited the role that race can play in districting
- Race cannot be the predominant criterion in line drawing
- Race should not subjugate “traditional districting principles” (Compactness, Contiguity, Communities of Interest)
- District appearance has been important in some cases.

Criterion 3: Contiguity

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- Contiguity: A district in which all parts must be adjacent to another part

in other words...

- A district in which one may travel from any location to any other location without crossing the district boundary
- California law specifies that areas that meet only at the points of adjoining corners are not contiguous
- and that:
- Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous.

Criterion 4: Compactness

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- Addresses the geography of the district
- Many different ways to measure
- Assumed to “guard against all types of gerrymandering” “drastic departures from compactness are a signal that something may be amiss”
 - (Karcher v Daggett)
- Most common complaints come from appearances:
 - Does a district look funny?
- “eyeball approach” “appearances do matter”
 - (Shaw v Reno)

Criterion 5: Communities of Interest (COIs)

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- Council districts shall respect Communities of Interest as much as practicable.
- Communities of interest generally refers to a contiguous population which shares common social and economic interests
- Communities of Interest are not districts: they can be used as building blocks for districts
- There are no datasets available to define Communities of Interest (COIs)

Who Defines Communities of Interest? You DO!

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- Law does not limit the kinds of interests that may bind a community.
- It is up to those who live in or work with communities to identify and establish the interests that unite it.
- Interests need not be limited to current situation, but can also include common goals.
 - Interests can not include affiliation with political party or candidate
- Communities of Interest vary in size: mostly much smaller than districts.
- The City will need your input to define Communities of Interest in Oakley!

Common Interest Examples:

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- Economic interests:
 - Current situation -- common employment or economic opportunities (or lack thereof).
 - Goals -- expanding opportunities, development, bringing in businesses and jobs, etc.
- Social interests:
 - Current -- schools, culture, transportation, parks
 - Goals -- improving recreational opportunities or public safety, preserving historic resources, etc.
- Neighborhoods are often thought of as Communities of Interest

How to document your COI

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Please answer the following questions:

- What bonds your community?
 - Outline what defines the COI:
 - What is your mission or commonality?
 - Explain what is different outside of the boundaries of your Community of Interest
- Where is your community located in the City?
 - Create a map of the boundaries (use Google maps, GIS/mapping program, paper, etc.)
 - Write down the boundaries
 - Residents will also receive instructions on how to use the State's Community of Interest tool to map their COIs and submit them to the City.

Components of a Districting

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California Law outlines the process:

1. Website
2. 5 Hearings
3. Draft plan development
4. Posting requirements
5. Public Access (incl. Translations and Interpretation)
6. Public Input

Hearings/Meetings in more detail

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- 5 Required Hearings, 2 Hearings must proceed the Draft map development
 - Oakley decided to hold an additional hearing, totaling 6
- Hearing 1: Consultant provides overview of the process and criteria; collect Communities of Interest and Public Comments
- Hearing 2: Council begins to give direction for Draft Maps; Collect Communities of Interest
 - After Hearing 2: Consultant works on various map options

Hearings/Meetings in more detail

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- Hearing 3: Consultant presents visualizations; live map drawing during the hearing with input from the public
 - After Hearing 3: Consultant works on various map options and posts draft(s) online for comment
- Hearing 4: Feedback on the Draft Map(s), live adjustments and input can be made during hearing
- Hearing 5: Feedback on the Final Map, Reading of Ordinance
- Hearing 6: Vote on Finalized Map and Adoption of Ordinance

When and where are the meetings?

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- August 31, 2021 at 6:30pm – Oakley City Council Chambers
- September 28, 2021 at 7pm – Oakley City Council Chambers
- October 5, 2021 at 6:30pm – Virtual Meeting
- October 12 – Draft Map(s) Posted Online for Comment
- October 26, 2021 at 7pm – Oakley City Council Chambers
- November 9, 2021 at 7pm – Oakley City Council Chambers
- December 14, 2021 at 7pm – Oakley City Council Chambers

Why should you participate?

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- To make sure we know about your Community of Interest.
- To give your community a voice and make sure it has equal access to the political process.
- To encourage citizens to register, vote, and remain politically engaged.
- To help shape a districting plan that provides communities a meaningful opportunity to elect candidates who represent their interests on issues that are important to their lives.

How to Get Involved

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To participate in the process: testify, submit written testimony, send supporting information to the City

Please provide information about your Community of Interest, or other topics the City needs to know about as soon as possible.

- Submit information at a hearing, by mail, or drop off at: Oakley City Hall, 3231 Main Street, Oakley CA, 94561
- Via email: districting@ci.oakley.ca.us
- Via Phone: 925-625-7013
- Get information online: <https://www.ci.oakley.ca.us/districting/>

THANK YOU FOR PARTICIPATING!!!

Thank you!

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Questions?



