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, February 22, 2022
6:30 PM
Oakley City Council Chambers located at 3231 Main Street, Oakley, California 94561
The City follows State and County guidelines regarding indoor mask wearing. Masks are encouraged but not required for vaccinated individuals. Self-administered temperature checks are recommended before entering the building. A touchless temperature kiosk is located in the lobby for visitor use

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.

Agendas are posted in Oakley at Oakley City Hall-3231 Main Street, outside the gym at Delta Vista Middle School-4901 Frank Hengel Way and outside the Library at Freedom High School-1050 Neroly Road; agendas are also posted on the City's Internet Website www.ci.oakley.ca.us.

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 and Special Meeting of the Oakley Public Financing Authority

1.2 Pledge of Allegiance to the Flag

1.3 Proclamation Recognizing February 17, 2022 as California State PTA's 125th Anniversary
Proclamation

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 November 16, 2021 (Libby Vreonis, City Clerk)
Minutes 11-16-21

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 January 11, 2022 (Libby Vreonis, City Clerk)
Minutes 01-11-22

3.3 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency and Special Public Financing Authority Meeting held January 25, 2022 (Libby Vreonis, City Clerk)
Minutes 01-25-22

3.4 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency/Public Financing Authority Meeting held February 8, 2022 (Libby Vreonis, City Clerk)
Minutes 02-08-22

3.5 Accept Report Out of Closed Session Memo (Elizabeth Fratarcangeli, Assistant City Attorney)
Memo

3.6 Acceptance of work associated with the Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue) – Capital Improvement Project Number 250 (Kevin Rohani, P.E., Public Works Director/City Engineer)

Staff Report
1. Resolution
2. Notice of Completion

3.7 CalRecycle Notification of Intent to Comply – Adopt a resolution to file a "Notification of Intent to Comply" related to implementation of Short-lived Climate Pollutants: Organic Waste Reductions requirements in Title 14 California Code of Regulations (14 CCR) (Senate Bill 1383) to CalRecycle by March 1, 2022 (Ken Strelo, Planning Manager)
Staff Report
1. Notification of Intent to Comply Form
2. Draft Resolution

3.8 Waive the Second Reading and Adopt the Ordinance Approving a Zoning Ordinance Text Amendment to Section 9.1.512 (Commercial Recreation-Aquatic[CR-A]) of Chapter 1 of Title 9 of the Oakley Municipal Code (RZ 02-21) (Ken Strelo, Planning Manager)

Ordinance

3.9 Adopt Resolution Amending the Employee Personnel Manual adding section 9.16 for Police Management (Jeri Tejeda, HR Director)

Staff Report
1. Resolution
2. Section 9.16 Police Management
3. Employee Personnel Manual-Redlined
4. Police Memorandum of Understanding

3.10 Consideration of a Resolution Approving the Fiscal Year 2021/2022 Mid-Year Budget Review and Adopting its Recommendations for Revising the Fiscal Year Operating and Capital Budgets and increasing the General Fund Reserve Policy from 20% to 30% (Tim Przybyla, Finance Director)

Staff Report
1. Mid-Year Budget Review
2. Fund Summaries (All Funds)
3. Resolution
4. Budget Transfer Form
5. General Fund Reserve Policy

4.PUBLIC HEARINGS

4.1 Second Continued Public Hearing for McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20) – Request for approval to construct and operate a 4,365 square foot quick serve restaurant with dine-in and drive-through service; APN 035-510-006. (Ken Strelo, Planning Manager)

Suggested Action: Staff Recommendation: 1) Receive the Staff Report, 2) Receive Questions from the City Council, 3) Open the Public Hearing, 4) Receive Comments from the Applicant, 5) Receive Public Testimony, 6) Close the Public Hearing, 7) Deliberate, 8) Summarize the Deliberation 9) Adopt the Resolution

Staff Report
1. Vicinity Map
2. Notice of Public Hearing
3. Project Staff Report from April 27, 2021 City Council Meeting (without attachments) (Item 5.1)
4. City Council Minutes from April 27, 2021 for Item 5.1 (excerpt)
5. Project Staff Report from May 25, 2021 City Council Meeting (without attachments) (Item 3.1)

6. City Council Minutes from May 25, 2021 for Item 3.1 (excerpt)
7. City Attorney Memo to City Council dated May 17, 2021
8. Laurel Plaza Supplemental Traffic Operations Analysis Assessment Work Session Staff Report (without attachments) (Item 7.1)
9. Applicants Plans
10. Proposed Conditional Use Permit and Design Review Resolution

5.REGULAR CALENDAR

6.REPORTS

6.1 CITY MANAGER
(a) City Manager

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

OAKLEY
CALIFORNIA

PROCLAMATION

Recognizing PTA's 125th Anniversary
February 17, 2022

***WHEREAS**; the Thirty-Second District PTA and its local unit and council PTAs, connect families, schools, and communities; and is part of the foundation of the public education system and a trusted messenger to millions of members, parents, families, educators and allied agencies throughout the state; and*

***WHEREAS**; PTA has been instrumental in establishing programs and services to improve children's lives, including, school nutrition programs, child labor laws, public health services, the juvenile justice system, the creation of kindergarten, the advancement of family engagement, and the growth of arts in education; and*

***WHEREAS**; PTA is the nation's largest volunteer-led child-advocacy association working to drive improvements in the education, health, and well-being of all children and families; and*

***WHEREAS**; the founders of the PTA, Phoebe Apperson Hearst, Alice McLellan Birney, and Selena Sloan Butler, were women of imagination and courage who understood the power of individual action, worked beyond the accepted barriers of their day, and took action to literally change the world; and*

***WHEREAS;** founded as the National Congress of Mothers, the PTA celebrates the 125th anniversary of its founding on February 17, 2022; and*

***WHEREAS**; today, California has local PTAs throughout the state and its members represent the ethnic diversity of the nation and come from the ranks of all families who, together, continue to serve as the conscience of the country for children and youth; and*

***WHEREAS**; the Thirty-Second District PTA includes 125 units and 6 councils in Contra Costa Country.*

***NOW, THEREFORE**, **BE IT RESOLVED THAT I**, Randy Pope, Mayor of the City of Oakley do hereby commend the association on the occasion of its 125th anniversary on February 17, 2022.*

February 22, 2022

_____
Randy Pope, Mayor

Minutes of the Special Meeting of the Oakley City Council held November 16, 2021

1) Call to Order and Roll Call

Vice Mayor Randy Pope called the meeting to order at 6:30 p.m. in the Oakley City Council Chamber located at 3231 Main Street, Oakey, California. Councilmembers Aaron Meadows, Anissa Williams and George Fuller were in attendance. Mayor Sue Higgins was not in attendance.

2) Pledge of Allegiance to the Flag

Vice Mayor Pope led the Pledge of Allegiance to the Flag.

3) Public Comments

None.

4) Consent Calendar

4.1 Approve the Minutes from the Special Meeting of the Oakley City Council held November 4, 2021 (Libby Vreonis, City Clerk)

The vote was inaudible.

5) Work Session

5.1 GOVERNANCE GUIDELINES & PROTOCOLS WORKSHOP #2 (Joshua McMurray, City Manager)

Ellen Cross, founder of Strategy Driver, Inc., welcomed everyone and indicated this is the second workshop in developing Oakley's governance guidelines and protocols policy framework. She explained the process began with a survey to all five City Councilmembers and to several of the Directors and management staff at the City of Oakley and results were consolidated for the first workshop. She shared she also did interviews with each individual and they had a discussion about the findings of those results in the last workshop which was held November 4, 2021, and there is a recording of the workshop if someone didn't get a chance to see it. She mentioned tonight's workshop will also be recorded. She shared that the first workshop was about a 2 ½ hour discussion about some of the findings. She mentioned some of the findings were from a long time ago that no one in the room were participating in at the time so everyone discussed how they can have good governance and really refocus energy on the Council governing and achieving the vision and the mission that was set out for the City of Oakley. She mentioned one of the biggest findings was that the new

Councilmembers have not had a chance to provide their input to the Strategic Plan which was published in 2020, so that was a key identifying item that the vision and mission may not be as relevant today as it was when it was first written, and that's definitely a high priority to update. She mentioned until that time, until they have an opportunity to update the vision and the mission, they wanted to create a framework to have some context so that the Councilmembers and staff can understand what the priorities are, so the staff can execute the priorities of the Council, and the Council can also give clear direction to staff on what the Council would like to see as far as objectives in order to achieve the vision and the mission. She mentioned at each of the table, she distributed the draft governance guidelines and protocol framework. She explained this document consists of nine pages that culminates the survey, interviews and the intent of the discussion from the first workshop held November 4th. She shared that the Councilmembers and staff were both asked to review the framework she wrote based on all of the input and information she received. She indicated this document right now should really be reflecting the input of every single person that took place during the process and she tried to make sure nothing was left out of that process.

Ms. Cross explained Section 1.0 is an introduction to City of Oakley's governance guidelines and protocols policy framework and it talks about the process. She discussed other sections include unity, mission and vision, code of ethics and values, roles and responsibilities, and success factors. She added that the document contains a listing of everyone who participated in those discussions, the five Councilmembers and executive staff.

She mentioned the rest of the document is organized beginning with Section 2.0, City of Oakley Shared Vision and Mission to Achieve Success. She indicated until the vision and mission that reflects this current Council is updated, the current vision and mission will be used until the Council and staff have an opportunity to schedule and get that process launched. She explained the findings here are intended to really address the vision and mission which are broad enough that anything they do in terms of goals and objectives or initiatives, in addition to the current Strategic Plan, can fit into that framework.

She addressed Section 3.0, the City of Oakley's Code of Ethics and Values. She indicated the Code of Ethics and Values were developed in the current Strategic Plan. She mentioned when they culminated all of the information, there were no specific changes made, but they did recognize that they do want to take a look at the Code of Ethics and the Values again as they walk through updating a new Strategic Plan. She explained in the meanwhile, they will be using the current Code of Ethics and the Values. She mentioned it was also notated by the majority that if they exercise and live up to the Code of Ethics and values, they will do a pretty good job getting on the right track.

Ms. Cross reviewed Section 4.0, City of Oakley's Governing Roles and Responsibilities to Achieve Shared Vision and Mission. She shared this section really describes the roles and responsibilities, and which the lanes which the Council and staff should be

operating in so that while they are all collectively achieving vision and mission, they have a different role and a different responsibility, and how to do that. She added that the Council is directing their vision and mission and the staff are executing it and implementing that vision to achieve it, as well as bringing information back to the Council so the Council can make informed decisions.

Ms. Cross shared that the last section is a summary of next steps for shared success. She explained she will go through this document section by section. She expressed she hopes the Council and staff had an opportunity review it. She mentioned it is also up on the screens around the room. She shared she will be doing real-time editing and tracking changes while going through the document so everyone can see the changes she is going to make. She outlined three things they will do tonight: (1) identify what is missing, (2) identify what needs to be eliminated, and (3) identify what needs to be augmented. She requested no wordsmithing, explaining she is trying to capture the essence. She mentioned that does not mean they can't change a word, but she wants to focus on the essence and have the framework move them forward in a united way to implement the vision and mission. She mentioned hopefully they took notes and will bring suggestions forward.

She moved on to Section 2.0, City of Oakley Shared Vision and Mission to Achieve Success. She explained this section talks about the unity of purpose of the Council and staff is reflected in the vision and mission and they were adopted in the Strategic Plan. She further explained that the Council's role is to approve the vision and mission and execute, staff's role is to approve the vision and mission through its operational role, and that executive staff have been executing the current Strategic Plan. She mentioned they all recognize that the current Strategic Plan needs to be updated and in Section 5.0 it is one of the first items listed for next steps. She shared the current vision of the City of Oakley is to be recognized as "a model of civic participation and a vibrant Delta community where families work, play, shop and visit", and the mission is the "City of Oakley exists to build an enhanced, quality community and serve the public in a friendly, efficient, responsive manner." She mentioned every section that was written has a section called "success factors to achieve the vision and mission" and these are the guidelines and the framework. She shared that staff read the document, as well as the Council, and staff met yesterday. She explained staff provided the edits in red that were mostly editorial in nature, not substantial changes. She mentioned she will read the success factor to achieve for each section because this is really the heart of the document.

She explained that the governance team is committed to work within the framework of the stated vision and mission until the 2022-2024 Strategic Plan is updated in 2022. She further explained that the City Manager will present the current priority goals, leveled effort, scheduled costs and risks to the City's current investment if not completed, or in other words, the City Manager is working under the guidance of what has been set. She mentioned it has been asked that the City Manager put the list of priority factors together and present to the Council so before the new Strategic Plan, staff knows how their time and energy will be spent in achieving or putting some of the projects or

initiatives on hold. She mentioned the Council will provide input to refine priorities, provide clarity on staff direction, and have Council alignment until execution of the updated Strategic Plan. She explained the City Manager will communicate to the Council when the direction is not clear and ask for clarity; in other words, this is a dual responsibility, the responsibility of Council and the executive team, that they're both communicating clearly, and if one of the Directors goes to the City Manager and says, "I don't understand what we're supposed to do," if the City Manager has any doubt, the City Manager should ask for clarity from the Council, and vice versa; if the Council doesn't have clarity, it should be asking that question; it's a team responsibility. She reiterated that the City Manager will communicate to the Council when direction is not clear and ask for clarity, and the Council will inform the City Manager when staff are off course and request what additional information is necessary to have for decision making; the Council and City Manager will alert one another when the City is off course on the agreed interim priorities until the Strategic Plan 2022-2024 is completed. She added that Communication regarding the status of the Strategic Plan and interim priorities will be facilitated at the scheduled City Council meetings, in between meetings, and during one-on-one meetings with the City Manager, as appropriate. She mentioned professional, direct communication will provide clarity, align responsibilities, and provide updates on barriers to implementation to create a coordinated governance team in order to fulfill the City's vision and mission. She commented that the governance team refers to both the Council and executive staff.

She indicated that Strategic Plan annual special meetings should be held to include the Council, executive staff, and interested parties, such as the public. She thanked the public for attending and welcomed them to provide comments at the end of the meeting. She mentioned the Council and staff should review the status of the Strategic Plan and eliminate or augment goals and relevant priorities for achieving the City's vision and mission. She mentioned the process should ensure all Councilmembers are included in key updates of the Strategic Plan implementation progress and barriers to success, consider annual internal surveys of Council and staff, and external surveys of interested parties. She shared this was something asked for during the meetings to evaluate the Strategic Plan success and relevance. She also shared it was suggested to post the City's vision and mission in City Hall as a reminder of shared responsibility. She asked the Council if there is anything within Section 2.0, particularly as it relates to success factors to achieve the City's vision and mission, that needs to be eliminated, added or modified.

Councilmember Fuller commented he said last time he is a big fan of the Universal Declaration of Human Rights and along with that he does not believe the City's vision and mission statement are quite up to date as social justice, social equity, non-discrimination, inclusivity and the other words that go along with it, have not been included which kind of detracts from the governance statement. He expressed in his mind, they need to clarify all of that because the purpose here is to make an inclusive community that's socially just, socially equitable, and supported. He mentioned he understands that eventually the City will be revise its vision and mission Statement, but he wants to put that comment out.

Ms. Cross thanked him and alerted everyone she is recommending actions summarized on page eight, Summary of Next Steps for Shared Success, and in item number three, it says “Update Strategic Plan to reflect City Council vision, mission, Code of Ethics and priorities and objectives”, and they said they will complete that by quarter two of 2022, so that provides time to kick something off after the holidays and do an appropriate level of effort on the Strategic Plan which would include that vision and mission. She mentioned she will take notes on that comment and while it's not going to show up in this document, they can certainly proceed and make sure that it is incorporated that into the Strategic Planning process that they do in the near future, so they will have that on record. She inquired if any other Councilmembers wish to comment.

Vice Mayor Pope commented that there will be a new Council elected in November 2022; therefore, the process may need to take that into consideration. He inquired if the vision and mission are changing.

Ms. Cross confirmed the vision and mission are not changing.

Vice Mayor Pope suggested rather than using popular terminology or buzz words, they should state clearly that they want to treat everyone equally and fairly so it is clear. He inquired how far into the document they are.

Ms. Cross indicated just to Section 2.0, the paragraph she just read.

Vice Mayor Pope made comments that were inaudible.

Ms. Cross requested clarification where he is pointing to in the document.

Vice Mayor Pope made comments that were inaudible.

Ms. Cross called for any other comments from Vice Mayor Pope.

Being none, she called for comments from Councilmember Meadows.

Being none, she called for comments from Councilmember Williams.

Councilmember Williams asked if Vice Mayor Pope could clarify what he mentioned because every two years the City would have potentially a new Council so it would mean the Strategic Plan would turn over every two years. She inquired if the Strategic Plan is normally updated every two years.

Vice Mayor Pope responded there was a community-wide Strategic Planning meeting held every two years with updates in between years. He added that the community-wide meeting was held in a large forum with breakout sessions.

Councilmember Williams inquired if it is still possible to incorporate what Vice Mayor Pope is suggesting or if they are past that because everything that has happened with COVID and stuff.

City Manager Joshua McMurray commented he thinks they need to start with the process that is outlined in the document to give the Council a fair chance at getting the Strategic Plan updated, and then they can really think about what happens after the election cycle in 2022, and how they move forward. He expressed he thinks their comments are valid, but they are going to have two new people on the dais (after the election), and they are going to have to allow them to explain what their vision is and update the Plan accordingly so it's going to be an iterative process as they move through this.

Councilmember Williams commented she knows they are not talking necessarily about the timeline yet but inquired if they can move it. She mentioned it seems like it is complete by March, but they can hopefully start the work in January.

Councilmember Fuller commented he looked at the tape again a couple of times and he was very impressed with the eloquent way that Councilmember Meadows brought up that he is concerned that all three of their (Fuller, Meadows and Williams) voices are not being heard. He indicated yes, they have not been heard, but he is not going to put it off without at least some resistance to the next election cycle. He mentioned they have a lot of work in front of them now with the Strategic Plan and he anticipates two different people up on the dais because of the new ordinance, and they will have to do it again.

Councilmember Meadows agreed with that for January for this Council, and then mentioned he thinks it needs to be odd years going forward so starting in January 2023 for the next Council, so 2023 to the end of 2024, and then 2025 through the end of 2026.

Ms. Cross commented she is not sure she followed that. She inquired if he is saying in January 2022 to do a major change on the Strategic Plan and then do another major change in 2023 to restart the cycle.

Councilmember Meadows confirmed that is correct. He explained it should have been done January 2021, almost a year ago, and it was skipped.

Vice Mayor Pope returned to his suggestion of a major review following the election with a review one year later to provide Councilmembers an opportunity to review it again so they don’t have to wait a two-year period to review it again should they want to suggest changes.

Ms. Cross commented she wants to capture dates to be in the Plan and she will capture it both ways for the election year, but the intent is do a major update in January 2022 and after the election again in January 2023 to get it back on track.

Councilmember Meadows confirmed that is correct and also moving forward every January of an odd year following an even year election in November.

Mr. McMurray commented they can do that. He shared he plans to bring a work session to the Council on January 11 that will address the vision and that will kick off their Strategic Planning process for next year.

Ms. Cross called for comments from City Attorney Derek Cole, Mr. McMurray, or the executive team.

There being none, she moved on to 3.0, the City of Oakley's Code of Ethics and Values. She explained that the Code of Ethics and Values were developed by the prior Council and executive staff, and they are included on the City's website and in its Strategic Plan. She explained there is a table of the Code of Ethics and Values. She explained she is not going to go through them as they went through them extensively, there were survey interviews, and they were addressed during the first workshop. She indicated they are summarized exactly as they were before. She mentioned there are success factors to demonstrate the City's Code of Ethics and Values so she will again ask to everyone to comment on what is missing, what needs to be eliminated, and what may need to be added. She read that to more effectively implement the City of Oakley's Strategic Plan, it is agreed that Councilmembers and staff will be representatives of the City and lead by example in how they conduct City business. She went on to read that while the Code of Ethics and Values was not adopted by the current City Council and executive staff, it's agreed they will live up to and employ the spirit of the Ethics and Values as currently adopted. She indicated they also agreed during the 2022 Strategic Plan update they will develop more relevant Ethics and Values that better instruct the governance team how they will conduct the City's business internally as well as among the City's interested parties, including residents, businesses, strategic partnerships and future partnerships that will assist the City in implementing its vision and mission.

She mentioned they also will hold each other accountable "peer to peer". She indicated she thinks that is important; it is in the City's best interest to align goals. She mentioned they will communicate and lead with professionalism to build trust and teamwork that is necessary to work on behalf of the City as a whole. She explained their leadership and communication includes respectful and professional conduct in verbal and written forms, including communication protocols to best reflect the City's leadership, so the first type of communication form is really in the Council and special meetings. She shared examples are monthly Council meetings and annual Strategic Plan updates, but this can be any type of Council or special meeting. She mentioned some of the things they would like to see that would help exude this communication to uphold Ethics and Values include that the Mayor or Vice Mayor should actively facilitate meeting protocols and the City Attorney should advise on such protocols when questions arise or points of order are raised. She shared it was suggested to post Ethics and Values at City Hall once updated as part of the 2022 Strategic Plan. She also shared they want to structure meetings to allow meaningful participation for all Councilmembers, staff invited participants, and interested parties, including the public and invited stakeholders. She

mentioned they want to facilitate meetings through a clear and published agenda that outlines corresponding plans, documents and policies; examples include General Plan, Strategic Plan goals, and budget drivers for status updates. She added that status updates include succession factors, barriers to success, information needed and decision making. She indicated they also suggest estimating information needed or workload requests so Council understands the level of effort. Regarding timing, she shared it was suggested to schedule Council discussion with reasonable time allocation for Council, staff and interested parties, to focus on agenda items with allocated time, and items not on the agenda be prioritized during a recurring allocated time on the agenda which should read items not on the agenda and/or are included for future meeting requests. She added that speakers invited to the microphone should receive uninterrupted speaking time with an allocated timeframe, typically three minutes, and Council should have time allocated for clarifying questions or comments for both staff and interested parties. It was also mentioned that if a vote is required, the moderator who is the Mayor or Vice Mayor, should request Councilmembers to motion for the vote and the second motion to consider the vote, and once the vote takes place, decisions should be reconfirmed by the moderator, the Mayor or Vice Mayor, and all Councilmembers should respect the decision moving forward, regardless of position.

She mentioned the second type of internal communication is within City Hall and administration to work within the communication lines of authority. She explained Councilmembers can communicate with one another in accordance with the Brown Act. She further explained that during outside formal meetings, not more than two members can communicate with each other on current, anticipated or potential business items, verbally, in writing, electronically or through social media. She mentioned Councilmembers can communicate directly with a City Manager or City Attorney on all matters related to the City and staff, and Councilmembers can communicate with staff with the knowledge and agreement by the City Manager. She explained that City staff should communicate with Councilmembers through the expressed approval of the City Manager. She mentioned Councilmembers, the City Manager and the City Attorney can communicate anytime as long as no more than two Councilmembers are present, except in a formally noticed public meeting, according to Brown Act guidelines.

Ms. Cross addressed external communication and media including news outlets, radio, television, web-based news, social media, magazines, newspapers, etc. during professional community events, social organizations and other events. She mentioned that City of Oakley representatives, the Council and staff, will uphold the Ethics and Values in all venues and media inquiries shall be directed to the City Manager. She mentioned they encourage team building and communication that exemplifies professionalism and stewardship, working within the lines internally before going externally to resolve. She added that they provide an opportunity to address challenges internally and empower the governance structure to informally address challenges directly and expediently. She mentioned that they understand that negative communication will distract from addressing the City's priorities and building the requisite collaboration to attract partnership and implement priorities. She also mentioned they encourage a form of full participation by Council, executive staff and

interested parties by creating an open and transparent discussion on topics at the Council meetings and not on social media or platforms that cannot facilitate full participation due to Brown Act laws. She mentioned they wish to provide training opportunities to professional associations, i.e., League of California Cities, for both Council and staff, to interact on public forums, including social and public media, to celebrate the City's successes, and invite critical analysis and discussion for input into decision making. Ms. Cross invited discussion.

Councilmember Fuller commented that items related to city business to the City Manager does not preclude a Councilmember from commenting on personal opinion of the issue, and suggested in the second to the last bulletin to italicize the word encourage.

Ms. Cross requested clarification where these changes appear in the document.

Councilmember Fuller indicated the top of page six.

Ms. Cross inquired if she is looking at the correct section regarding direct media inquiries to the City Manager.

Councilmember Fuller confirmed it is. He suggested after the sentence about directing media inquiries to the City Manager, language be included to indicate it does not preclude a Councilmember from offering an opinion on an issue.

Ms. Cross inquired if the City has a PIO (Public Information Officer).

Assistant to the City Manager Nancy Marquez made comments that were inaudible.

Councilmember Fuller commented he is in favor of the City Manager and if the City Manager wants to designate a Public Information Officer (PIO) that's fine; the City Manager can work with the PIO, but the City Manager determines the information released. He suggested they continue with the wording of City Manager and the City Manager can delegate how the news media will be engaged.

Vice Mayor Pope made comments that were inaudible.

Councilmember Fuller recalled they said during the first phase that they are forgetting about all the stuff in the past and catching up from the former City Manager.

Vice Mayor Pope started to comment.

Councilmember Fuller commented Vice Mayor Pope is out of order. He expressed he is not finished speaking and Vice Mayor Pope feels superior and wants to talk over him, but he is not going to let him so he can just wait.

Ms. Cross requested Councilmember Fuller have the microphone right now and be allowed to finish.

Councilmember Fuller commented they went over it last time and the City Manager left. He indicated there were difficulties there. He mentioned the Council said they are leaving that and moving on. He commented that they have a new City Manager and he is confident the City Manager will lead this City in a manner that he determines is best.

Ms. Cross inquired if her understanding is correct that the PIO would still report to the City Manager. She commented the PIO is a direct report to the City Manager so the City Manager can empower the PIO. She invited Mr. McMurray to comment before turning it back over to Vice Mayor Pope.

Mr. McMurray explained it reads that way because the PIO function lies with the Assistant to the City Manager position and that position is in the City Manager's Office so it's really as Councilmember Fuller stated, it is within his discretion to delegate that responsibility. He commented he is not saying he is changing that right now but it reads more clear to delegate all media inquiries to the City Manager's Office where he can make sure it's handled.

Vice Mayor Pope made comments that were inaudible.

Ms. Cross requested he speak a little louder because he doesn't have a microphone and he has a mask on so it's hard to hear him.

Assistant to the City Manager Nancy Marquez made comments that were inaudible.

Councilmember Meadows commented everything goes through the City Manager's Office so the City Manager needs to delegate to whomever that responsibility falls to, and if it's Nancy, then he is fine with it. He mentioned the City Manager can't be doing everything, but he should be clued in when needed. He explained there are certain things that the City Manager has to be involved, but as long as the City Manager is okay with staff doing what they're doing, he is good with that. He commented he doesn't know if that breaks any tie.

Ms. Cross inquired if the City Manager reviews more controversial press releases before released by the PIO.

Mr. McMurray confirmed he does.

Ms. Cross commented they are working as a team, but the City Manager takes responsibility for everything that is coming out of City Hall.

Mr. McMurray confirmed he would have direct access to the information being disseminated is being able to change it if he deems necessary.

Ms. Cross commented that she thinks as far as this document is concerned, and of course they can all change it, but the intent is that it is still coming from the City Manager and he could delegate it to anybody in his office, or he could write it himself. She explained they are not getting into that level of detail because it makes it clear that the City Manager, for roles and responsibilities, is ultimately responsible for the operations of the City of Oakley so she thinks it's properly worded no matter who ultimately writes the press release. She mentioned if something comes out in a press release that the Councilmembers aren't happy with, they can go directly to the City Manager to let him know so ultimately, he has the responsibility.

Councilmember Williams commented that it seems like a lot of semantics for something that is happening already. She expressed she has never heard from anybody they're not getting information they need and she has not seen press releases that don't seem to follow anything so she thinks they do it as they have been doing it. She indicated it seems like they are spending a lot of time on this, but without a lot of bang on the buck. She mentioned she doesn't know if that was the tie breaker, but if it's not broken, don't fix it. She suggested they should maintain the way they are doing it right now and it seems like the PIO is doing it.

Ms. Cross asked Councilmember Williams since she has the microphone if she can also comment on Councilmember Fuller wanting to add Councilmembers' opinions to media. She inquired if that is something she would agree adding to the document.

Councilmember Williams inquired if they really need it in there. She explained if somebody asks her how she feels about whatever new thing that is coming, she thinks they have the right to say that. She mentioned when she has been approached, she has gotten sort of permission that she is going to answer, but she doesn't really have too much that she feels like would be an issue. She expressed she does not think it needs to be in the document. She commented it is not like they are writing their own press releases about anything so she does not think it needs to be in the document.

Ms. Cross called for any other comments on Councilmember Fuller's addition.

Councilmember Meadows commented he has made limited comments to the press and hasn't called up the City Manager and asked for permission.

Ms. Cross clarified that he is speaking on behalf of himself when he has commented, not the Council as a whole.

Councilmember Meadows confirmed that is correct.

Vice Mayor Pope began to make comments but was not on the microphone.

Ms. Cross mentioned they are trying to have people speak into the microphone because it's being recorded. She inquired if that is correct.

Mr. Murray explained that the City Clerk is not present and to do the minutes and she needs to watch the recording.

Vice Mayor Pope commented that the distinction is between City business and policy; the Council establishes policy that the City Manager implements, so questions about City business is in the City Manager's realm. He added if it's a question of policy or something that's in the Council's realm then no, they don't ask the City Manager permission because the Council is his boss. He mentioned if it's a question on your position or your policy, by all means yes, but if it's a question on the operation of the City, that should go to the City Manager. He expressed he doesn't really think it needs to be changed because the Council represents the voters, the residents; the Council has a duty to be transparent and tell them what they are thinking and find out what they're thinking to form thoughts on the issue to decide how to vote if it's a future item.

Ms. Cross commented that this is talking specifically to City business. She asked Councilmember Fuller if he feels strongly this sentence needs to be included because she does not think there is any issue of Councilmembers speaking to media on their perspective on policy, but if it's specific to operations it should be redirected to the City Manager.

Councilmember Fuller replied that he thinks she just said it- City business operations. He shared he has been in a big organization where people say the wrong thing or they don't want to say anything and people say "Well, you're not supposed to talk to the media." He expressed he thinks as Councilmembers they can render opinions.

Ms. Cross commented she thinks they all agree with that so she is going to italicize for Councilmembers the words City business. She mentioned if Councilmember Fuller is okay with it, she will delete the sentence he put in and emphasize that City business needs to be directed.

Councilmember Fuller confirmed that is okay.

Ms. Cross asked for any other changes.

Councilmember Fuller commented he mentioned to italicize the word encourage.

Ms. Cross inquired where in the document he would like this change.

Councilmember Fuller indicated it is in the second to the last bullet before 4.0., to encourage good social media facilitation. He suggested highlight or bolding the bottom one to provide training opportunities because he believes that the Council could bring themselves up to speed or have a stronger understanding what social media is and how it can improve the City and their own lives, so those two.

Ms. Cross inquired if he is suggesting that there is an actual change to this bullet or just providing input.

Councilmember Fuller suggested to italicize the word encourage and place in bold type reference to providing training opportunities for social media.

Ms. Cross inquired why he wants it bolded.

Councilmember Fuller commented he believes it is in the best interest of the City and the City Council.

Ms. Cross explained they are all equally weighted and that is why she does not want to bold it. She mentioned they are not doing it in bullets for order of priority or anything; it is all inclusive.

Councilmember Fuller mentioned to him it is an important addition. An additional item he brought up is that the City Attorney is the parliamentarian and is the final determinant of any procedure or dispute on the dais.

Ms. Cross asked if that thought can be placed on hold until City Attorney Derek Cole returns to the room.

Councilmember Fuller agreed.

Ms. Cross called for any other comments on this section.

Councilmember Williams mentioned she has a question regarding “facilitate meetings through a clear and published agenda that outlines corresponding planning documents, policies --.

Ms. Cross asked where this provision appears in the document.

Councilmember Williams responded it is on page four, under Council and Special Meetings, the fourth bullet point. She mentioned it says “to facilitate meetings through a clear and published agenda.” She indicated she has a procedural question. She explained lately she is receiving questions from people that say "I don't understand the background". She mentioned she feels like they bring it up a lot, but she doesn't know how difficult it would be on the staff end to include where something aligns with the City’s Strategic Plan or why the City has to do the sort of the things it has to do. She mentioned people may not necessarily read the staff report, but for the people continuously asking the questions, it might get them somewhere to include, in addition to the history, a brief tie into the General Plan or the overall zoning, and that the City is constantly reinforcing it.

Ms. Cross responded that is possible, so if the City Manager is bringing something up and it was identified as a priority in the General Plan or the Strategic Plan, there can be an explanation of the project and what the status is.

Mr. McMurray commented that is something staff can do. He mentioned they haven't done that in the past but can definitely add a section to the staff report that points to why they are proposing or bringing it forward.

Councilmember Meadows inquired about hyperlinks.

Mr. McMurray responded they can add hyperlinks.

Councilmember Meadows inquired if it can be done with supporting documents.

Mr. McMurray confirmed it can.

Councilmember Williams indicated that is great. She mentioned it will provide background in addition to history and will be helpful, especially if they have something contentious.

City Attorney Derek Cole mentioned the City of Antioch's staff reports have to mention what part of the Strategic Plan is being implemented.