Agenda Date: _____

Agenda Item: _____

STAFF REPORT

Date: September 28, 2021

To: Joshua McMurray, Interim City Manager

Approved and Forwarded to the City Council

From: Kenneth W. Strelo, Principal Planner

Subject: **Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“Special Land Uses”) – Adding Four Subsections to Address Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage (RZ 04-21)**

Summary

This is a public hearing on a City-initiated request for approval of Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“OMC”), titled “Special Land Uses” (RZ 04-21). The amendments consist of adding four new subsections to address four special land uses as follows: Drive-Through Restaurants (Subsection 9.1.1236); Carwashes (Subsection 9.1.1238); Gas Stations (Subsection 9.1.1240); and Self-Storage (Subsection 9.1.1242).

Staff recommends the City Council waive the first reading and introduce the ordinance approving Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“Special Land Uses”) (RZ 04-21).

Background

On April 13, 2021, the City Council held a Zoning Code Update Discussion Work Session where it was discussed a comprehensive Zoning Code Update would likely follow adoption of the current Focused General Plan Update, but that an opportunity existed to conduct more specific updates for certain uses that may warrant immediate attention. As a result of that work session, the four uses addressed in this Staff Report were further researched by Staff and brought back to the City Council at the July 13, 2021 meeting for a second, more focused work session. The Staff Report for that Work Session included examples of researched codes and potential development regulations and performance standards and/or operational standards for the subject uses. After receiving a Staff presentation and holding discussions regarding each of the four special land uses, the City Council directed Staff to bring back ordinance language for consideration based on the feedback provided by the Council. The applicable minutes of the July 13, 2021 summarize the direction provided to Staff, and are attached for reference.

Explanation of Amendments

Each of the four uses will be covered in a separate subsection of the “Special Land Uses” Article of the City’s Zoning Code. The four subsections will be as follows: Drive-Through Restaurants (Subsection 9.1.1236); Carwashes (Subsection 9.1.1238); Gas Stations (Subsection 9.1.1240); and Self-Storage (Subsection 9.1.1242). Examples of existing special land uses in this article include Adult Businesses, Single Room Occupancy, Cultivation of Marijuana, and Tobacco Retailing Businesses. There are a total of 17 subsections, each addressing a specific special land use, two of which are reserved. One of those reserved subsections is subsection 9.1.1210 for “Gasoline Service Stations”. Staff is recommending these four proposed additions be added as new sequential subsections to reflect the chronology of when they were codified. As a result, “Gas Stations” will become a new subsection and “Gasoline Service Stations. – Reserved” will be amended to be reserved with no specific use. Gas Stations will encompass “Gasoline Service Stations”, which could encompass ancillary service to vehicles, and is how the use is currently listed in the OMC.

For each of the four special land uses, the subsection will include a purpose and intent, definitions as necessary, and the development regulations and performance standards and/or operational standards for the subject uses. The proposed language of the ordinance is derived from research conducted by Staff, and feedback and direction provided by the City Council during the July 13, 2021 public Work Session held during a regularly scheduled City Council meeting. The goals of the amendments are to address each of the uses separately with the intent of avoiding over-saturation, ensuring proximity to sensitive land uses is consistently applied, and applying operational standards, such as litter control plans, consistently and appropriately.

Drive-Through Restaurants

Based on the City Council discussion, feedback, and direction to Staff from the July 13, 2021 Work Session, this subsection is to include performance standards for minimum distances between drive-through restaurants and certain sensitive uses, and to codify operational standards that would apply to all newly approved drive-through restaurants. The sensitive uses are proposed to be residential properties or residentially designated land, and public and private schools, as measured to their property lines. Language is also proposed that allows other uses to be considered sensitive, subject to the review and approval of the Community Development Director. Proposed operational standards address litter control plans, hours of operation, and enforcement of loitering/music. Proposed drive-through restaurants will also be required to provide a traffic analysis that specifically analyzes pedestrian/bicycle safety, as well as drive-through lane queuing. Additional acoustical details and/or an acoustical analysis will be required for menu board speakers.

Based on Council feedback from the work session, Staff is not proposing any saturation standards for drive-through restaurants. The Council majority consensus was to clarify the City is not to be involved in the specific business brand, type of food, or whether two drive-through uses may be near each other (options to customers was cited as one

reason), but that the addition of minimum distances to sensitive uses and broadly applied operation standards would be appropriate to address drive-through uses as a special land use. Please refer to the attached draft ordinance for specific language.

Carwashes

The ordinance for carwashes is proposed similar to that for drive-through restaurants with a greater emphasis on an acoustical analysis and language to avoid carwashes from occupying multiple sites within a single commercial center. Saturation standards are also included so as to avoid an over-concentration of carwashes.

Gas Stations

The ordinance for gas stations will include language similar to both drive-through restaurants and carwashes. Council had a majority consensus to not limit gas stations based on market saturation, since they will do that on their own, but did want to allow other uses to occupy major intersections. As a result of that discussion, Staff has proposed a minimum distance of 500 feet between gas stations, except a major intersection (defined as the intersection of two major arterials) may have at least two on any two corners zoned appropriately. The language will also address that in the case of two stations at an intersection, that they each serve two different flows of traffic. The proposed ordinance also addresses pedestrian safety and required parking for fueling trucks. Discussion for requiring EV (electric vehicle) charging stations did not lead to any inclusion of required standards, but there was requests from Council members to encourage both EV charging stations and alternative fuel sources. It is also noted that the 2019 California Green Building Standards Code requires that new construction include adding "EV Capable" parking spaces, which have electrical panel capacity, a dedicated branch circuit, and a raceway to the EV parking spot to support future installation of charging stations. Staff has included language that encourages, but does not require, both, which could be amended at a future date.