Ms. Cross mentioned while Mr. Cole was out of the room, Councilmember Fuller had a comment.

Councilmember Fuller mentioned in Section 3.0, they went through a plethora of procedures and actions on the dais and they mentioned the City Attorney would be consulted. He indicated in his mind it should say that the City Attorney is the parliamentarian and has the final decision on all procedural manners and any procedural disputes that may be occurring on the dais.

Ms. Cross mentioned it is stated in the document that the "Mayor and Vice Mayor should actively facilitate meeting protocols." She continued reading, "City Attorney should advise on such protocols when questions arise or points of order are raised."

Mr. Cole responded his role is advisory and he is not going to wrestle the Councilmembers. He explained at the end of the day, the elected officials have to take the action, but he will advise, and if there are procedural points, points of order or Robert's Rules questions, he will absolutely advise.

Ms. Cross asked if they covered all of Councilmember Williams comments.

Councilmember Williams confirmed they did. She jumped to the timeline and inquired if there is anything in there (the final bullet point) regarding training.

Ms. Cross responded she doesn't think she added a timeframe in the last section on that, but she can certainly do that.

Councilmember Williams commented that would be great to get that as a quick point of order.

Councilmember Fuller inquired if they want to put a time frame on it if they are talking about social media. He mentioned they should make a determination, but he sees it as ongoing.

Councilmember Meadows commented there should be a base for the new Council coming in, but from there, it should be ongoing.

Councilmember Williams agreed and mentioned it is the same with the Strategic Plan; it doesn't end so it's a living, breathing document.

Vice Mayor Pope mentioned there have been some changes with Brown Act laws because of the pandemic and they should be brought up to speed on that. He also mentioned new Councilmembers should receive training as soon as possible after the election.

Ms. Cross announced she added that. She inquired if Councilmember Meadows has any comments.

Councilmember Meadows responded not beyond what he already made.

Vice Mayor Pope requested re-wording on the second bullet point under section 5 regarding items that are not on the agenda that should be requested to be placed on the agenda.

Ms. Cross explained they don't want something on the agenda that really wasn't given adequate time for discussion so there has to be some judgment used for that. She mentioned some agenda items might take two minutes and others might take a whole Council meeting. She inquired how he sees it best addressed. She commented that she doesn’t know if it is even an issue with their Council meetings that they are running out of time or that people don't feel they didn't have a chance to speak at the dais.

Vice Mayor Pope commented it is very seldom that they run up against their stop time where they have to vote to continue the meeting.

Ms. Cross mentioned typically meetings that she is involved with are kept pretty open and liberal, then if for example, they have 40 public members standing up wanting to speak, then they would limit it to three minutes so everybody gets a chance to speak.

Vice Mayor Pope commented that 3 minutes is standard for public comments and no time limit for Councilmembers or parties presenting because often there are more facts that are needed to make a decision. He referred to the second sentence regarding items not on the agenda. He indicated they just need to request them to be placed on the agenda. He explained there is no part of the agenda for items not on the agenda.

Ms. Cross mentioned for a lot of meetings she attends there is an item upfront that addresses if there are items to be put on the agenda or put on an upcoming agenda.

Mr. McMurray commented they have it for future agenda items. He mentioned if it's not on the current agenda, they are not going to be discussing it at that Council meeting, but there is a place under Council Reports that gives the Councilmembers the ability to request a future agenda item.

Ms. Cross explained that is why she worded it as “items not on the agenda and/or included for future meeting request.

Mr. McMurray asked Vice Mayor Pope if it is the wording he wants changed.

Vice Mayor Pope suggested it be re-worded.

Mr. McMurray suggested it could be re-worded to “items not on the agenda are to be requested during the time of the agenda where future agenda items lands. He commented that wasn't said eloquently, but the thought is there.

Vice Mayor Pope agreed and mentioned the Council has been doing this in practice, but it should also include that Councilmembers must have a second to support the item moving forward as a future agenda item.

Ms. Cross inquired if the following is correct: “Focus on agenda items with allocated time. Items not on the agenda are to be requested during the time allocated for future agenda items.”

Mr. McMurray responded that it sounds right. He mentioned Vice Mayor Pope’s last comment is relevant; it should be a minimum of two Councilmembers that agree on the agenda item. He explained the purpose of that is once an agenda item request is made, there is staff time and cost associated with that so if they have two Councilmembers that request the item, staff can move forward with research to bring back to the Council to see if there is further support for the item.

Ms. Cross re-worded it to “Items not on the agenda are to be requested during the time allocated for agenda future items with two Councilmembers approval.”

She called for any other comments on Section 3.0.

There being no further comments, she moved on to Section 4.0, the City of Oakley Governing Roles and Responsibilities to Achieve Shared Vision and Mission. She read the following: “Governance and defined roles and responsibilities are important in conducting the actions and to achieve long and short-term goals of the city. All goals are responsibility in achieving the vision and mission. Following is figure one, an organizational chart that outlines the City's governance structure and communication

lines and roles in communication flow are summarized and figure two, governance roles. In general terms, the following roles and responsibilities are as follows."

Ms. Cross shared the organizational chart and inquired if the Council and staff agree on it as presented. She explained that it generally says that the residents of Oakley are at the top with the City Council under them and the City Council has access to the City Attorney and the City Manager who directly report to the City Council, then the Assistant to the City Manager follows. She mentioned it includes the Public Information Council Liaison, Facility Maintenance and Special Projects and it also has the City Clerk who records. She mentioned it is basically outlining each responsibility for the boxes and is meant to be more informational than instructional. She mentioned there are probably several things that they do that are not showing up in the box, but this is in general terms and provides the way that information should flow. She explained the role of the Councilmembers is to direct and hold the City Manager accountable, to provide information and develop policy and budgets for the review and approval of the Council to achieve the guiding policy documents, not limited to the Strategic Plan, General Plan, Capital Improvement Plan, etc., as represented by their constituents which are the public and interested parties. She mentioned they have a lot of responsibilities, but this is in essence the Councilmembers' role.

Ms. Cross shared that the City Manager's role is to report and be held accountable by the Council and to implement their vision and by developing draft policies and programs as directed by the Council's input, majority decisions and adopting guiding policy documents. She indicated the City Manager will direct staff accordingly and ask the Council for clarifying information as appropriate.

Ms. Cross mentioned the City Attorney is to be directed and held accountable by the Council and be the legal advisor to the Council, City Manager, and executive team, and when necessary, to draft the legal agreements, resolutions, ordinances, and other legal documents, among other responsibilities.

Ms. Cross shared that executive staff is to be directed and held accountable by the City Manager to develop draft policy documents and programs and identify clarifying direction for successful implementation of policy programs and guiding policy documents.

Ms. Cross explained that the role of the public and interested parties is to elect the Council and inform the Council of their interest for the Council to direct the City's resources accordingly.

She mentioned a more detailed outline of role and responsibilities is codified in the City of Oakley's Municipal Code and there is a link to that. She pointed out the graphic that shows how information flows which has the public at the top (they elect and provide input to elected officials), the elected officials are the bridge between the public and the staff (the electeds set the vision, adopt the policy and budget, and hold the system accountable), the City Manager is a bridge between staff and the electeds (the City

Manager implements vision policies and programs and holds staff accountable) and the staff do technical analysis, implementation of policies, and provide services to the public. She mentioned this graphic provides the relationship and all of them have the center and central role of shared vision and mission. She expressed this graphic really illustrated how that should flow, to try and keep everyone in their lanes, and understand they are a team. She explained when they do not work in this efficient and effective manner, that is when they get off track and get distracted, and they are not acting with efficiency that will help implementation.

She read the Success Factors to Govern Roles and Responsibilities to Achieve the City's Vision and Mission in Section 4.0: “The successful outcome of the City of Oakley's vision and mission is inherent on a coordinated and collaborative approach. A division of roles and responsibilities to effectively deliver on City of Oakley's priorities is important to realize success and to meet the need and expectation of the City of Oakley's constituents. Clarity, clean line of communications, and an understanding of the roles to achieve the vision and mission is paramount. Updating the Strategic Plan and realigning the Council's expectation will better direct staff resources to achieve the vision and mission. Minimizing this communication through identifying information needed and providing direction will move the Council's programs, projects and initiatives forward through prioritization and funding allocations. Working within the communication lines is outlined above to provide direction and resolution is also important before moving to external platforms for discussion. We are partnered in achieving success on behalf of the City of Oakley. Encourage each other with what is going well and we're achieving together and identify what is not working with practical and achievable solutions with the least amount impact to achieve the City's priorities. Empower and entrust each other to execute within the governance framework. Council prides clear policy and staff executes policy to deliver results. Create internal work sessions within the operations to promote an integrated and inclusive approach. Articulate information needed and barriers to success in a timely fashion to jointly develop solutions. Promote successes and opportunities and partner for solutions to minimize failure that embodies the mutual responsibility to deliver the vision and mission. Align the budget and staff resources to each program, project and initiative to ensure success.”

She inquired if there are any comments on Section 4.0. She asked Councilmember Fuller if he would like to kick it off.

Councilmember Fuller had no comments.

She asked Councilmember Meadows for comments.

Councilmember Meadows had no comments.

She asked Councilmember Williams for comments.

Councilmember Williams responded she likes the graphic.

Vice Mayor Pope suggested making the graphics bigger.

Being no further comments, Ms. Cross moved to Section 5.0. She explained this section was meant to take all the things that were identified in the last paragraph of each section for success factors to provide a glance. She mentioned this section can be updated and shouldn't be a static document. She mentioned they can update it, particularly as a bridge to get to the Strategic Plan. She mentioned the first priority is to provide objectives to executive staff by the City Manager presenting the current status of priorities and asking for Council input to align Council and staff priorities before the 2022 Strategic Plan is adopted. She asked Mr. McMurray is that is something he is able to achieve in November.

Mr. McMurray responded he gave the City Council an excel spreadsheet a few weeks ago that shows, in his opinion, what the priorities are facing the City right now, what the cost is to those priorities, and the deadline when those priorities need to be completed. He mentioned it is available for feedback from the City Council and he plans to, as part of the visioning process moving forward and the Strategic Plan Update, to revisit those items and while they provide a framework, he envisions the items changing as they go through the process.

Ms. Cross inquired if the Councilmembers have seen the spreadsheet and if it is helpful with the discussion as that bridge. She commented she thinks it should also illustrate what the cost is if something is eliminated from a prior Council as there has probably been an investment of time and dollars. She explained it is okay to recalibrate and make changes, but understand that they are making purposeful decisions, they know the history of things, and then they reprioritize.

She mentioned the second item is to adopt governance guidelines and policy framework. She indicated she would clean up the document up and during the December 14 Council Meeting, the Council can take an opportunity to vote on the protocols and policy framework. She inquired if any Councilmembers would not adopt this governance framework and if not, why, or what can they do to make this a better, more effective document.

Councilmember Meadows commented he is good with the document.

Councilmember Fuller commented she did a good job and thanked her for her work.

Councilmember Williams commented she thinks it's great. She mentioned she wants to make sure they are actually doing these things and this is not just a piece of paper. She mentioned she wants to point out again that she is the one that called for it. She expressed she wants to make sure they live up to the stuff in the document because they have work to be done.

Ms. Cross commented she thinks that is going to underscore peer to peer accountability because she thinks they can all do that; they are rowing in generally the same direction,

meaning the shared vision and mission, and they have different methods to get there, but have a common shared goal.

Vice Mayor Pope commented he likes it and is fine with it, but with every rule or guideline there's a consequence for not following it. He inquired if the document doesn't provide any consequence, how they first hold themselves accountable and hold each other accountable when they see that they are not standing up to these ideals.

Ms. Cross responded if there is something happening and they are not living up to their Code of Ethics or Values, and if it is distracting them from implementing the Strategic Plan, General Plan, or any of the guiding documents, it is the responsibility peer to peer for Councilmembers to remind that the distraction is costing the City money because that is really what it is; they have to start monetizing their actions. She mentioned when they are working effectively and efficiently, even if it's a debate, it is healthy and that debate shouldn't be discouraged. She encouraged it be in a public forum where discussion can take place. She mentioned when it doesn't occur in a forum where the public can be invited, where people can be in the same room when it happens, that creates more challenges, so she recommends peer to peer. She indicated the consequence is reminding everyone it is going to detract from the mission, vision and goals, and it's going to have a cost. She commented she doesn’t know if that is toothless or not. She mentioned they are all impassioned people at times about different things and they are not going to limit that, but they are going to make sure it is harnessed in a way that can create productive outcomes.

Councilmember Fuller mentioned it is important to state that what he may see as out of line, the other person may not, and that's where it comes in and that is why there are five Councilmembers, not just one. He commented it is open to debate and interpretation, and that is why they have a dais of the meetings and discussion.

Ms. Cross mentioned if people are staying on agenda, they are staying within the timeframe and not diminishing any of their values, and if they are, she thinks they need to have that discussion at the Council level.

Vice Mayor Pope agreed that debate and discussion should be in an open forum for everyone to participant, meaning all five Councilmembers, not two or less because of Brown Act restrictions. He also agreed that debating theory, policy, concepts and ideas are fine, but it is not okay when someone just bold face lies, makes ad hominem attacks and spreads falsehoods that are nothing about something the Council might vote on.

Ms. Cross suggested they address that. She mentioned if there is some misinformation outside the Chambers or misinformation even inside the Chambers they have the opportunity to correct the public record and state that may be one Councilmember's position, or it could be a public or interested party, but this is my position on it and that's why that statement from my perspective is not speaking the truth of what's been stated tonight. She mentioned Councilmembers need to provide that clarification in real time and not stay silent rather than letting the misinformation or something that seems so

contrary to their position hold the timeframe and they have a right to counter what the other person may have said.

Vice Mayor Pope commented it sounds like they need an agenda item for clarification of false statements or social media clarifications because that's not on the agenda.

Councilmember Fuller commented he thinks they need the City Attorney on that one.

Mr. Cole made comments that were inaudible.

Ms. Cross commented that the question they are asking is if there is someplace on the agenda to address things said outside the City Council Chamber.

Mr. Cole responded that seems juvenile and he will be honest; they don't like what each says on social media and they want to have a response. He asked why they are doing it at their meetings. He mentioned if there is an agenda item and somebody is saying something about the agenda item, it is teed up. He provided an example: "Councilmember Jones I understand you said X about this action we're taking tonight. You're wrong. Here's why." He inquired if it is not something on the agenda, why they need to have a tit for tat and going back and forth. He mentioned if they want it, they can do it. He mentioned it is not that they can't do it, it is how they do something and he hears they want to battle over what is said on social media. He expressed he feels like they have better things to do with their time.

Ms. Cross summarized what she heard: If there is something said that is on topic then it is on the agenda and it can be addressed; if it is off topic then they can, when the time comes up on the agenda, put it on a future agenda. She mentioned what she hears Derek saying is that they should stay within the framework of the City's guiding documents and discuss the business they are here to conduct together as a governance team.

Vice Mayor Pope commented he agrees wholeheartedly with the City Attorney. He shared he put himself on a social diet lately; he doesn't delve into it and hardly posts at all. He mentioned he has always taken the stance that free speech is there for a reason; the more people talk, the more they reveal about themselves and the public can see them for who they are. He added that people can talk as much as they want and reveal themselves, but when people forward him things that are bold face lies, that if not countered are misleading the public and are destroying all the things that they are trying to talk about here, they have to be held accountable. He explained if they are not held accountable to it, it is not worth the paper it is written on. He mentioned the whole reason they are going through this process is because that was not happening, so without some mechanism to ensure that this gets the respect and value it deserves, it is meaningless.

Ms. Cross mentioned they did talk about having the Core Values and the Code of Ethics being placed in the Council Chamber and just like they do the Pledge of Allegiance,

they could remind everyone to uphold the Code of Ethics and the Values, and if that is not happening, she thinks it goes on the agenda.

Councilmember Fuller commented that is why he stressed the training. He mentioned his perspective is that the old adage that knowledge is power, so if someone is upset with something, they go and get knowledge of it and learn how to use it within their own realm. He mentioned here (and before) semiotics is now a scholarly enterprise being studied on a regular basis within academia; it is here to stay and is the study of letters and the use of symbols combined which is social media. He mentioned he thinks there are many organizations, community colleges, English classes, and many other places that enhance the ability for a person to use it and if they try to silence it, that is where they end up in very sticky ground in his mind.

Ms. Cross responded she is not sure she hears it is about silencing, but rather they want it to be productive.

Vice Mayor Pope commented it should be open, transparent, truthful and factual, in addition to they are a team. He mentioned Ms. Cross used the phrase that they are rowing the same boat. He mentioned they might disagree on the dais, it could have been a 3-2 vote, 4-1 vote or 5-0 vote, but when they go out to the public, they need to be able to show a united front. He mentioned maybe he lost the debate, the vote went against him 4-1, he was the one dissenting vote, but when they go out, he doesn't make personal attacks on the other four Councilmembers, talk about how stupid they are, talk about how they don't deserve public respect or the respect their position deserves, etc. He shared he bites his tongue. He mentioned he doesn't have to go out and cheer lead because it's not his vote, but he doesn't go out and sabotage, disparage, or disrespect.