Self-Storage

Self-Storage is currently conditionally permitted in the LI (Light Industrial) District, where it is defined as a "Mini-storage Facility". It is also conditionally permitted in the C (General Commercial) District as part of a mixed-use project that includes retail or other commercial uses along the street front. The latter allowance came from an "Unclassified Use" determination made by the City Manager on August 5, 2014 in regards to the mixed-use project at 4700 Main Street. Self-storage, whether alone or with other retail is not permitted or conditionally permitted in the RB (Retail Business) District. The Council was not keen on only permitting self-storage in the LI District due to possibly out-competing other job-inducing development. Also, the Council maintained that due to the difficulty in attracting new retail, that self-storage may be able to facilitate that sort of development through mixed-use projects. The idea for a demand study was generally agreed upon. This would require applicants for self-storage to show where the demand currently sits, and where it could end up with the inclusion of any new business, as well as show that Oakley residents are the base of

the demand. The idea being Oakley avoids taking on more than its fair share of self-storage based on population demands.

Environmental

This project is exempt from further analysis under the California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3) in that adoption of the ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Recommendation

Staff recommends the City Council waive the first reading and introduce the ordinance approving Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“Special Land Uses”) (RZ 04-21).

Attachments

1. Public Hearing Notice
2. Proposed Ordinance



City of Oakley
3231 Main Street
Oakley, CA 94561
www.oakleyinfo.com

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **September 28, 2021** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a **Public Hearing** at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering the item as described below:

Project Name: Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“Special Land Uses”) (RZ 04-21).

Project Location: Citywide.

Applicant: City of Oakley, 3231 Main Street, Oakley, CA 94561.

Request: This is a public hearing on a City-initiated request for approval of Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“OMC”), titled “Special Land Uses” (RZ 04-21). The amendments consist of adding four new subsections to address four special land uses as follows: Drive-Through Restaurants (Subsection 9.1.1236); Carwashes (Subsection 9.1.1238); Gas Stations (Subsection 9.1.1240); and Self-Storage (Subsection 9.1.1242).

How to Review: The Staff Report and its attachments will be available for public review, on or before September 23, 2021 online at www.ci.oakley.ca.us/agendas-minutes-videos-archive/ by navigating to the September 28, 2021 agenda and clicking the project title link. Interested persons are invited to submit written comments prior to 5:00 P.M. the day of the hearing to Ken Strelo, Principal Planner strelo@ci.oakley.ca.us.

NOTICE IS ALSO GIVEN pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADOPTING ZONING TEXT AMENDMENTS TO ARTICLE 12 OF CHAPTER 1 OF TITLE 9 OF THE OAKLEY MUNICIPAL CODE (“SPECIAL LAND USES”) – ADDING FOUR SUBSECTIONS TO ADDRESS DRIVE-THROUGH RESTAURANTS, CARWASHES, GAS STATIONS, AND SELF-STORAGE (RZ 04-21)

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

SECTION 1. Subsection 9.1.1210 of the Oakley Municipal Code, titled “Gasoline Service Stations. – Reserved,” is hereby amended to have the title, “Reserved.”

SECTION 2. Subsection 9.1.1236, titled “Drive-Through Restaurants,” is hereby added to the Oakley Municipal Code in its entirety, as follows:

“9.1.1236 Drive-Through Restaurants.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for restaurants or food-related uses seeking to incorporate one or more drive-through lanes in association with the proposed use.
 - 1) This subsection shall apply to any use proposed within the City of Oakley that is considered a “Drive-thru Restaurants and Services,” and that is a restaurant or food/drink-related business.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection “Drive-Through” is interchangeable with “Drive-thru” found elsewhere in the Oakley Municipal Code.
 - 2) “Sensitive Uses,” as referenced in this subsection shall mean any Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not be considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.
- c. Performance Standards.
 - 1) An application for a proposed drive-through restaurant shall include a traffic analysis that specifically analyzes onsite and nearby pedestrian/bicycle safety and drive-through lane queuing. This analysis is in addition to any

Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.

- 2) An application for a proposed drive-through restaurant shall include either a detailed acoustical analysis of the menu board speaker consistent with the proposed site plan, or a detailed specification sheet on the menu board speaker and any sound reducing technologies it may incorporate. All menu board speakers shall function in compliance with the City of Oakley General Plan.
 - 3) Any proposed drive-through restaurant shall be a minimum of 300 feet (three-hundred feet) from any sensitive use as measured at the shortest distance in a straight line on a map from the limits of the drive-through restaurant’s drive-through lane, building dimensions, or entry driveways to the property line of any sensitive use.
 - 4) No portion of the drive-through lane or its required queuing as determined in the traffic analysis shall obstruct any drive aisles or off-street parking. The drive-through shall not take ingress or egress from a local residential road.
 - 5) The entire drive-through lane shall be screened from adjacent street and residential views to a height of at least three feet. Screening devices shall be a combination of berming, hedge and landscape materials, and solid walls as approved by the Community Development Director.
 - 6) Menu boards shall be oriented or screened to avoid direct visibility from adjacent public streets.
 - 7) The speaker box on menu boards shall be oriented away from adjacent residential uses or other commercial uses with an outdoor setting.
 - 8) Pedestrian access to the building either from the parking lot or public right of way shall not cross the drive-through lane at any point between the last queuing area and end of the building facade where the pick-up window is located.
- d. Operational Standards.
- 1) Hours of operation may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.
 - 2) The applicant shall prepare and submit a litter control, and/or recycling plan as a part of the conditional use permit application. In addition to the litter control plan, the site shall be maintained in a litter free condition and no unreasonable odors shall be generated on the site. The on-site manager

shall make all reasonable efforts to see that trash and litter originating from the use or its patrons is not deposited on adjacent properties, or left on the grounds of the use overnight. Employees shall be required daily to pick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and within 300 feet of the perimeter. Any graffiti shall be removed within 48 hours of it being discovered.

- 3) The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities than may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.
- 4) The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.”

SECTION 3. Subsection 9.1.1238, titled “Carwashes,” is hereby added to the Oakley Municipal Code in its entirety, as follows:

“9.1.1238 Carwashes.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for carwashes.
 - 1) This subsection shall apply to any carwash use proposed within the City of Oakley, including carwashes ancillary to gas stations, self-service carwashes, stand-alone automated carwashes, and carwash businesses that may include additional detailing whether indoors or under a shade structure.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection “Carwash” may include the types of carwashes listed above. If a part of this subsection only applies to specific type of carwash, it will be explicitly stated as such. Otherwise, the part applies to all types of carwashes.
 - 2) “Sensitive Uses,” as referenced in this subsection shall mean any Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not be considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.

c. Performance Standards.

- 1) An application for a proposed carwash shall include a traffic analysis that specifically analyzes onsite and nearby pedestrian/bicycle safety and queuing. This analysis is in addition to any Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.
- 2) An application for a proposed carwash shall include a detailed acoustical analysis of noise generated by the use, and confirm that the use complies with the noise thresholds in the City of Oakley General Plan in relation to noise impacts on sensitive uses. If a generally accepted decibel variance allowance would result in the noise exceeding a threshold, the noise source shall be reduced until the analysis shows the noise, including any decibel variance allowance, falls within the thresholds in the General Plan.
- 3) Any proposed carwash shall be a minimum of 300 feet (three-hundred feet) from any sensitive use as measured at the shortest distance in a straight line on a map from the limits of the carwash building to any sensitive use.
- 4) There shall be no more than one carwash located within any shopping center or contiguous commercial properties that have internally shared access. In addition, no new carwash shall be proposed within 1,000 feet of an existing carwash as measured between the shortest distance from either the perimeter of the carwash operations or parcel lines, subject to the determination by the Community Development Director.
- 5) No portion of the required queuing as determined in the traffic analysis shall obstruct any drive aisles or off-street parking.
- 6) The entire carwash queuing lane shall be screened from adjacent street and residential views to a height of at least three feet. Screening devices shall be a combination of berming, hedge and landscape materials, and solid walls as approved by the Community Development Director.
- 7) Any speaker box on automated payment machine shall be oriented away from adjacent residential uses or other commercial uses with an outdoor setting.
- 8) Pedestrian access to the building either from the parking lot or public right of way shall not cross the queuing lane at any point between the automated payment machine and entrance to the carwash. Nor should it be located within 25 feet of the exit of the carwash.

d. Operational Standards.

- 1) Hours of operation may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.
- 2) The applicant shall prepare and submit a litter control, and/or recycling plan as a part of the conditional use permit application. In addition to the litter control plan, the site shall be maintained in a litter free condition and no unreasonable odors shall be generated on the site. The on-site manager shall make all reasonable efforts to see that trash and litter originating from the use or its patrons is not deposited on adjacent properties, or left on the grounds of the use overnight. Employees shall be required daily to pick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and within 300 feet of the perimeter. Any graffiti shall be removed within 48 hours of it being discovered.
- 3) The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities than may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.
- 4) The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.”

SECTION 4. Subsection 9.1.1240, titled “Gas Stations,” is hereby added to the Oakley Municipal Code in its entirety, as follows:

“9.1.1240 Gas Stations.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for gas stations.
 - 1) This subsection shall apply to any gas station use proposed within the City of Oakley, whether or not they include a convenience store, carwash, or vacuum stations.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection “Gas Station” is interchangeable with “Gasoline Service Station” found elsewhere in the Oakley Municipal Code.
 - 2) “Sensitive Uses,” as referenced in this subsection shall mean any Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in

any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not be considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.

c. Performance Standards.