Ms. Cross indicated they have talked about this and know there have been things that have pulled team Oakley apart so to speak; it has been highlighted and day lighted. She mentioned now they have to expect that they do have social media as a tool of communication and they should be communicating to the public over social media and any tools to get information out, but they should also be communicating responsibly and that is what they outlined in this document; they should be reminding each other about this document and the commitment they are making because it is a reflection on the whole City, not just a reflection on the individual. She commented they are representatives, ambassadors, and they are governing this City.

Councilmember Fuller agreed mentioning fake news and the lies have gone by the wayside. He mentioned if somebody is saying something that you believe is a lie, you say specifically this is a lie and why. He added that the other person may have something you might not like to see, but that's the way it goes, but it is not this is a lie and fake news; that era is gone.

Ms. Cross moved on to the next item, Section 3.0, Update the Strategic Plan to reflect City Council's Vision, Mission, Values, Code of Ethics, Goals and Priorities. She mentioned she is going to keep quarter two and add the other dates that were described

earlier to make sure they keep in sync with updating the Strategic Plan with the election calendar.

Councilmember Meadows inquired how long will it take to do it because they have waited almost a year.

Mr. McMurray responded he does not plan on pushing this off. He explained it is not something they are going to slow roll out; he wants to start the January 11 meeting with the visioning workshop and move on from there. He mentioned realistically March to April is probably more realistic for completion. He explained it needs to be done by April as the Strategic Plan drives the budget so they cannot wait to adopt the Strategic Plan; they need to be pretty much in agreement on that Plan to drive the budget, so there's going to be no time wasted. He added there is a sense of urgency he hears from all five Councilmembers and the plan is to move it forward as quickly as possible.

Ms. Cross requested Mr. McMurray describe the process. She suggested maybe that will shed light why they won't have a final product until end of March or early April.

Mr. McMurray explained there will be a visioning workshop in January. He mentioned normally the City conducts a community wide survey to frame the Strategic Plan process. He shared he plans on bringing in a facilitator this year to lead that Strategic Planning process. He mentioned there will also be community meetings and City Council meetings to discuss the ideas and desires of the community and Council. He shared that staff will go back and research those ideas to see what is feasible within their constraints and budget, and then they have to bring that information back to the City Council for approval and adoption, so it's an extensive process. He mentioned it is not something they can throw together in a month or two, but three full months is probably adequate. He mentioned they will start in January with the visioning work session and they need to allow time for the community survey. He mentioned they can release that early in January to coincide with that visioning work session. He indicated that is why it may go into April but he understands the sense of urgency and doesn’t plan to hold back at all.

Vice Mayor Pope inquired if part of what Mr. McMurray envisions is having a public event like in the past at the high school in the gym where people can attend and have different sessions.

Mr. McMurray responded he would like to but it depends on whether or not the state regulation and school will allow it. He explained if not, they can consider using a City facility. He explained it all depends on what the regulations are in place at that time, but the goal is to get as much community input as possible and he prefers in person input.

Ms. Cross inquired if the City could hold that meeting with current state regulations.

Mr. McMurray responded he does not believe it could be held at the school right now, but he believes the meeting could be held in the Recreation Center. He mentioned they

have to do the protocols right now with vaccines and proof of vaccination or negative COVID test since it may be a sizable event.

Ms. Cross inquired if she should change this to quarter one. She commented it is easily a 2-3 month process by the time they hold their meetings. She mentioned they are going to do a survey among the City Council and staff like they did on the governance policy with potential interviews and then they are going to do a community survey.

Mr. McMurray confirmed that is correct.

Ms. Cross indicated the surveys have to be developed, distributed and there has to be time for people to respond and then consolidate the data.

Mr. McMurray commented April is more realistic as an end date. He explained he does not want to set up an expectation this can't be met and to be fair they need to have as robust of a process as possible to give the Council the most opportunity to get the plan in place that they want.

Councilmember Meadows commented he wrote down on his sheet to have it finalized by April 15, which basically is after the first City Council meeting in April. He expressed he understands they need this in place, but they have limiting factors because of the situation the world is in. He mentioned they are also going to be doing this one year later so he wants it to be done. He realized there will probably be changes in first quarter of 2023.

Ms. Cross called for any other comments on item number 3.

Assistant to the City Manager Nancy Marquez provided comments that were inaudible.

Mr. McMurray responded that he is hearing the Council wants to alter it and move it up so that is what they are going to do.

Ms. Cross commented she wrote down that the Council wants it voted on by April 15.

Ms. Cross addressed Section 4.0, Structure and Facilitate Council and Special Meetings, as outlined in Section 3.0. She called for any questions or comments.

There being none, Ms. Cross moved on to Section 5.0, Design Council Agendas to Reflect Planning Document Goals for Decision Making and Status Success Factors Barriers to Success and Information Needed. She mentioned she is going to add to design Council agendas to reflect planning document goals and why for each meeting as suggested by Councilmember Williams.

She moved on to Section 6.0, Update Strategic Plan Biannually with Input from Internal and External Stakeholders to Survey an Annual Special Meeting. She mentioned she will update this on the discussion about the election year, etc.

She addressed Section 7.0, Post Vision, Mission, Code of Ethics and Values at City Hall to Remind of Shared Responsibility and Focus. She mentioned that will be done after the Strategic Plan so she is going to put quarter two here.

She addressed Section 8, Develop Budget and Staff Resource Allocation by Program Project and Initiative to Ensure Priorities are Successful. She called for any questions or comments regarding this section.

She mentioned she is missing one more, Respect Lines of Communication and Governance Roles and Responsibilities. She mentioned she will add Number 10, Training for Social Media and Meeting Procedures to be kept up to speed and that will happen after the election for incoming electeds.

Ms. Cross called for any other comments.

Councilmember Williams suggested where it says develop budget and staff resources by program to put out the spreadsheet for the public to see as a good way to keep the eye on the prize.

Mr. McMurray responded it can be public and he plans to include that in the visioning workshop.

Ms. Cross announced that is all they had for this Governance Guidelines and Protocols policy framework. She inquired if overall if there is anything in the document that isn't in there that they think should be added or any comments on the process.

Vice Mayor Pope indicated when the Council has finished with comments, he would like to hear public comments.

Ms. Cross asked each of the Councilmembers to speak about this process, what it has been like for them, and what their level of commitment is to move forward and try to execute this framework as intended.

Councilmember Meadows commented he likes what Ms. Cross has come up with and what they have come up with. He mentioned he appreciates these meetings and none of them are perfect but he always tries to do the right thing. He mentioned they are all different and all going to live up to their own ideals, but he does try to do the right thing and live by a lot of what is in this document. He added that is not just from today or two weeks ago but every day, and so he appreciates this. He expressed he plans to do what he has been doing and if he offends anybody in this room to let him know. He mentioned he might not like what you say but he is open to hearing it.

Councilmember Williams agreed with everything Councilmember Meadows said. She expressed it is great to see all of this solidified and she wanted to have this workshop so they could get to a place where they are living this every single day so her end goal was achieved. She mentioned they will see as they continue down the path, but the whole

reason she ran for City Council is because she wants to make Oakley the best it can be, she doesn't want the distractions, she wants to make sure they are giving everything they can to the people that voted for them, and the people that didn't vote for them, to move the City forward. She expressed she loved doing the workshop and thinks it is great that they came to all of this especially because she does not want the staff to feel like they're not supported in the Council's decisions and she really just wants to have a bridge with the community to ensure they are understanding and that the City is keeping positive transparency. She added there is stuff that will happen that is not ideal or that they don't all agree with, or maybe they didn't like the decision. She mentioned she heard Josh say several times "I should have done that differently" and that's the spirit, and like Councilmember Meadows said, not everybody is perfect, but if they are transparent, especially with the mistakes, they lead better and do the things that taxpayers expect them to do.

Councilmember Fuller commented he had his doubts to begin. He expressed he thinks it was clear that he had his concerns what was driving this and Ms. Cross did a good job putting it back in place. He shared he appreciates this atmosphere. He shared a former work experience and indicated during that time they reviewed everything that had happened and what needed to be done daily. He mentioned they all have different assets, different gifts, they bring to the table, they all need to be heard and it needs to come about in an open forum for the good of the community as the community needs to know what they are doing. He mentioned being newly elected, he heard over and over again that people don't know what is going on in City Hall, they haven't been told the truth because it is hidden and something is going on. He mentioned he was beginning to feel the atmosphere. He shared he thinks it was a whole year that every Councilmember voted aye out of 24 or 25 meetings and that is not healthy because that is not debate. He mentioned now he hears the Council is fractured and doesn't know what it is doing, but he is hearing at least they know what is going on so he thinks that is important.

Councilmember Meadows commented that they don't all vote aye, but if you look at their votes, they're all mixed up. He mentioned many of them have been on the losing end, a 4-1 vote; different people make motions and different people second them so it is not now what Councilmember Fuller has described has happened in the past. He shared that he finds it interesting because it is governance; it is five people trying to help a city.

Vice Mayor Pope shared he has been on the Council almost 11 years and does not remember a time period where everybody voted the same. He shared he has been the sole voice on the Council voting against something or something that the others don't support many, many times, but it's nice it has that feel. He also shared it is nice to have the appearance that they all get along even though they don't agree all the time, none of the in-fighting. He mentioned they are not making newspaper headlines and drawing negative attention to the City and City Manager, they have an air of professionalism even when they disagree, and they can passionately disagree and they have. He explained when the vote comes down, that is what the vote is and he has won and lost votes, but hopefully they can restore that and move forward with the best interest of the

people that put them in this position. He shared they were elected at different times and maybe for different reasons by different people as the population changed, but they have to do what they think is best and they have to be honest, open and transparent with the people that they represent so they know what the Council is doing and why they are doing it. He expressed as far as that goes, he thinks the framework is a step in the right direction. He mentioned he hopes staff and the Council alike will help him if he falls short as he is not doing it on purpose. He mentioned he may not be aware of something he does and hopes they will pull him aside privately and be respectful. He mentioned he will probably receive it better than in public without shaming him. He expressed he wants that feedback and hopefully he doesn't have to get it very often. He mentioned as they are going through this, he kept looking for example parts that spoke to him and asked himself what he has done to cause this policy to be put in place. He mentioned he said it before the last meeting and his ask is still there that if he has done any of these things they are saying not to do, to please let him know. He mentioned they can go for coffee or lunch or put the information through the City Manager if they are not comfortable saying it to him in person, and he can make it anonymous or whatever they are comfortable with, but he wants to hear it and if he doesn't know, he can't fix it.

Mr. McMurray thanked Ms. Cross for her professionalism and approach. He mentioned this has been a somewhat sensitive topic and he is impressed the way the Council worked through this issue to get to a place where they now have a framework they can adopt at the next Council meeting. He commented that is a testament to everybody's commitment to this organization. He thanked staff for committing to this process and going through it. He mentioned it has been lengthy and he thinks they are all happy it's coming to an end, but there is still a lot of work to do and they are committing to doing that work.

Ms. Cross thanked him. She mentioned some of the public took time out of their schedule to join the meeting and opened the microphone for their comments.

Vernon Morris commented he tries to attend as many meetings as he can, but he can't get to all. He expressed he thinks this is money well spent and it should be done on an internal basis every year, at least one or two meetings at the end of the year. He shared he has worked in construction for over 45 years and in upper management for the last 25 years, and they did this internally with some of the key people and it really ended up with good results.

Mr. Cole shared he has been City Attorney since 2011, he has seen a lot of Councilmembers, and this is a deliberative and thoughtful group; all five Councilmembers have shaken things up in a positive way and he agrees, he doesn't remember the unanimity that Councilmember Fuller remembers from the last Council, but this Council votes differently and that is a true statement from his recollection. He mentioned they don't vote the same, they don't have blocks and they don't have clicks. He expressed it is actually kind of interesting to watch from a political science standpoint and this has been a good process. He commented that he does not think he

has ever done this here or in any other agency; it has been very helpful and illuminating. He mentioned this suggestion from Councilmember Williams is a wonderful one.

Ms. Cross commented she had the privilege to not only see all the results of the survey, but the privilege to speak to each of the Councilmembers and staff. She explained when she walked into this she did not know what she was walking into; she had not worked or been in this city before. She shared when she walked in, there was a lot of pain and she think everyone felt that pain, but it wasn't just for the sake of pain, because they are all so unusually committed to the City of Oakley. She clarified when she says unusually, she means she has never seen all staff say how committed they are, express what they want for the city, share how there has been a lot of politics over the last many months that have felt very alienating, and how they want the city back on track. She shared she spoke with each Councilmember and each Councilmember told her how important the city is to them and what inspired them to run. She commented that people aren't running for political office. She shared she is a Political Science major and worked on Capitol Hill in Washington, D.C. and Sacramento. She expressed that she believes the heart and intellect they all took in their interviews and came here bravely and spoke honestly, she knows they genuinely not only have the City's best interest in mind, but they have each other's best interest in mind. She mentioned the City needs them and that diversity of opinion, and they need the inclusion of everyone's thoughts because there are many ways to pave the road ahead. She encouraged them to keep up the good work because this is work, and they are under a tremendous amount of pressure, a lot coming from outside this city. She shared this means they need to keep the city safe, be competitive, and with residents working as close to the city as possible to make lives better. She mentioned that it is incumbent on Team Oakley to do that and everyone is counting on them. She shared she felt that was genuine. She mentioned you just can't take a governance document off the shelf and change the cover; they had to go through the process; it has to come from them, the solution has to come from them, and most importantly, upholding it has to come from them. She agreed with Vice Mayor Pope that no one wants to be publicly shamed. She encouraged everyone to be respectful and try to do that individually. She mentioned she knows they are not going to agree on everything and the debate that they are having needs to be a healthy debate, but they need debates without it being personalized. She thanked everyone for bringing their heart, soul and intellect to the process. She mentioned as they move forward, she is confident they are going to be able to recalibrate the priorities that reflect this Council's mission and vision that they were elected to do. She mentioned she is encouraged that they have an interim opportunity so they don't have to wait for the new Strategic Plan to be sanctified and then they will have a new Strategic Plan that will help again be the road map to delivering their vision and mission. She thanked everyone and mentioned they will bring the document back at the next Council meeting to be voted on.

Vice Mayor Pope commented that will be the first and only meeting in December since they are on a holiday schedule.

6) Adjourn

There being no further business, the meeting was adjourned at 8:31 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 January 11, 2022

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

1.2 Pledge of Allegiance to the Flag

Mayor Pope led Pledge of Allegiance to the Flag.

1.3 Proclamation Recognizing January 23-29, 2022 as School Choice Week

Mayor Pope read the proclamation into the record.

1.4 Proclamation Recognizing January as Human Trafficking Awareness Month (Claudia Gonzalez, Contra Costa Alliance to End Abuse)

On behalf of the City Council, Mayor Pope presented the proclamation to Claudia Gonzalez with Contra Costa Alliance to End Abuse.

Ms. Gonzalez thanked the Council for acknowledging human trafficking. She mentioned there is an upcoming meeting and additional information on their website, https://www.contracostacoalition.org, for events, training, or to learn more.

2) PUBLIC COMMENTS

Randi Adler commented she noticed that agendas are not on NextDoor but should be so residents can take an active role in their community. She mentioned when she moved here 10 years ago, her neighborhood was not recognized by the City and should be. She commented the millennials are lost; they have no idea what finances are about because it is not taught in schools so they have no clue how to be on their own, but parents want them to be on their own and be able to take care of themselves. She expressed she believes the Mayor should be elected by the voters rather than people newly elected by Council who are new to what they are doing.

Mayor Pope commented if the Council concurs, staff can add agendas to social media.

Mayor Pope called on Diane Merritt and asked if she wished to speak. There was no response. He indicated the Council received two general public comments in writing that will be reflected on the record.

3) CONSENT CALENDAR

3.1 Fiscal Year (FY) 2021/22 Second Quarter Report on the Capital Improvement Program (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.2 Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)

Councilmember Fuller inquired if the action the Council is taking is to accept item 1.3.

Mayor Pope confirmed that is correct.

It was moved by Vice Mayor Meadows and seconded by Councilmember Williams to approve the Consent Calendar. Motion was unanimous and so ordered. (5-0)

4) PUBLIC HEARINGS

4.1 City of Oakley Focused General Plan Update (GPA 01-20) – Adoption of a Negative Declaration and an amendment to the City of Oakley General Plan to bring it into compliance with state requirements related to environmental justice, mobility, and climate change and adaptation. (Ken Strelo, Planning Manager)

Planning Manager Ken Strelo presented the staff report and opened a PowerPoint presentation.

Beth Thompson, Principal with DeNovo Planning Group, mentioned she is the project lead and will be presenting.