- 1) An application for a gas station shall include a traffic analysis that specifically analyzes onsite and nearby pedestrian/bicycle safety. This analysis is in addition to any Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.
- 2) Any proposed gas station shall be a minimum of 300 feet (three-hundred feet) from any sensitive use as measured at the shortest distance in a straight line on a map from the limits of the gas station’s parcel lines, building dimensions, or entry driveways to the property line of any sensitive use.
- 3) Any proposed gas station shall be minimum of 500 feet from an existing gas station, as measured between the shortest distance from either the perimeter of the gas station operations or parcel lines, subject to the determination by the Community Development Director. Except that any intersection of two arterial streets (as defined in the City’s General Plan) may have two gas stations on separate corners. In the case where there are two gas station on two corner, efforts should be made so the two gas stations mainly serve opposite flows of traffic.
- 4) The speakers on gas pumps shall comply with all applicable noise regulations in the Oakley General Plan.
- 5) Any new gas station shall include a parking location for fueling trucks that does not block or cross over any required drive aisles or off-street parking spaces.
- 6) Any new gas station shall consider including alternative fuels pumps as an option to customers with alternative fuel vehicles.

d. Operational Standards.

- 1) Hours of operation for all or any individual component of a gas station (i.e. pumps, convenience store, carwash, or vacuum stations) may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.
- 2) The applicant shall prepare and submit a litter control, and/or recycling plan as a part of the conditional use permit application. In addition to the litter

control plan, the site shall be maintained in a litter free condition and no unreasonable odors shall be generated on the site. The on-site manager shall make all reasonable efforts to see that trash and litter originating from the use or its patrons is not deposited on adjacent properties, or left on the grounds of the use overnight. Employees shall be required daily to pick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and within 300 feet of the perimeter. Any graffiti shall be removed within 48 hours of it being discovered.

- 3) The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities than may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.
- 4) The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.”

SECTION 5. Subsection 9.1.1242, titled “Self-Storage,” is hereby added to the Oakley Municipal Code in its entirety, as follows:

“9.1.1242 Self-Storage.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for self-storage.
 - 1) This subsection shall apply to any self-storage use proposed within the City of Oakley, including self-storage uses that incorporate a component of frontage retail or other commercial activities.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection “Self-Storage” is interchangeable with “Mini-storage Facility” found elsewhere in the Oakley Municipal Code. Self-storage does not refer to any sort of outdoor storage of materials, vehicles, equipment, etc. It applies to the conventional self-storage use where customers rent lockable space to store personal goods
- c. Performance Standards.
 - 1) Any application for approval of a conditional use permit for a self-storage use shall include a demand study that supports the need for the new business in order to accommodate population growth within the City of Oakley rather than growth of surrounding jurisdictions.

- 2) Any self-storage proposed as a part of a mixed-use project with a retail/commercial frontage in the C (General Commercial) District shall meet the following minimum standards:
 - i. The project shall be designed so only the storefronts for the retail component and tenant spaces/buildings are directly accessible and visible from the main street frontage, with the exception of the self-storage leasing office, which may also be accessible and visible. All building area for self-storage shall be located behind the frontage buildings.
 - ii. Off-street parking for the commercial component shall provide at least 1 parking space per 200 square feet of gross floor area, regardless of any known uses at the time of the conditional use permit application, unless those uses require a higher number of parking spaces for the relative floor area, in which case that number should be applied to that area.
 - iii. The storing or renting of moving vans/trucks shall only be allowed if explicitly stated in the conditional use permit. Moving vehicles may only consist of self-motorized vehicles and shall be stored in designated areas that do not occupy required parking or drive aisles associated with the self-storage. No moving vehicles may be stored in areas visible from the adjacent right of way(s) or be used as signage.
- d. Operational Standards.
 - 1) Hours of operation for entrance to the self-storage area may be limited as a condition of approval in the conditional use permit.
 - 2) The applicant shall prepare and submit a litter control, and/or recycling plan as a part of the conditional use permit application that shall be included in the leasing contract for all future tenants of the site (if part of a mixed-use project). In addition to the litter control plan, the site shall be maintained in a litter free condition and no unreasonable odors shall be generated on the site. The on-site manager shall make all reasonable efforts to see that trash and litter originating from the use or its patrons is not deposited on adjacent properties, or left on the grounds of the use overnight. Employees shall be required daily to pick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and within 300 feet of the perimeter. Any graffiti shall be removed within 48 hours of it being discovered.
 - 3) The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities that may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.

- 4) The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.”

SECTION 6. California Environmental Quality Act (CEQA).

This project is exempt from environmental analysis under the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that the proposed amendments will not have a significant effect on the environment in that they do not relax any land use requirements or bypass any project’s requirement to comply with CEQA.

SECTION 7. Effective Date and Posting.