Beth Thompson discussed the project description, the General Plan, consulting services, background, a project summary, land use element amendments, circulation element amendments, growth management element amendments, economic development element amendments, open space and conservation element amendments, parks and recreation element amendments, community health and safety element amendments, noise element amendments, other changes, and CEQA compliance.

Councilmember Fuller asked Mr. Strelo to explain the Downtown for him in terms of density and housing. He mentioned his understanding is there are 42 units per acre and there are over 100 acres there. He inquired how it would be developed, how it came about, and the intent what to do with it.

Mr. Strelo responded the map they are seeing is from the Downtown Specific Plan and it constitutes what is the Downtown Specific Area Plan or land-use map for lack of a better term. He explained there are 3 sub areas; orange for the Downtown core and has the most intense uses, the Downtown support area has similar types of uses but with conditions on where residential can be located, and RCCO which is residential with allowance of commercial conversion for low-traffic generating commercial uses. He mentioned it would allow for multi-family development.

Councilmember Fuller inquired what the density is for orange, gold and yellow.

City Manager Joshua McMurray responded that orange core area allows for up to 45 dwelling units per acre, the gold support area allows for up to 24 dwelling units per acre, and the yellow residential conversion opportunity area allows for 16.7 dwelling units per acre. He mentioned densities are set in the Downtown Specific Plan, the General Plan is more general in that it defines the land use and boundary of that land use, and the Downtown Specific Plan further defines it; it gives development standards, densities, intensities, use allowances, and development standards specific to uses over and above what the City's Municipal Code allows.

Councilmember Fuller asked him to go over the density again for the orange and gold.

Mr. McMurray inquired if he means the gold support area or conversion area.

Councilmember Fuller responded from Main Street and Hwy 4 to Ruby going West to Vintage Parkway, the density within the orange triangle.

Mr. McMurray responded it is up to 45 dwelling units per acre.

Councilmember Fuller inquired about the gold.

Mr. McMurray responded it is 24 dwelling units per acre.

Councilmember Fuller inquired when the Specific Plan was approved.

Mr. Strelo responded he recalls it was approved in 2012.

Mr. McMurray responded it was approved in 2010 and updated in 2017.

Mr. Strelo commented the General Plan amendment doesn't have any bearing on the Downtown Specific Plan so it would not change allowable densities in the City of General Plan.

Councilmember Fuller commented his understanding is if they do not approve this, the Specific Plan can be brought back and redesigned.

Mr. Strelo responded it would if the Council desires.

Councilmember Fuller mentioned is a developer wants to build affordable housing and submits a plan for 42 dwelling units per acre, the City would be obligated to issue a permit and allow the developer to build.

Mr. McMurray responded that the state has made it that way and a developer would have ability to build an affordable project in the Downtown.

Councilmember Fuller inquired why it was passed the way it was in 2010. He mentioned they did not have that obligation then; a developer could have built at market rate.

Mr. McMurray responded that the density bonus provisions in state law have been around for some time, therefore he believes even in 2010, a qualifying affordable project would have been permitted.

Councilmember Fuller responded that affordable projects marginalizes low-income individuals by placing them all in one area and in the process they bring about more demand for services in area because of congestion and need for increased fire and police to serve the population. He indicated the City would lose a lot of latitude.

Mayor Pope reminded Councilmember Fuller he asked for questions only during this time to the update.

Councilmember Fuller responded that all he has been asking are questions. He inquired how they are going to provide services if they go ahead with this type of plan.

Mayor Pope commented he is not sure if that is a fair question for staff and mentioned staff should not have to answer.

Councilmember Fuller indicated this is going to go on for a year. He asked how the City will provide services there in terms of funding.

Mayor Pope asked him to be more specific. He mentioned he should ask a question staff can answer.

Councilmember Fuller commented he thinks staff can answer it but he doesn't think Mayor Pope wants them to answer it.

Ms. Thompson responded that they are talking about a focused General Plan update so there are no changes to the Downtown Specific Plan, there are no changes to land use designations, they don't increase the density or intensity of land uses through this exercise, and there is no detail infrastructure analysis because there is no change or increase of development potential with this project and how it resides in the General Plan.

Councilmember Fuller commented that this project is under new laws; in 2010 it was not the same as in 2021; they are running a different type of project. He mentioned he has been here enough and he can tell by Mayor Pope's demeanor that if you vote for something it will go in whether you want it or not. He shared he in inclined not to vote for Downtown projects like this because the City is not prepared financially to provide services there. He explained they were prepared to provide at market rates, but now that law has changed to allow for affordable housing, he wants to know from staff if the City can afford to provide services. He explained if the answer is no, he does not think they should go ahead and they can't bifurcate the General Plan from the Downtown.

City Attorney Derek Cole commented he is struggling to understand the issue regarding designations for the Downtown Specific Plan. He mentioned if the Council takes this action tonight, if he understands his question, he wants to know if it makes it difficult or interferes with the City providing municipal services to the Downtown area.

Councilmember Fuller commented that everyone is saying it is the same, but it is not; if approved, they are now under a legal obligation for affordable housing and he doesn't want to just say okay. He inquired if they can bifurcate out the Downtown area from the General Plan because he doesn't believe the City can deliver services it thought it could deliver in 2010.

Mr. Cole responded that they would have a segmenting problem with CEQA which requires looking at the project as a whole. He mentioned he hears they are not changing designations so he doesn't know any action tonight would have any effect on the City's ability to provide services. He mentioned people still have to pay impact fees, they are not developing for free, they have an obligation to provide fees and pay other charges-they don't go away, but he believes the City still has ability to provide services even if the Council's authority to limit or say no to development doesn't exist.

Councilmember Fuller mentioned there was mention of aquifers. He shared there is an aquifer in San Gabriel with people living on top of it and comments have been submitted that no house should be built on top of it.

Ms. Thompson explained that it would be very difficult to not build housing on aquifers because aquifers underlie many areas of cities; they are water below the surface of the earth. She shared that the situation in San Gabriel is a 44 square mile are affected by industrial contaminants and an area identified for clean-up as they have a huge number of people living on top of the aquifer in housing constructed above it.

Councilmember Fuller commented the aquifer is being cleaned. He inquired why it was polluted.

Mayor Pope commented he is not sure how this is related to Oakley Focused General Plan update.

Councilmember Fuller commented Mayor Pope is going to do this for a year and that is fine, but he expects to hear an answer.

Mayor Pope commented it has nothing to do with the Oakley General Plan update. He indicated to Ms. Thompson she does not have to answer, but if she would so they can move on, he would appreciate it.

Ms. Thompson mentioned the update tonight addresses groundwater quality in the conservation and management elements; it will be reviewed and considered as projects are approved.

Councilmember Fuller inquired if it is being cleaned up.

Ms. Thompson explained that a General Plan is not the mechanism in in which clean-up occurs. She shared there is a groundwater sustainability management agency that is addressed in the General Plan. She mentioned the Department of Toxic Substance Control and the EPA would work together regarding clean-up of contaminated areas. She shared there are 35 open cases in their aquifer.

Mayor Pope inquired if that aquifer is under Oakley or the Central Valley.

Ms. Thompson responded it is the East Contra Costa sub-basin which underlies Oakley.

Councilmember Fuller commented they can’t talk about that though because Mayor Pope said so.

Mayor Pope inquired if Councilmember Fuller is done because 4 other Councilmembers would like to have an opportunity to ask questions.

Councilmember Williams mentioned she had questions regarding any changes to classifications to the Downtown which were asked and answered. She expressed appreciation of incorporation of feedback from the various agencies. She inquired if Ms. Thompson can go through the changes incorporated and those not.

Ms. Thompson mentioned there were comments regarding the CEQA process and that an EIR should have been prepared because they identified a number of changes on the roadway and in land use. She also mentioned comments on Laurel Road and the update has no effect on that. She also mentioned there is one small change with land use from business professional to light industrial and it currently exists, but it is just being refined; it does not increase intensity or density. She mentioned there were comments on CEQA in regard to policies in the negative declaration. She explained for the benefit of the reader, CEQA doesn't rely on policies and programs to mitigate impacts as there were no potentially significant impacts. She mentioned they were listed so the reader could understand how the City is further reducing those impacts. She mentioned changes were made where warranted and appropriate and where changes that would create an undue burden on the City beyond the scope of the General Plan are not recommended, but changes can be made. She mentioned there were a number of changes to further address sea level rise in response to comments, one of which indicated they didn't understand the difference between a 100-year flood event and sea level rise. She explained the General Plan update document shows sea level rise conditions under multiple scenarios and shows those under 100-year flood level conditions so Oakley is more protected. She shared there were also changes to the mobility element to enhance bicycle and pedestrian modes of travel to further support reductions in VMT and to the Air Quality and Greenhouse Gas Emissions section to reduce such emissions. She mentioned refinements were made to address groundwater quality, flooding and drainage, sea level rise and transportation.

Mayor Pope mentioned there was a comment regarding having the negative declaration under a separate agenda item and asked if the City Attorney can address that.

City Attorney Derek Cole explained the way they format their agenda item is they provide an agenda description and then they provide a list of actions to be taken. He mentioned in the original agenda, they included that they would be taking action on a Notice of Intent to adopt a negative declaration in the original agenda so they did originally comply with the Brown Act, but in an abundance of caution, they took the top language after "4.4" and added the words in. He mentioned he agrees with the commenter regarding case law, and agrees with the CEQA requirement, but believes the City was initially in compliance; they simply changed the top language to be more clear.

Mayor Pope commented the agenda has the CEQA/negative declaration language on the agenda.

Mr. Cole commented he appreciates it being brought to their attention and they can always do better to be clearer. He added they were within 72 hours to make the amendment.

Mayor Pope opened the public hearing.

Online Public Comments

Mayor Pope announced online comments were submitted by Dan Muelrath and Chris Lauritzen.

Public Comment Cards

Liz Elias commented she does not believe they found any reason to do a new EIR because they didn't want to find it; it emphasizes their intent to go forward with their plan instead of making a better Oakley. She mentioned there are science deniers on the Council and they shouldn't be on a decision-making body. She indicated 3 new Councilmembers were voted in because the citizens were tired of business as usual and the Council is still ignoring what the populous wants. She mentioned a recall. She expressed concern that the City says it wants public input, but solicitation wasn't an honest try, the website is not user-friendly and is designed to make it difficult to find things, surveys garner so few responses that they are statistical zeros, and the City keeps going with same procedure so it doesn't want better participation. She also added that the Council is ignoring the spirit of the law, they have already made up their minds, public input has no effect on the final vote, and the Council caters to developers rather than considering what is best for Oakley residents which is not fast-food, gas stations, storage lockers or hundreds of tract homes in environmentally sensitive areas they refuse to acknowledge as such. She expressed it is imperative that the Council reject the negative declaration.

Randi Adler commented she thinks the Councilmembers are all disgusting. She mentioned Mayor Pope shouldn't have anything to say when Councilmember Fuller is speaking just like the public may not be interrupted when speaking. She shared that the City has catered to low-income more than once and they are doing it again, but there is not enough Police or Fire as fire stations and things keep closing that are important to the public. She commented that when the City was doing construction at Cypress and Main, it closed the auto parts store during Christmas. She mentioned the Council doesn't care what people want and never did; it is off in its own world deciding what is good for the public. She mentioned there is enough crime in the city that they can't handle and the government is afraid to let people know what is going on such as why the Chief of Police was fired. She expressed they are disgusting and if they want to deal with the public, they will have to deal with her and she is a pain in the ass.

Mayor Pope closed the public hearing and called for deliberation.

Councilmember Higgins commented there are three sections of the General Plan. She inquired if an EIR is not being done because they are not opening the whole plan.

Mr. Strelo explained that three different Senate bills are being addressed. He mentioned there are options; they could have added a single element to the General Plan and addressed all of these issues. He shared that during the 4 or 5 workshops with the Council including 2 envisioning workshops with the public it came out that rather than do a single element it would be better to look at all of the updates for the General Plan together to ensure internal consistency within the document for these updates. He mentioned the updates are bringing the General Plan into compliance with these 3 Senate bills. He expressed they are strengthening the General Plan to put it into better compliance with state law; they are not adding any development, densities or additional allowances. He mentioned it is more strict and more environmentally tuned. He explained that is why when looking at the initial study, they are not proposing any new development with these so there are no impacts and that is why a negative declaration has been found instead of a mitigated negative declaration. He mentioned in order for an EIR to have been found, they would have had to do an initial study, found that there were significant impacts from updating the General Plan to comply with state law, found that those impacts could not be mitigated, disclose those impacts and then adopt it anyways because that is what an EIR does; it discloses impacts, makes a finding the impact is allowed, and you move forward. He mentioned a negative declaration is not something that is decided on prior to a project. He shared sometimes through experience you can kind of predict what will come about after an initial study, but the initial study has questions that are answered, thresholds put in place, and the consultant goes through and does a check box. He explained if no significant impacts are found, that determines what type of document is done which in this case is a negative declaration.

Councilmember Higgins commented if they are saying okay to this, they are updating three areas of the plan, a small update, and she is okay with that.

Councilmember Fuller commented that Mr. Strelo has demonstrated in his opinion to be an expert and his responses fit well. He mentioned what weighs heavily in the General Plan is a scholarly document that provides what the impact of each are. He mentioned responses and items were sent in and there are a number of items listed, but no scientific information or citations why it is needed. He commented he appreciates it doesn't have further impact. He mentioned they need to be cognizant and on top of things like aquifers in Southern California and should be worried when people say they can't build houses in a location. He mentioned people commented they had not come to meetings because they were being bullied by the City Manager and with Mayor Pope's response tonight, he can see why there would be trepidation and fear of coming. He mentioned it was open for public review for over a month and expressed it weighs heavily on his heart that people were afraid to come to the Strategic Plan meeting. He shared he will vote for the General Plan if they bifurcate out the Downtown because he doesn't like the way the Downtown is arranged. He mentioned the

Specific Plan needs to come back again and they need to look at the impact on services with changes in the law.

Mr. Strelo responded that the commercial Downtown land use designation in the General Plan doesn't have a density allowance; density is established in the Downtown Specific Plan, not the General Plan, so they would not be reinforcing those densities.

Councilmember Williams inquired if acceptance of this would exempt any future developments from doing environmental studies and impacts.

Mr. Strelo responded that each project is still analyzed under CEQA on its own merits.

Councilmember Williams commented that the negative declaration is only for this amendment.

Mr. Strelo confirmed it is for these updates to bring it into compliance with state law.

Vice Mayor Meadows requested the population number be updated.

Mayor Pope inquired if the number should come from the latest Census.

Vice Mayor Meadows commented that is what he would use, but he is not telling staff where to get it. He mentioned 32,000 was used.

It was moved by Councilmember Fuller to adopt the negative declaration and amendment to the General Plan with a bifurcated plan, everything except the Downtown area.

The motion died for lack of a second.

It was moved by Vice Mayor Meadows and seconded by Councilmember Higgins to adopt the negative declaration, making findings, and amendment to the General Plan.

The vote was taken. AYES: Higgins, Meadows, Pope, Williams. NOES: Fuller. (4-1)

5) REGULAR CALENDAR

5.1 Adopt a Resolution authorizing the City Manager to execute a contract with Strategy Driver, INC. to prepare a new Strategic Plan (Joshua McMurray, City Manager)

City Manager Joshua McMurray mentioned the City contracted with Strategy Driver, Inc. for governance protocols that were adopted last year and the Council requested to update the Strategic Plan. He explained this contract would start that work.

Ellen Cross, Principal of Strategy Driver, Inc., shared a PowerPoint presentation regarding information regarding Strategy Driver, Inc., the planning process including surveys and interviews, 3 workshops that would be planned for community input to get to a draft Strategic Plan, and a draft schedule.

Councilmember Williams inquired if the City can solicit more community input between now and the first workshop. She mentioned there are ways to engage more people so the Strategic Plan represents as many people as possible. She mentioned virtual workshops will help, but if they can all put time to upgrade the level of engagement that would be great.

Mr. McMurray responded staff will advertise far and wide. He mentioned the City is holding 3 special meetings/workshops whereas in prior years, it only held one. He mentioned they will be broadening opportunity for public input.

Ms. Cross shared that the public is welcome to attend and participate in the workshops. She mentioned they will be held in the evenings to try and accommodate as many people as possible.

Councilmember Williams inquired if the workshops will all be in person without a call in option.

Mr. McMurray explained the meetings will be held at Recreation Center and the technology is different there so the meetings will be held in person only.

Mayor Pope suggested maybe Recreation could put something on outside while parents participate.

It was moved by Councilmember Fuller and seconded by Vice Mayor Meadows to adopt the resolution. Motion was unanimous and so ordered. (5-0)

6) REPORTS

6.1 CITY MANAGER
(a) City Manager

City Manager Joshua McMurray wished everyone a Happy New Year. He mentioned City Hall closed partially for two weeks at the end of the year so he welcomes everyone back. He shared they have a lot of work to do and they are feeling the impacts of Covid-19 within the organization, but they are dealing with it appropriately and moving forward to get the work done.