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

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2021 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Sue Higgins, Mayor

Date

ATTEST:

Libby Vreonis, City Clerk

Date

OAKLEY



CALIFORNIA

STAFF REPORT

Date: September 28, 2021
To: City Council
From: Joshua McMurray, Interim City Manager
Subject: **Cooperative Agreement with Contra Costa County Regarding the Demolition of the former County Sheriff's Office Delta Substation at 210 O'Hara Ave**

Summary and Background

The County Sheriff's Office relocated their operations from the building at 210 O'Hara Avenue to another east county location. The building is vacant and has become an attractive nuisance in the City and has required weekly clean up by the County Public Works staff over the past several months. Over this time, Staff has worked with the County on the attached agreement that would allow for the demolition of the building and potentially using the site for a City library. The main points of the cooperative agreement would be:

- Allow the City to demolish the building with the current estimate of the demolition costs being \$400,000. Upon completion of the demolition the County would reimburse the City for 50%, minus the costs associated with keeping the existing wireless communication tower operational, of the demo costs and transfer the property to the City for use as a library site.
- Allow the City or other groups, such as the Friends of the Oakley Library, to seek funding for library construction within 36 months of the transfer of the property, then the property would revert back to the County.

The County Board of Supervisors authorized the County Administrator to sign and execute the attached agreement at their September 7, 2021 Board Meeting.

Fiscal Impact

The City would be responsible for the 50% of the demolition cost or up to \$200,000. In the event that library funding could not be secured within 36 months, the City would have to pay the County back their share of the demolition.

Recommendation

Staff recommends that the City Council Approve and Authorize the Interim City

September 28, 2021

Cooperative Agreement with Contra Costa County

Manager, or designee, to execute a Cooperative Agreement with Contra Costa County.

Attachments

1. Draft Cooperative Agreement

**COOPERATIVE AGREEMENT
BETWEEN THE CITY OF OAKLEY AND CONTRA COSTA COUNTY
REGARDING THE DEMOLITION OF THE COUNTY-OWNED BUILDING LOCATED
AT 210 O'HARA AVENUE IN OAKLEY AND TRANSFER OF THE PROPERTY**

This Cooperative Agreement (this "Agreement") is entered into on the ____ day of _____, 2021 (the "Effective Date") by and between the City of Oakley (hereinafter "City") and Contra Costa County, a political subdivision of the State Of California (hereinafter "County"), (each, a "Party"; and collectively, "Parties").

RECITALS

A. The County owns a 4,220 square foot building (the "Building") situated on approximately 0.62-acres of real property located at 210 O'Hara Avenue in Oakley (as more specifically described on Exhibit A attached hereto, the "Property") that is the former County Sheriff's Office Delta Substation, which the County relocated to Brentwood in September of 2019.

B. The Building is no longer needed by the County, is nearly 100 years old and is in a dilapidated and deteriorated condition.

C. The Building has been vacant since September 2019 and has been subject to a significant amount of vandalism.

D. The Friends of the Oakley Library, City officials, and the County have identified the Property as a possible location for a new Oakley library building.

E. The County and City desire to work cooperatively to demolish the Building and study the possibility of conveying the Property to the City for the City's construction of a stand-alone Oakley Library.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged, the County and the City hereby agree as follows:

1. Cooperation. The Parties agree to work cooperatively to demolish the Building as set forth in this Agreement. Further, the Parties agree to work cooperatively on an analysis of the possibility of utilizing the Property for a stand-alone City-owned Library.

2. Project. The project involves the completion of the required studies and permits for the demolition of the Building, the successful completion of the demolition of the Building, and the County's reimbursement to the City for 50% of the demolition costs, as provided herein (the "Project"). The estimated cost of the Project is \$400,000.

3. Building Demolition.

- a. The City shall obtain all permits, approvals, CEQA analysis, and entitlements necessary for the Project.
- b. The City shall provide the County with final plans, drawings, and specifications for demolition of the Building. The County shall review the engineering plans, final contract plans, and final specifications for demolition of the Building within 45 days of receipt from the City. The City shall: (1) advertise the Building demolition contract, administer the bidding, and award the Building demolition contract; (2) advertise the Building demolition contract no later than 90 days following the County's written approval of the final plans and specifications for the Building demolition, with award of the contract to follow within a reasonable time thereafter; and (3) perform contract administration and take all other necessary steps to demolish the Building according to the County-approved final plans and specifications. The City will comply with California Labor Code Sections 1720-1861, and all other statutes applicable to demolition of the Building.
- c. The City shall not demolish the communications tower located on the Property (the "Telecommunications Tower") or interrupt the power supply to the Telecommunications Tower.
- d. The City shall maintain the Property after the Building is demolished unless and until the Property reverts to the County as a result of no library being constructed in accordance with Section 8 of this Agreement.

4. Project Changes.

- a. The City shall not make or cause to be made any changes in the final plans or specifications without the prior written consent of the County.
- b. The City will administer all contract change orders for the Project. The City shall send copies of all contract change orders to the County for the County's review. All contract change orders shall be approved in writing by the County appointed representative prior to execution by the City. If the City does not receive written notice of the County's approval or disapproval of a contract change order within 10 business days of the City notifying the County of the change order in writing, the contract change order will be deemed approved by the County. The County shall not unreasonably withhold its approval of change orders.

5. Inspections.

- a. The City will perform field inspections of the Building demolition to determine conformance with plans and specifications and any change orders. The County hereby grants the City and its contractors a right of entry upon the Property to effect demolition of the Building.
- b. The County has the right to perform field inspections of the Building demolition to determine conformance with plans and specifications. The County will notify the City of any change orders that are necessary to remedy design deficiencies or address nonconformance with plans and specifications

6. Acceptance, Completion, and Assignment.

- a. Upon completion of the Building demolition, the City and the County shall conduct a joint final inspection of work. After the City and the County have determined that the work performed has been completed in accordance with the approved plans and specifications and to the City's and the County's satisfaction, and after the County has provided written notice to the City of its approval of the work, the County shall accept work as complete and shall promptly record a notice of completion.
- b. Upon the County's written approval of the work, the City shall assign to the County its rights under all contracts pertaining to the Building demolition, including but not limited to all rights to proceed against any contractors, persons, or entities connected with the design, demolition and management of the work, and shall assign to the County all express warranties and all warranties existing at law.
- c. The Building demolition portion of the Project will be considered complete when the County records a notice of completion, and all rights under all contracts pertaining to the Building demolition have been assigned to the County pursuant to subsection (b) above.

7. Payment of Project Costs.

- a. Subject to subsection (b) below, the City shall pay all costs connected with the demolition of the Building, including without limitation, all bidding-phase and construction-phase architectural services and all applicable fees. The total cost of the Project is not intended to exceed \$400,000. If it appears at any time that the total cost of the Building demolition will exceed \$400,000, the City and the County will meet to review the costs and schedules and evaluate together how best to bring the Building demolition to completion. Nothing in this section shall obligate the County to pay any costs other than those specified in subsection (b) of this section.

- b. As part of the Project, the County will pay for any costs associated with keeping the Telecommunications Tower operational after the Building is demolished (the "Tower Maintenance Costs"). The County shall document the Tower Maintenance Costs and submit them to the City in association with section 7(c). The Tower Maintenance Costs will be deducted from the County's portion of the Project Cost that the County will reimburse the City for as further described in section 7(c).
- c. Within thirty (30) days after completion of the Building demolition, the City shall present a written report to the County reflecting the total cost of the Building demolition (the "Project Cost") and the details of the Project Cost. Within forty five (45) days of receipt of the City's report of the Project Cost, County shall reimburse the City fifty percent (50%) of the Project Cost minus the Tower Maintenance Costs as described in section 7(b).

8. Conveyance of Property.

- a. In consideration of the agreements contained herein and subject to the reversionary interest set forth in Section 8(d), within thirty (30) days after the County has reimbursed the City for the County's portion of the Project Cost, the County will convey to the City title in fee simple to the Property, subject to the easement described in Section 8(c), and all existing improvements except for the Telecommunications Tower . The existing improvements that are conveyed to the City shall be conveyed in an "as in" physical condition with no warranty express or implied as to any matter.
- b. The City and its heirs, successors or assigns, shall not have any claim, or assert any right or action, against the County for any loss, damage or other matter arising out of or resulting from the condition of the Property and the existing improvements conveyed to the City.
- c. The County will not convey to the City title to the Telecommunications Tower. The County will reserve an easement on, and for access to, that portion of the Property on which the Telecommunications Tower is located. The easement will be reserved to the County and its successors and assigns for use by the County, and users authorized by the County, for County purposes, including but not limited to radio transmission purposes, as determined necessary by the County.
- d. If, within thirty-six (36) months after the date the City takes title to the Property, the City has not provided the County with evidence satisfactory to the County that the City has obtained funding for the construction, operation and maintenance of a new library on the Property, the City shall convey to the County title in fee simple to the Property.

9. Contractor Obligations. The City shall cause the contract documents for the Building demolition to include provisions requiring the successful bidder to provide insurance, indemnity, warranties and bonds in the amounts and manner set forth below.

- a. Insurance. The City shall cause the following insurance requirements to be incorporated into all contracts entered into by the City, its contractors, subcontractors and assigns, in connection with this Agreement: “contractor shall maintain: (1) workers’ compensation insurance pursuant to state law; (2) commercial general liability insurance, including contractual liability (or blanket contractual) coverage, owners’ and contractors’ protective coverage, and broad form property damage coverage, with a minimum of \$2,000,000 per occurrence; (3) builders’ risk insurance in an amount equal to the construction contract amount, with a waiver of subrogation for the City and County, and naming the City and the County as loss payees; and (4) vehicle liability insurance with a minimum combined single-limit coverage of \$500,000 per occurrence.” Contractors shall provide certificates of insurance, copies of policies, or endorsements evidencing the above insurance coverage and requiring at least 30 days’ written notice to the City and the County of policy lapse, cancellation, or material change in coverage. The commercial general liability insurance and vehicle liability insurance shall include endorsements naming the City and the County, and their governing bodies, officers, agents and employees, as additional insureds. The aforementioned insurance policies shall contain a provision that the insurance afforded thereby to the additional insureds shall be primary insurance to the full limits of the policy and that, if any of the additional insureds has other insurance or self-insurance against a loss covered by such policy, such insurance or self-insurance shall be excess insurance only.
- b. Indemnity. The Building demolition contractor will be required to defend, indemnify and hold harmless the City and County, and their governing bodies, officers, agents and employees, from and against any and all liability, claims, actions, cause of action or demands whatsoever against any of them, including related attorneys’ fees, arising out of or connected with any injury or death of any person or damage to property or other liability of any nature arising out of or in any way connected with the Building demolition.
- c. Warranties. In addition to all warranties existing at law, the Building demolition contractor will be required to provide an express warranty for the benefit of the City and the County, in form and for a time period satisfactory to the City and the County, containing, at a minimum, the contractor’s guarantee that the work has been performed in accordance with the plans and specifications, and the contractor’s agreement to repair or replace all work that fails to conform to the plans and specifications or proves to be defective in workmanship or materials during the stated time period.