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 Williams reported she attended a Tri-Delta Transit Board meeting December 15. She shared 100% of their workers are vaccinated, drivers are 94% vaccinated, but they have a staffing shortage not attributed to the vaccine mandate; out of 117 drivers, they are short 21 drivers resulting in canceled and missed routes. She mentioned the park-n-ride lot is almost ready for pavement with February as the estimated completion date. She also reported Ironhouse Sanitary District (ISD) is increasing sewer rates for condos; they increased the rate for single-family and decreased the rate for multi-family in compliance with Prop 218. She mentioned they are making changes to the bylaws for Board Member elections in case of a tie and will be following Robert Rules of Order. She shared that Vice President Morgan was elected President and Member Amaro is now Vice President. She mentioned the Board voted for teleconference for meetings which must be updated every 30 days and they are moving it to the Consent Calendar. She indicated the five-year Jersey Island Lease Agreement approved can bring $800,000 in revenue. She reported they are going to become the lead agency for Western Recycled Water Coalition and they appointed Tyler Zimmerman as Executive Director. She announced the January 18 ISD meeting is canceled. She also announced the Red Cross declared its first national blood shortage. She encouraged everyone to give if they can and mentioned she hopes they will get a blood drive set up soon. She also reported AB 1400 for universal health care for California is in deliberation right now.

Councilmember Higgins reported Tri-Delta Transit closed the Cypress and Main building during its park-n-ride construction. She shared they had been dealing with weather and Covid so they were a little behind. She announced Tri-Delta canceled its next Board meeting. She inquired if Councilmember Fuller had a report out for his appointed committee.

Councilmember Fuller announced Eric Vink is leaving the Delta Protection Committee and he will be missed. He mentioned the tunnel project is down to one tunnel to pump water out of the Sacramento/Delta to Tracy and they want to speed it up. He also mentioned he will be watching the Diablo Water District (DWD) Board meeting regarding land use and aquifer issues, and because it is going to be ongoing, he would ask staff and legal to watch. He mentioned he would like to invite Dan Muelrath, General Manager of DWD, to explain why there is arsenic poisoning in wells in the northeast portion of the City and it is important to understand what is going on and why the area is contaminated. He commented he is impressed and happy that Mr. Strelo shared this with native tribes for review. He expressed he would like to see a presentation of native tribes in the area as the tribes are very much part of local history.

Mayor Pope reported he attended the Contra Costa Mayors Conference and they had an enlightening presentation on Rosie the Riveter and the National Historic Park in Richmond recognizing the war effort. He requested staff help publicize that to public in email blasts and newsletters. He reported he attended the Habitat Conservancy Meeting and announced the next meeting will be held February 28 at 2 p.m. and it is accessible through the county website as all meetings are being held virtually. He mentioned the big item during it last meeting was setting the agenda for next year, approving political actions with its partnerships for advocacy. He mentioned he heard comments how people are intimidated by the Council or staff and apologized if he had any part of that as that was not his intent. He welcomed everyone to speak with him, even if they dislike him, and commented he is still planning to have lunch with Ms. Adler. He invited the Council to speak to him privately if he gets out of line. He explained his intent is to run a professional business meeting and keep the agenda on track and if he is out of line, he expects his fellow Councilmembers to pull him aside and tell him.

(b) Requests for Future Agendas

Councilmember Higgins mentioned there was a comment about new developments going forward. She requested zero turf or low maintenance landscaping for front yards. She mentioned zero carbon emissions for City facilities may be tough. She mentioned they are good challenges to get as close as possible to.

Councilmember Williams agreed.

Mayor Pope agreed and requested solar and battery storage in addition to what Councilmember Higgins said. He mentioned he believes solar is required on all new homes by State law and he would like to look into battery storage being mandatory as well.

Councilmember Williams supported Mayor Pope's request. She requested staff invite schools for conversations regarding how it is decided where they build schools.

Mr. McMurray responded he can ask the school superintendent to provide an update and explain how school sites are selected.

7) WORK SESSIONS

7.1 Live Oak Ave. and Main St. Preliminary General Plan Amendment (PA 07-21) – Work Session to discuss the merits of a potential project to amend the General Plan Land Use Designation of an approximately 7.84-acre site from Commercial (CO) and Light Industrial (LI) to Multi-Family Residential, Low Density (ML)(Ken Strelo, Planning Manager)

Planning Manager Ken Strelo provided a PowerPoint presentation.

Councilmember Higgins inquired if someone has 49 lots, if they can divide each of the 49 lots in half, and provide an ADU on both lots under Senate Bill 9 (SB 9).

Mr. Strelo responded that under SB 9, potentially someone can divide lots in half, but these lots may not meet standard lot size. He explained if they meet the standard lot size, they could do a home on each and the ADU would be permitted by right. He mentioned what cannot be done under SB 9 is to split a parcel and build two homes on each parcel. He explained you cannot do both. He mentioned there are also some stipulations that if you own all properties or adjacent properties, you cannot split them. He added that these lots may be too small to split; staff would have to review.

Councilmember Higgins mentioned because it is in a transportation corridor, once they change the density, someone could put multi-family units in because SB 10 allows it.

Mr. Strelo responded that he believes these would qualify because the bus stops that have 15 minute intervals which would be one of the key qualifiers.

Councilmember Higgins commented there is opportunity for many multi-units.

Councilmember Williams commented that schools are important and these would be zoned for the Antioch School District, creating a whole new area for Oakley orphans.

Mr. Strelo confirmed that is correct.

Councilmember Williams inquired if the consultant studied this parcel for commercial or light-industrial.

Mr. Strelo responded that the consultant studied commercial and also light industrial and does not believe this parcel is one that should not be rezoned.

Applicant Drew Walstrum with Warmington Residential, Inc.commented that Mr. Strelo did a wonderful job describing the overall general guidelines on the site. He mentioned this is a tricky site with a lot of opportunities with its current zoning and location. He mentioned he understands well the intent of the General Plan, it is specific, but in practice, a lot is non-compliant and that is why they are asking for a General Plan amendment. He shared they are working with what has been established there with a residential development and they plan to have sidewalk improvements along Live Oak to connect to Main for a cohesive feel. He mentioned with proximity to the highway, they will be one of the first developments people see when they come into Oakley from Hwy 160, so they are keeping a heritage tree and planting vines.

Mayor Pope called for public comments.

Public Comment Cards

Ken Graundstat commented he was part of the East Diablo General Planning in 1981 for 5 years that later went to the East County Planning Commission. He mentioned there were issues they addressed, jobs and housing and transformation and zoning. He mentioned the parcel across the street is partially operated by light and heavy industrial. He shared that Live Oak is operated by trucks and some of them have terminal rights that they can move anywhere within 2.5 miles. He shared his scale goes all the way around the block. He mentioned they thought they were doing right in the old days, this is where Oakley Boundary Committee came from where incorporation came from, and he requested the City respect that. He commented he is excited the City will have a Planning Commission again.

Vice Mayor Meadows asked Mr. Graunstadt if he is for or against this project.

Mr. Graundstadt responded he is for recognizing they had good effort to put it in writing many years ago. He commented he is a resident and a businessman, not a planner or councilmember, and has been involved in this community for 50 years.

Vice Mayor Meadows inquired if this project would affect his operations.

Mr. Graundstadt responded he is not talking about his operation; he is talking about the right of the community.

Ken Ferrante commented he is the property owner of 5245 Live Oak and rezoning would have a negative impact on current operations on light industrial

and commercial adjacent parcels, it would not be fair to residents living across the street from light industrial operations, and he would like the City to consider why it is considering reducing the small footprint the City has for small commercial and light industrial. He mentioned they can have opportunity zones attached to both to promote small businesses, jobs and services. He mentioned in his opinion, the City has an aggressive growth plan, but it needs services to provide to those residents. He expressed he strongly opposes this rezoning.

Vice Mayor Meadows inquired which business Mr. Ferrante has on that road.

Mr. Ferrante responded his business is Delta Grinding.

Gerald Soto, Managing Member for Stonegate Partners LLC, commented they purchased the property in the early 1970s and have 50 years of owning the property. He mentioned they originally purchased the property from Enrico Cinquini which included the public storage anchor strip mall and retention pond south of the strip mall that was deeded to the City by Stonegate. He mentioned the parcels have been used for agriculture and a house at one time. He shared that Stonegate has quietly marketed the property for 15 years, first through Cinquini Real Estate and then through a partnership with Cinquini Real Estate, Primo Real Estate and himself, to be quality source for the community. He mentioned over the years, there has been little interest in the property due to the shape, restrictive zoning and lots surrounding it. He also mentioned they were not interested in offers for potential users, i.e., cement businesses, a gas station for corner, a nursery, a church, and a used car lot, and the only potential business, the cement business, was not acceptable to the then City Council. He mentioned the City Council must consider the best potential financial use and the current size of the lot doesn't lend to many uses. He shared they have had the sincerest interest from residential developers and selected Warmington because they have a great plan for property and the best use for the property is for residential use. He thanked the City Council and those representing the City for their time and service to our community.

Rich Ladiera commented he represents UPS and shares the same concerns as Delta Grinding. He mentioned they have a large truck operation 24/7 down Live Oak Avenue and this area was never designed for homes in his opinion. He shared they previously had a trucking company there in 1984 and still have the same concerns as they did then.

Randi Adler was called upon to speak but was not present.

Councilmember Fuller commented he is not in favor to approve the project. He mentioned light industrial areas are like gold to run a small business or for the cottage industry. He mentioned businesses may disrupt residential with noise during sensitive hours. He mentioned they will start small, get disclaimers, have noise, and soon petitions will be brought to pass restricting hours. He suggested

they keep light-industrial and residential separated so they can conduct their businesses.

Vice Mayor Meadows commented as he explained to the applicant when he called to get his feedback, he doesn't agree with rezoning to residential. He mentioned there is a light industrial component to it and they need to add jobs. He mentioned if they rezone, jobs will not be there and if the rezone to residential from commercial it may affect surrounding properties as there are limitations on what can go in close proximity to residential. He mentioned if they approve the rezone and the property across Main Street goes, it will be a signalized intersection if built as proposed, and if filled, potentially a gas or fast-food restaurant could go in and this would kill it with this rezone. He expressed this is not compatible with the area for business owners and homeowners.

Councilmember Williams commented she is not for it. She shared she appreciates light-industrial for jobs and cannot in good conscious allow new homes in an area where more kids would go to Antioch schools. She mentioned there would be a market for these homes, but it is not fair to those purchasing homes or to nearby business owners and there is nothing to mitigate those extenuating circumstances.

Councilmember Higgins expressed she is not in favor of it.

Mayor Pope mentioned the applicant tried to meet with all Councilmembers and he does not see their concerns have been resolved. He mentioned when residential and commercial are close to each other, they have to look at potential conflicts. He recalled Rico Cinquini talking about a hotel at this site.

Randi Adler returned and commented when she moved to Oakley in 1991, she was a substitute teacher in the Antioch Unified School District and in a classroom, there was a swastika on the blackboard and on a student's jeans which she found very offensive. She mentioned to have kids that live within boundaries of Oakley and Antioch schools is putting Oakley kids in a situation where they can join gangs and bring it to Oakley. She expressed concern regarding property value decreasing. She mentioned there is an opportunity here for a new school to bring all school orphans back to Oakley because they are already paying taxes in Oakley. She expressed it is unfair to do that to children especially with everything going on, i.e., parents not together, economy, and government controlling everything. She suggested they bring those kids back as they are paying high taxes. She shared her kids went to Oakley schools and these kids deserve to go to school here because they live here. She suggested the Council get together with the superintendent and put its foot down to do something. She expressed she is opposed to the project.

7.2 Work Session – City Council Vision for Oakley (Joshua McMurray, City Manager)

Mr. McMurray presented and mentioned he has documents available if the Council wants to review.

Mayor Pope called for public comments. There being none, he called for Council discussion.

Councilmember Williams commented that when she ran for Council, she wanted Oakley to be destination city with businesses here that people can't get in neighboring cities. She mentioned Antioch and Brentwood gas stations draw her into other cities because she can take care of all her errands there. She shared she would love if they promote small businesses that are not already in other neighboring cities and provide incentive for Oakley residents to open Oakley businesses to provide good paying jobs. She mentioned this also applies to Recreation. She indicated they are making good steps with the park and suggested they finish out that plan so they can have tournaments and things that attract people to Oakley to spend money in Oakley. She mentioned they are addressing the fire situation and safety and feels they are making good progress. She requested a more concentrated effort to reach everyone as much as possible so people can virtually interact at meetings. She suggested ARPA funding may provide ability to do a hybrid model and she suggested it be part of the City's new vision to get as much resident engagement as possible. She mentioned staff does a good job to try and get people in; the City may not have all the services it needs to do more.

Vice Mayor Meadows shared he buys all of his gas in Oakley. He requested clarification regarding the businesses Councilmember Williams suggested attracting to Oakley. He inquired if she means all of Oakley or a specific area.

Councilmember Williams responded she has in mind some targeted areas that need more business, but they need to look for large areas that can accommodate people. She mentioned Oakley has enough open spaces to spread it out to other places than the Downtown, but to attract people, it would have to be easily accessible. She mentioned they would need to take into account proximity to other businesses; they need a buffer, an overlay for the City, and to improve more areas than just the Downtown Specific Corridor.

Vice Mayor Meadows commented he has a vision for the Downtown and western edges for light industrial. He mentioned there are limited opportunities down Cypress and pockets of commercial. He mentioned his focus is on the Downtown and light-industrial. He expressed they need to bring jobs here. He mentioned he heard Councilmember Fuller's comment earlier regarding the Downtown and his take is that Councilmember Fuller's concern is density. He inquired what he is thinking about.

Councilmember Fuller responded that staff has creativity to have a library, a music/entertainment center to draw people in to the Downtown. He mentioned the playground and the Christmas tree bring people in. He suggested they take away the high-density concept and provide a more creative atmosphere in the Downtown such as a multiplicity of services, i.e., a Veterans center, a senior center, a library, a place for a book or poetry reading, or a jazz/blues venue.

Vice Mayor Meadows responded his vision is for density in the Downtown. He mentioned along the north side of Main Street he would like to see a linear park with bocce ball to draw people Downtown. He expressed he does not believe those parcels are buildable and Nature Properties probably couldn't get financing for the parcels because the buildings are obsolete even before built because of the narrowness and all of the properties along that area may have similar problems. He commented that the railroad tracks are a deterrent and he likes the tracks, having grown up in Oakley and listening to the trains. He expressed his vision for Downtown is an entertainment district with retail/entertainment on the bottom, and above and behind residential, so it is walkable and accessible to some public transit. He mentioned he would also like to see a library Downtown. He also mentioned in the Downtown Specific Plan, the height limit is too low at 35 feet or 3 stories. He indicated some locations are greater than 3 stories but can be done in a way to still preserve some of the character of the Downtown. He commented that the Bistro did a great job and he would like to see it continue. He mentioned some of the vision will take time and some can begin sooner, but the park will help restaurants in that area.

Councilmember Fuller agreed.

Councilmember Williams commented she would love to see mixed use, the proximity to transit is the perfect place, and it provides a lower price point where people can come in; it brings a different audience. She mentioned she would love an entertainment district as people are asking for more to do in Oakley and she agrees with modifying the 35-foot height limit to make that area more attractive.

City Manager Joshua McMurray commented that the Downtown Plan allows 4 stories or 50 feet.

Vice Mayor Meadows inquired if that is not just with architectural elements.

Mr. McMurray responded that the building height is at 4 stories or 50 feet; architectural elements are the Council's discretion.

Councilmember Higgins commented the polo field could bring entertainment and bring people to Oakley to spend money. She mentioned Harumi is working hard to try and bring business, and the Council can assist her by participating in what she is trying to get going and showing support; they can be present at events like

fishing tournaments. She shared that she buys her gas in Oakley. She mentioned she likes Vice Mayor Meadows' ideas regarding the Downtown. She shared they were unable to develop the skinny strip after the ground-breaking of that area, but that is what it was supposed to be.

Councilmember Fuller commented his #1 priority is to restore trust in City Hall and with that, no new taxes. He mentioned Vice Mayor Meadows knows business and staff knows planning. He suggested they put the two together and allow creativity to come about. He also suggested Police become a model for professionalism. He mentioned he worries about roadways to Bethel Island and Jersey Island that residents are already paying for. He suggested they see what they can do with the shoreline and he is not sure if they can have a consultant. He also suggested that they look at educational services to bring to the City. He mentioned development of the marina opens up the Delta market to be explored. He suggested they bring retail businesses and services.

Mayor Pope shared when he began on the Council twelve years ago, he had the same ideas and his vision ran into reality. He mentioned the City doesn't own land or control uses; they can create opportunity but can't control business owners. He suggested they look at what they can do to further incentivize and provide an economic opportunity zone to target a specific sector. He expressed he agrees with the Downtown for entertainment use. He mentioned there is a murky future for brick and mortar retail, but businesses requiring human interaction will continue forever. He suggested making Oakley a unique place and destination like a winery and vineyard destination. He shared in Brentwood they have a square with a grape press near Trilogy.

Vice Mayor Meadows commented that the grape press at Trilogy is owned by Trilogy and is where its clubs make wine.

Mayor Pope also suggested Oakley could have a commercial grade kitchen for cottage industries or a wine making center providing Oakley a sense of place with connection to its history. He mentioned he would like a park with pedestrian safe crosswalks to connect businesses on the other side, extending out easterly. He commented he is not sure how that would work in terms of financial ability. He mentioned he would like to make sure Police have appropriate resources by hiring more officers and equipping them. He commented that public engagement has always been a concern; they have been looking for a magic bullet to spark engagement; people are on social media, but they are not engaging with the Council. He expressed he would like to have an E. Cypress connection for an alternate route to Byron Highway and complete the Laurel Road connection for traffic flow and safety. He requested special zoning restrictions be brought back to the Council to complete. He agreed with Vice Mayor Meadows regarding a walkable community and having homes near commercial and retail in a smart way. He mentioned the road maintenance plan has so many miles of road and the financial plan is inadequate to provide the level of service to maintain them at

a high level so the Council needs to prioritize the budget. He indicated he would like to reapproach the Delta-ferry connection to Oakley. He suggested the City move toward selling the Burroughs property because he does not believe the City should be a landlord. He suggested funds be prioritized #1 for public safety and #2 for economic development. He mentioned the Council needs to provide support to Harumi Murata in her efforts with economic development. He mentioned the Downtown train platform is coming and it would be great to connect the linear park with businesses. He shared a caboose is being considered to be located next to the Bistro which will connect Oakley to its past. He indicated he looks forward to the Strategic Plan update. He mentioned there should be focus on employee appreciation and making City Hall a place where employees want to stay because they can't do it without staff. He commented that state law is changing housing and he hopes they can examine it to preserve the character of Oakley. He mentioned they should increase staffing. He also mentioned there will be a Zoning Code update. He suggested the Council tour the regional park again and adjust the plan accordingly to make Oakley a destination for various sports.

Vice Mayor Meadows agreed with Mayor Pope and Councilmember Fuller regarding increasing Police staff. He mentioned public safety and economic development go hand in hand so increasing the number of officers is important. He expressed he wants to keep the light industrial area for jobs. He shared in the 1990s, he was on the Oakley Municipal Advisory Council, working on a project along Live Oak Avenue where the school is now and if a user had certain use, they were willing to streamline the permitting process to attract jobs to the City, but those plans got scrapped with first City Council. He mentioned he would like staff to actively recruit job producing businesses for the light industrial area and work with the special districts to make it happen. He suggested quickly permitting projects to keep jobs in Oakley.

Public Comment

Randi Adler suggested to take a little bit of cities around Oakley and put it here like Todos Santos Plaza in Concord or the Lesher Theatre in Walnut Creek for plays. She mentioned bringing people to Oakley would not cost the City lots of money; Todos Santos brings in revenue to Concord and is so busy parking can't be found.

Councilmember Higgins commented that Freedom High School just built a theatre.

Councilmember Williams commented that the City has Friday Night Bites and concerts in Civic Center Park.

Ms. Adler commented these things are not on NextDoor; they need to be promoted.

Vice Mayor Meadows inquired how she would suggest outreach.

Ms. Adler suggested the City put it in a post and everywhere people know they can go out into the open with Covid. She mentioned there is a way to make people more aware of what is going on and more available.

Councilmember Higgins commented that the library didn't pass.

Ms. Adler commented that is because everything is available online, but a learning center with retired teachers and counselors is needed to help kids. She mentioned her children know plenty of kids who committed suicide on the tracks because they have no one to talk to and the City needs to make it a priority because kids are isolated.

Mayor Pope commented that the Council had a conversation with the local librarian what libraries will look like for the future.

Councilmember Higgins commented that a library with a service center for tutors, CalFresh, mental health, etc. is a great idea and vision for the Downtown.

Councilmember Williams suggested the City update its website. She inquired what the marquee off of Hwy 4 can it be utilized for.

Mr. McMurray responded it can be used for a lot, whatever the City needs to advertise or promote.

Councilmember Williams suggested it display events and important messages. She mentioned the ARPA funding survey has been on NextDoor at least 4 times.

Mayor Pope cautioned they should be careful what is being placed on the sign, to keep it brief so drivers can see quickly when passing by. He suggested staff make the website user-friendly and modern.

Ms. Adler commented that people need to know what is going on at meetings.

Mayor Pope mentioned people say things on posts, but not to the Council or staff.

<u>Public Comment</u>

Ken Ferrante commented other cities have opportunity zones with light industrial and it allows properties to develop sooner than later. He inquired if the City has that capability. He shared that he has a 4-acre parcel within that zone that would fit well with that to be developed. He inquired if the City has a process to attach opportunity zones to parcels.

Mr. McMurray explained there is a small area on the western edge of the city that may not extend to his property and the formal process starts above the level of city government. He mentioned there are other mechanisms they can explore that are available which is the purpose of this work session. He shared his priority is to update the economic development work plan and they can look at what kind of things they can put in their toolkit to incentivize and speed up the process.

Mayor Pope inquired what is in the way of him utilizing the property, i.e., fees, taxes, regulations, red tape, etc. and what the City can do to improve.

Mr. Ferrante commented all of the above and it would be helpful to have a clear vision and purpose for the property. He mentioned in relation to the parcel tonight, from his perspective, the landowner is desperate. He inquired what the City can do to help attract development. He shared for him it is timeframe and expenses to get it done; an opportunity zone can help with taxes which can help attract businesses.

Vice Mayor Meadows commented that the City can help revitalize blighted areas, but the light industrial is just not built; there are tax incentives at the federal level.

Mayor Pope commented they used to have Redevelopment but Governor Brown did away with it.

Vice Mayor Meadows inquired if Mr. Ferrante is looking to do something different with his property.

Mr. Ferrante commented he owns 4 parcels in the light industrial area and he wants to get productive; there will be discussion on 2 of them so he will be back.

Councilmember Higgins inquired what the plan is and if they will write letters to their Congressman.

Mr. McMurray responded that staff can explore other options; there are agreements the City can enter into with businesses, but they need to start with plan and path forward so staff can implement. He shared some things are within and out of the City's control, but if they can change or add to what is within control or if there are options to explore, staff is willing to explore them.

Ms. Adler suggested they look at the red tape to tone it down.

Mayor Pope indicated there is regulatory compliance.

8) CLOSED SESSION

None.

9) ADJOURN

There being no further business, the meeting was adjourned at 9:35 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 and Special Meeting of the Oakley Public Financing Authority held January 25, 2022

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 and Special Meeting of the Oakley Public Financing Authority

Mayor Randy Pope called the meeting to order at 6:39 pm in the Oakley City Council Chamber located at 3231 Main Street, Oakley, California. Councilmembers Anissa Williams, George Fuller and Sue Higgins were also present. Vice Mayor Meadows was absent.

Mayor Pope apologized for starting late. He explained the closed session went long.

1.2 Pledge of Allegiance to the Flag

Mayor Pope led the Pledge of Allegiance.

1.3 Proclamation Recognizing Oakley Resident Ruben Padilla as a World Class Athlete (Nelia Resendiz)

Mayor Pope presented the proclamation to Ruben Padilla.

2) PUBLIC COMMENTS

Randi Adler commented she talked to a housing development and Oakley can put assisted living in Oakley to have low-income housing. She mentioned Clayton charges $2000 for a 1-bedroom apartment with living room, dinette, a small kitchen area, 2 meals per day and EMT on staff. She mentioned another portion can be covered by Medical and a silver sneaker gym can be covered by Medicare. She mentioned someone is in the facility 24 hours per day and it is working well. She mentioned cities are not wanting to put in any more low-income housing, but for 65 and older, they can use Medicare benefits to cover part of the cost. She added they would have to find a place to put it. She indicated they offer parking, bus service to take residents to doctor appointments and the mall, tea dances, art classes and movies.

3) CONSENT CALENDAR

3.1 Approve Minutes from the Special City Council Meeting held December 14, 2021 (Libby Vreonis, City Clerk)

3.2 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency and Special Public Financing Authority Meeting held December 14, 2021 (Libby Vreonis, City Clerk)

3.3 Acceptance of work associated with Civic Center Roof Replacement Project - Capital Improvement Project Number 256 (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.4 Resolution Approving a Recognized Obligations Payment Schedule (ROPS) and Administrative Budget for the Fiscal Year of July 2022 through June 2023 (Tim Przybyla, Finance Director)

3.5 Annexation No. 30 Vintner View (Subdivision 8836) to the City of Oakley Community Facilities District No. 2015-2 (Parks, Streetlight, Landscape and Stormwater Services) (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.6 Agreement with Pacific Advanced Civil Engineering, Inc. (PACE) for Engineering Design Services Associated with CIP No. 255 – Cypress Grove Subdivision Pump Station Building Project (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.7 Adopt a Resolution supporting the Brand-Huang-Mendoza Tripartisan Land Use Initiative to repeal SB 9 and SB 10, and restore local control over zoning and land use decisions (Joshua McMurray, City Manager)

Councilmember Fuller requested item 3.1 be pulled for correction.

It was moved by Councilmember Higgins and seconded by Councilmember Williams to approve the remainder of the Consent Calendar. Motion was unanimous and so ordered. (4-0)

Item 3.1

Councilmember Fuller requested a correction to minutes to remove there was a consensus and to indicate that then Mayor Higgins moved and Councilmember Williams seconded that Vice Mayor Pope would be Mayor. AYES: Higgins, Meadows, Pope. NOES: Fuller.

Councilmember Higgins commented she doesn't see it; she sees that Councilmember Fuller expressed his preference.

Councilmember Fuller commented he is requesting removal of consensus of the City Council language. He mentioned he made no comment regarding Vice Mayor Meadows until after the motion.

Councilmember Higgins agreed.

It was moved by Councilmember Fuller and seconded by Councilmember Higgins to approve the minutes as corrected. Motion was unanimous and so ordered. (4-0)

4) PUBLIC HEARINGS

4.1 Extension of Urgency Ordinance No. 12-21 Related to Two-Residential Units and Urban Lot Splits Urgency Ordinance (RZ 05-21) – Compliance with Senate Bill 9 (2021) (Ken Strelo, Planning Manager)

Planning Manager Ken Strelo presented the staff report.

Mayor Pope called for questions.

Councilmember Higgins inquired if the Council can amend the ordinance like any other ordinance if state law changes.

Mr. Strelo responded the Council could; staff would go through same process of noticing and it would come before Council like any other ordinance that can be amended.

Mayor Pope suggested Mr. Strelo explained what SB 9 is so the audience understands.

Mr. Strelo explained and offered business cards to anyone who would like more information after the meeting.

Mayor Pope opened the public hearing.

A resident commented that a 2-year extension is a long time for something that may affect neighborhoods. The resident suggested 3 months and let people look into it.

Mayor Pope closed the public hearing.

Councilmember Higgins commented that the City does not want to do it but it is being forced on cities by the state. She explained the Council fought hard and wrote to electeds. She mentioned there is a petition called Neighborhood Voices

to address the state law making the cities have it available at the Brentwood Farmers Market. She explained that the 2-year ordinance keeps the City in legal compliance and they can update it if needed. She mentioned people can keep fighting it by signing the petition at the Farmers Market.

Councilmember Williams asked if 2 years is the longest extension.

Mr. Strelo responded it is.

Councilmember Williams commented that most of the Council is against it, but there are not many options. She explained the Council put in additional restrictions with residency requirements, but otherwise their hands are tied.

Councilmember Fuller acknowledged the same angst as many are expressing. He mentioned “emergency” is the key word; they need to render aid and if they don’t, the state will do it for them. He mentioned there is a committee in Sacramento watching cities for compliance.

Mayor Pope explained that the state is consistently passing laws to further restrict local laws. He expressed he believes the best government is small government, close to the people and the City should be able to build without big brother forcing it into a box. He mentioned if the City does not pass an ordinance like this, it defaults to state control and the City loses more control so it is the lesser of two evils. He encouraged all, if of the same mind, to address it with the initiative going around, other petitions, and people can reach out to their Assemblymember and Congressman.

Marilyn Tiernan commented she appreciated Councilmember Higgins questions and comments that it can it be less than 2 years.

Mr. Strelo commented that staff is working with the City Attorney and the maximum extension ensures the City is still in compliance with state law. He mentioned anytime within 2 years, the Council can adopt it or amend it as a permanent ordinance; they are not stuck with it for 2 years.

Mayor Pope commented the Council doesn’t like it and has communicated its desire.

Councilmember Higgins mentioned they are all working hard with special districts as it can affect infrastructure.

It was moved by Councilmember Higgins and seconded by Councilmember Fuller to adopt the extension of the urgency ordinance. Motion was unanimous and so ordered. (4-0)

5) REGULAR CALENDAR

5.1 Planning Commission Update (Joshua McMurray, City Manager)

City Manager Joshua McMurray presented the staff report. He explained he was notified by one Planning Commissioner that he had to resign and he is seeking direction how to fill the vacancy. He reviewed 3 potential options how to proceed and mentioned it is critical the selection occur prior to the Planning Commissioner Academy in March as the Council emphasized newly appointed Planning Commissioners attend that training.

There were no public comments.

Councilmember Williams expressed she prefers to go with the 6th person.

Councilmember Fuller commented he appreciates everyone who submitted applications. He mentioned there was a young lady who may wish to interview and anyone else who has moved into the community should have an opportunity to apply. He recommended a person who already applied can be reinterviewed without going through application process.

Councilmember Higgins expressed she prefers to go with the 6th person and not waste time.

Mayor Pope commented he is leaning toward re-announcing and re-interviewing as things have changed since October when the Planning Commissioners were appointed.

Councilmember Williams mentioned she received tons of public comments that this has taken long time to get off the ground and this delays it further. She expressed if they wait and solicit again, she feels they could be trapped again with delay if another member resigns, for example.

Councilmember Higgins commented she wants the Planning Commission to do things like in neighboring cities. She mentioned when commercial development surrounding Oakley is booming, people looking to build will look to see if Oakley has a Planning Commission and the longer they wait, commercial growth bypasses Oakley.

Councilmember Fuller suggested in this case, they need to allow the public to again come forward; this time the process is not new and it could be as quick as the next meeting.

Mayor Pope mentioned he would advocate to get it up and running, but possibly can be persuaded. He suggested the 6th finalist get a 2-year term and other person with a 2-year term get bumped up.

Mr. McMurray commented that as Councilmember Fuller mentioned, the person would be filling a vacancy like on the City Council; the person would fill a term so one person in a 2-year term would get bumped.

Councilmember Higgins commented if they even want that.

City Attorney Derek Cole commented the new person could get the 2-year term or they could do a random draw and present as a follow up Council item on the agenda because it is an appointment after they contact both Planning Commissioners and they can do the random draw during the next meeting.

Mayor Pope inquired about the previous ranking in order and terms. He mentioned they may not need to do the random draw.

Mr. McMurray shared that Diego Verduzco and Edward Cire (resigned) received the highest votes and have 4-year terms. He mentioned Leonard Price has a 2-year term because he had the least amount of votes. He mentioned Oleksii Chuiko and Shannon Shaw received tied votes and their names were drawn from a hat with Oleksii receiving a 4-year term and Shannon receiving a 2-year term. He mentioned it would be appropriate to appoint Shannon Shaw to a 4-year term since she received more votes than Leonard Price and the new appointee would receive a 2-year term.

Mayor Pope commented that seems reasonable.

It was moved by Councilmember Williams and seconded by Councilmember Higgins to move forward with an application process to appoint a new Planning Commissioner for a 2-year term and to change the term for Shannon Shaw from a 2-year term to a 4-year term, both items to be brought back at the next Council meeting as a formal agenda item. AYES: Higgins, Pope, Williams. NOES: Fuller. ABSENT: Meadows. (3-1-1)

5.2 American Rescue Plan Act (ARPA) Update (Tim Przybyla, Finance Director)

Finance Director Tim Przybyla presented the staff report. He introduced the City's consultant, Sandra Myer with HDL ECONSolutions.

Ms. Myer presented a PowerPoint including the Department of Treasury Final Rule issued January 6, 2022, an overview of the community survey, a summary of the E-gift card program, and recommended funding allocations.

Councilmember Fuller commented he appreciates the professionalism, effort, survey and presentation. He mentioned e-gift cards are great, but he would like to know how to prevent one person from buying a bunch and hoarding them.

Ms. Myer explained they can set up a limit such as one per address or use other abilities to limit fraud.

Councilmember Higgins inquired about small business grants. She asked if they couldn't start or build due to Covid-19.

Ms. Myer responded she is unfamiliar with that.