- d. Bonds. The Building demolition contractor will be required to present two good and sufficient surety bonds, for payment and performance, each in an amount equal to 100 percent of the contract price, issued by a surety admitted in the State of California in a form satisfactory to the City and the County, naming the, City and the County as obligees on the bonds.
10. Accountability. The City will be strictly accountable for all funds and will report all receipts and disbursements for the Building demolition to the County when requested by the County.
11. Term. The term of this Agreement is from the Effective Date and shall continue until July 30, 2024, unless earlier terminated as provided herein. This Agreement may be terminated immediately by the mutual written consent of the governing bodies of the City and the County.
12. Indemnification. City shall indemnify, defend and hold harmless County, its officers, and employees from and against any and all claims, demands, costs, suits and actions resulting from any loss, damage, or injury of any kind whatsoever, including but not limited to personal injury or injury to real or personal property, related to the City's performance of its obligations under this Agreement and related to the Project.
13. Notices. Any notice required to be given by any Party, or which any Party may wish to give to another Party, must be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows:

To Oakley:
City of Oakley
3231 Main Street
Oakley, CA 94561
Attn: City Manager

To the County:
Contra Costa County
1025 Escobar Street, 4th Floor
Martinez, CA 94553
Attn: County Administrator

Notice will be deemed effective on the date personally delivered or, if mailed, three days after deposit in the United States mail.

14. Successors. This Agreement is binding upon each Party and any of its successors and permitted assigns. No Party may assign or transfer any part of this Agreement without the written consent of the other Parties.
15. Third Parties. This Agreement is not intended, nor shall it be construed, to confer any rights or benefits on any third party.
16. No Waiver. The failure of any Party to insist upon the strict performance of

any of the terms, covenant and conditions of this Agreement will not be deemed a waiver of any right or remedy that any Party may have, and will not be deemed a waiver of their right to require strict performance of all of the terms, covenant, and conditions thereafter.

17. Governing Law and Venue. This Agreement will be construed and its performance enforced under California law. In the event that a suit is brought by any Party to this Agreement, the Parties agree that venue will be exclusively vested in the State courts of the County of Contra Costa or, if federal jurisdiction is appropriate, exclusively in the United States District Court for the Northern District of California, in Oakland, California.
18. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to its subject matter and supersedes all prior or contemporaneous agreements, representations and understanding of the Parties. The Recitals above and each of the attached Exhibits, are true, correct and made a part this Agreement.
19. Amendment. This Agreement may only be amended by mutual consent in writing of the Parties.
20. Maintenance of Records. The Parties will retain all digital files, books, documents, papers, accounting records and other evidence pertaining to Agreement-related invoice payments for not less than three years after the expiration or termination of this Agreement.
21. Review of Records. If requested, the Parties' auditors, or any duly authorized representative of the Parties, will have access to the other Parties' digital files, books, records, and documents that are pertinent to Agreement-related invoice payments for audits and examinations for a period of three years after the expiration or termination of this Agreement. Timely notice will be provided prior to the conducting of any audit.
22. Severability. If any term, covenant, condition, or provision of this Agreement, or the application thereof to any person or circumstance, is to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this Agreement, or the application thereof to any person or circumstance, will remain in full force and effect and will in no way be affected, impaired or invalidated thereby.
23. Dispute Resolution. Should any dispute arise out of this Agreement, including but not limited to claims that any of the Parties has failed to meet its obligations established by this Agreement, the Parties may meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable

mediator. The costs of the mediator, if any, shall be paid for by each Party on an equal basis. Each Party will bear its own attorney's fees, if any.

- 24. Counterparts. This Agreement may be executed simultaneously or in counterparts, each of which is to be deemed to be an original, but all of which shall constitute one and the same Agreement.
- 25. Further Assurances. Whenever requested to do so by the other Party, each Party will execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.
- 26. Warranty of Authority to Execute Agreement. Each Party to this Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Agreement on behalf of the entity that is a Party to this Agreement.

CITY OF OAKLEY

CONTRA COSTA COUNTY

By: _____
Joshua McMurray
Interim City Manager

By: _____
Monica Nino
County Administrator

ATTESTED BY:

By: _____
Libby Vreonis
City Clerk

By: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:
Mary Ann McNett Mason, County

Counsel

By: _____
Derek P. Cole
City Attorney

By: _____
Deputy County Counsel

Exhibit A
Property Description

[Insert Legal Description]