Mr. McMurray explained the intent is for existing businesses to look into expanding for tenant improvements or attraction. He indicated $750k is seed money and now it can be used for outdoor dining and facade.

Councilmember Higgins commented she wants to push money out because that's what it is intended for.

Councilmember Williams commented the guardrails have loosened and inquired if the proposed plan can be changed.

Ms. Myer responded that it is a plan, not an allocation yet, so they can amend it.

Councilmember Williams commented she would like to prioritize infrastructure and economic development. She mentioned start up money would be great and suggested they can bring economic stimulus and reward residents for owning businesses here.

Mr. McMurray commented that for some items, they were planning to spend General Fund money. He mentioned this plan will require future agenda items and there is a lot of work to be done.

Mayor Pope suggested they first spend money on reimbursing COVID costs for employees. He mentioned they must have resiliency to respond to future disasters as public safety is a #1 priority. He mentioned he didn't see it in here and suggested having citizens trained as 1st responders, possibly giving the CERT program a boost. He mentioned they must also have resiliency with operating during situations like power outages. He shared that they still have traffic signals that don't have back up power such as Cypress and Main. He mentioned when communication/broadband went down, it knocked down the cell tower so it needs a generator and batteries. He suggested a CERT radio tower with repeaters for emergencies. He expressed he likes the idea of e-gift cards only with strong protections and he feels a pilot program is insufficient; he would like to see a real commitment to the program. He shared he would also like to see essential worker compensation in the form of a bonus or otherwise for Police because they had no choice, they had to respond, and he appreciates them doing so.

<u>Public Comment</u>

Randi Adler commented we are not out of this COVID problem. She shared she talked to her Congressman about people sitting at home that couldn't pay rent or credit cards which lowered their credit ratings. She suggested gift cards may be used to pay some of those credit cards and utilities. She mentioned PG&E is allowing the public to forgive whatever they had from COVID as long as they have paid their bill for a year on time. She indicated she spoke with them today about gas pricing increasing and PG&E's excuse was because they are having trouble getting ships into ports which she does not believe. She added that Comcast wants people to pay a month in advance for services. She mentioned people are hardly leaving their homes because the pandemic is still going on and people are still getting it, losing their homes, and their credit is ruined. She asked how the City is going to help people get caught up so they have housing and can recover from this. She suggested the Council help the public recover from COVID, not give gift cards to whatever they want to do.

Councilmember Fuller commented this is the initial portion but the Council will have another $ 5.3 mil to prioritize and he thinks this is a great step forward.

Ms. Myer confirmed he is correct; the second half of funding will come in July 2022.

Mayor Pope indicated there is no motion, just direction to provide to staff. He shared they all want to help neighbors and city government must be judicious and equitable. He suggested if they split the funding among all residents, that would mean about $200 to each resident. He mentioned they need to look at how they equitably and fairly distribute funds and look at a city-wide perspective to get the city up and running, create jobs, and get people back on their feet. He mentioned they can make it broader as Councilmember Higgins brought up, but they should be very judicious in the selection process to ensure funding is distributed fairly and legally.

Mr. McMurray responded the Council has provided good direction.

Mayor Pope called for a brief recess at 7:46 p.m.

The Council reconvened at 7:51 p.m.

6) REPORTS

6.1 CITY MANAGER
(a) City Manager

City Manager Joshua McMurray announced Friday Night Bites will return Friday at Civic Center Plaza. He introduced the new Chief of Police, Paul Beard, and the new HR Director, Jeri Tejeda.

(b) Hybrid Meeting Discussion

Mr. McMurray reported that 2 Councilmembers asked staff to look into the cost to do a real hybrid meeting. He explained that the City went back to in-person meetings in July 2021 and Oakley is the only city in Contra Costa County doing in-person only meetings with no hybrid option and have done so safely. He mentioned the phone and Zoom call-in options used previously were less than desirable so the Council wanted staff to research and provide options. He mentioned staff is looking for the Council to provide direction.

Recreation Manager/Website Coordinator Lindsey Bruno presented a PowerPoint including options previously used during meetings, cities' definitions of hybrid meetings, Antioch and Walnut Creek models, challenges of technology available, and equipment, subscription and staff costs for Council and Planning Commission meetings.

Mr. McMurray thanked Ms. Bruno for mentioning the Planning Commission should be the same standard. He mentioned the City is offering participation now in-person; meetings can be watched via livestream or via a recorded version the next day, the public can submit online public comment cards or letters or make phone calls to City Hall, all which are forwarded to the Council. He mentioned to encourage participation will create a shift how to do business. He explained the City has had a hard time to keep staff for this position because it is part-time, usually only Tuesday evenings, and the person must have technology skills to run the meeting. He shared they have gone through 16 people in this position.

Councilmember Williams commented she is in favor of hybrid meetings and she hears valid concerns. She indicated she hates to impose additional pressures on staff, but when they allowed a Zoom dial-in option, there was more participation. She indicated the world has completely changed and Oakley takes pride in engagement so she wants to communicate with and engage people every way possible. She mentioned Zoom can be recorded and be placed on the City's website.

Ms. Bruno commented the video can still be placed on the website and possibly still stream. She clarified she is not trying to say they cannot do it, but it takes a lot of education. She hears they want people engaged, but people may be frustrated until they learn the nuances how to participate.

Councilmember Williams commented it is accessible and transparent.

Councilmember Fuller inquired what the reason was for cities using hybrid meetings. He mentioned he thought it was a temporary emergency allowance to ensure orderly process of government.

Mr. McMurray responded the health order has changed; there are no longer distancing requirements in the room.

Councilmember Fuller commented he likes what they have gone back to which is an orderly government process. He shared he watches on occasion the Legislature/Assembly and people can write into them, but they don't have access to speak on the floor. He mentioned he heard different things here such as chaos and anger under then Mayor Higgins and it was not orderly. He mentioned there are people here tonight and if they don't have access, they can find an alternate way to communicate such as in writing, but he feels they are creating a more chaotic situation with hybrid meetings and it is not best governance; it was intended as an emergency response, not a permanent solution.

Councilmember Higgins inquired if the Mayor could run a Zoom meeting without another staff person.

Mr. McMurray responded that running a Zoom meeting is different when running a Zoom meeting while running a Council meeting. He mentioned meetings should have a professional appearance so he would recommend a staff person handle running the Zoom portion so the Mayor can provide full attention to conducting the meeting.

Mayor Pope commented these are all good points. He mentioned under state law, they are only allowed to run meetings remotely during emergency and they have to pass a resolution to partake in remote meetings. He mentioned theoretically they could do all this work and the state of emergency concludes. He indicated this could become the new way of life and they might lose the hybrid option. He indicated there is no reason with technology that they shouldn't have it, but whatever they do has to be reliable and credible; they can't tell people they can participate if they can't—in that situation he would rather not have it; they need to make sure it is right. He mentioned if it were a small meeting, the Mayor could run it as host but a meeting like tonight, it is better to have staff trained and be the expert on it.

City attorney Derek Cole commented that the Governor's current order is in effect through March 31, allowing remote meetings, and the Council has 4 more meetings until the current executive order is suspended.

Public Comments

Liz Elias commented when she was in high school, she read there was school by radio over vast distances of kids in the Australian Outback; if they could do it then successfully, they should be able to do it now with technology. She mentioned Zoom has a free version which limits her to 30 minutes if more than 3 people are on the call, otherwise there is paid service. She inquired if staff's figures include the paid subscription cost. She mentioned there should not be a need for a

second staff person. She suggested a video camera could be hooked up with a feed into the computer and they can run the meeting in Zoom; it would not be a secondary meeting; it can be sandwiched together. She mentioned they might want to look at a change in the law because there will always people who can't attend in person for reasons other than the pandemic, but who may wish to attend remotely and participate live.

Roger Gonzalez commented he works with California State Universities for hybrid solutions to the classrooms and there are platforms that allow for controlled environments and ques to moderate how people can speak to you. He suggested staff look at the Cal State University system. He mentioned people can attend lectures from anywhere, they can archive lectures and these accredited platforms provide a controlled environment; it is not chaos and it can be shut down to allow the meeting to move forward. He mentioned he could see the Governor buying into this if they lead with this type of technology and they would have a much smoother road.

Randi Adler suggested Ms. Bruno would be good person to run Zoom; it can also be set up where each Councilmember can see comments from each person sending an email in, that way can be answered appropriately and that is how Zoom works. She mentioned they can email one another, and comments can be done that way too which she suggested could be read by a staff member to get on record.

Mayor Pope commented she would be fantastic but is already tasked.

Marilyn Tiernan commented her husband is not here because he doesn't feel safe coming here. She mentioned she hasn't been able to get the meetings streamed. She shared her business are local and international; everyday she is in Zoom calls, Google Teams, with large groups of people and it is possible and simple. She mentioned a board she sits on does everything through Teams and it has increased participation and people understand what they are doing. She mentioned she doesn't see the world changing dramatically in the future and she wishes they could see them and participate from home especially if they have worked a long day.

Mayor Pope inquired if that is good direction to move forward.

Mr. McMurray shared that they have looked at the data when they have held more of the hybrid form of meeting and they can go through that if the Council wants, but to clarify, they are looking at the need for direction because they are talking about a shift in how they do things. He shared they use Zoom and Teams for meetings daily, but it is a little different for truly hybrid meetings and most jurisdictions not doing true hybrid meetings; they do virtual meetings with a hybrid option. He mentioned staff can move forward, but he wants clear direction so they spend resources wisely.

Councilmember Fuller expressed he likes the situation now. He suggested Vice Mayor Meadows have an opportunity to comment as what is decided may go on for years.

Mr. McMurray mentioned staff can bring it back at the next meeting for a brief recap and receive input from all five Councilmembers.

Councilmember Higgins commented some sort of Zoom, classroom or Microsoft Teams may work and they can keep researching what others are doing or what schools are doing, but they need to move forward.

Councilmember Williams suggested they bring it back to the next meeting to explore other options. She mentioned she thought Clayton was also doing hybrid but she is hearing no. She mentioned she doesn't see it ever changing; she sees the Governor continuing to extend the order and it will become the new way of doing things. She guaranteed there would be double participants if it were not at the time it is right now, but if they could do it by phone they would be here; people don't feel as engaged with online comments.

Mayor Pope commented there is no replacement for face-to-face, in-person comments; the Council reads all comments, but it is not the same impact. He mentioned written comments have to be in by 5 p.m. He mentioned they could explore technology where people could submit comment during a session and timely, not after an item. He shared he is interested what schools are doing; lectures or webinars are one-way; they would need two-way for civic participation. He asked Mr. Gonzalez to connect with Mr. McMurray. He mentioned he also would like to hear what Vice Mayor Meadows says.

Mayor Pope suggested item 7.1 be heard prior to reports. He received no objections from the Council and therefore moved to item 7.1 (infra).

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 the Delta Trail is being completed to connect 5 counties and will have walking trails, camping grounds, and it will connect with the San Francisco Bay Trail. He mentioned $12 million in grants funds will be used to clean up commercial and residential ships including abandoned ships, including one that sunk and released 2,500 gallons of fuel that was cleaned up and pulled out. He mentioned $1billion for access to the Delta. He encouraged the City to look at the tunnel project that will pump water from the Sacramento Delta to send south. He mentioned it is already transported over ground which

supports the water's normal flow, but tunnel pumping out disturbs the ecosystem and Oakley will be impacted. He mentioned DWD is talking about a bond and looking at investment, water is extremely hard and the drought has caused harder water which they are trying to reduce without increasing fees. He mentioned they have a land aquifer program where they can put solar. He reported the ECCFPD consolidation is having union issues with its administrative staff; they are not sure if they will have a job or benefits, but it won't hang up consolidation.

(b) Requests for Future Agendas

None.

7) WORK SESSION

7.1 Laurel Plaza Supplemental Traffic Operations Analysis Assessment Work Session – As Related to Quick Quack Car Wash at Laurel Plaza (CUP 02-20, DR 08-20) and McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza (CUP 03-20, DR 09-20) Applications (Ken Strelo, Planning Manager)

Mayor Pope inquired if this item is just on the traffic analysis.

Planning Manager Ken Strelo indicated that is correct and he presented the staff report.

City Attorney Derek Cole provided a reminder that this workshop is only about the traffic piece; there will be other comments and the Council can hear those, but when it comes back to Council for the CUP hearing about the drive-through, the restaurant at this site has already been permitted and the property has entitlements. He mentioned the only piece that gives the Council discretion for review is the drive-through and the analysis and impacts have to relate to that piece.

Mr. Strelo continued with his presentation.

Bill Burton, Senior Associate with Fehr & Peers mentioned with their counts and observations, the Laurel Elementary drop off/pick-up area is insufficient; there is not enough infrastructure to serve their student population/demand and consequences of that are delayed cars on Laurel. He mentioned activity where congestion happens, parents are parking on Laurel Plaza which generates approximately 100 pedestrians during the morning and afternoon. He indicated their inspection estimates that traffic for the whole site generates 200-300 peak hour trips and they look at adjacent intersections to see how the project will impact intersections; this project will have very little impact; it will have 1-3 seconds of delay per vehicle. He shared they looked at collisions at the segment of road from Laurel to O'Hara and the intersection at Laurel and Mercedes. He

mentioned they looked at historic accident trends and a typical intersection expected is experiencing less accidents. He recommended they improve intersections with leading intervals, no right turns, and discourage student pick-ups/drop offs in Laurel Plaza, eliminate parking spaces for McDonald's, shift the crosswalk further down with a raised crossing, provide a barrier, align the drive isle from the car wash to the McDonald's. he mentioned VMTs are used and there are no new impacts over and above past traffic studies they have seen.

Mr. Strelo request the conditional use permit and design review be heard together as they relate somewhat to each other because the drive-through could function for the CUP, it could impact the site design. He recommended they come back in one package.

Online Written Comments

Mayor Pope commented the Council received online written comments and reviewed them. Comments were submitted by Diane Merritt, Shai Jensen, Rachel Doughty with Greenfire Law, PC, Shelly Fitzgerald, Rebecca Mears, Jeff Palmquist, Superintendent of Oakley Union Elementary School District, Roberto Estrada, Andrea Wacker, Kathleen Estrada, and Eve Dooms. The comments were made part of the meeting record.

Public Comment Cards

Diane Merritt commented her neighbors in Woodglen Estates are in closest proximity to the project and must have the most critical input of anyone. She shared they want Oakley to prosper and be successful, but inquired why it has to be at their expense. She requested the Council not grant permission for the drive-throughs. She shared they enjoy smelling clean air free of food grease and establishments and people they bring will be loud and noisy for neighbors. She indicated they will be abused by their lack of consideration for their peace. She mentioned they don't want to move because the City won't listen and they voted for Councilmembers. She shared information regarding noise and litter at the 7-Eleven. She urged the Council to say no to these two establishments.

Shelly Fitzgerald commented she is also a Woodglen neighbor. She mentioned the supplemental traffic study indicated there is an inadequate pick-up and drop off area at the school which is true. She mentioned Laurel Elementary is in an unfortunate location on a busy roadway and has been there since 1992. She mentioned they can say that Laurel Elementary has to tolerate what comes their way or they can plan the environment around Laurel Elementary. She indicated the study's scope is unclear and inadequate; it doesn't consider O'Hara or Freedom High School both which have hundreds of students who travel north or south of the plaza to get to and from school and it doesn't address inadequate parking at the plaza. In relation to the Quick Quack car wash, she referenced Figure 9.1 in the Noise Element of the City's General Plan and mentioned it speaks to new business proposals to be located adjacent to residential and

businesses that emit decibals greater than 70 should not be considered when being placed next to residentials and greater than 75 is clearly unacceptable; this car wash is over 90 so she is uncertain why it is being considered.

Mayor Pope inquired if Jeff Palmquist, Superintendent, is present and would like to speak. He mentioned he submitted written comments. Hearing no response, he moved on to the next speaker.

Roberto Estrada commented that the traffic study found inadequate space for parking and drop off/pick up will be highly dangerous when the Council approves a drive-through across from that school. He mentioned solutions of a high visibility, limit line 8 feet from the drive-through may not work. He mentioned the ; speed increased on Laurel and people drive faster than the speed limit and this will make it much worse, people run red lights and it is dangerous for kids crossing. He mentioned another walkway won't discourage kids from running to get across to school; the safest way is no drive-through. He suggested small businesses, no large drive-throughs or car wash. He suggested the city can be developers and make it happen with ARPA funding.

Kathleen Estrada commented that she is a Woodglen resident and with the traffic study she doesn't think the scope is adequate because it doesn't take into consideration the Laurel and O'Hara intersection which has many accidents to date and are not included in the study. She mentioned the close entrance to Laurel and O'Hara from McDonald's is an accident waiting to happen. She commented that the traffic to McDonald's will impact traffic to all 3 schools. She explained the community not trying to block the process or progress; they want a restaurant and progression, but they want it safely. She mentioned there is impact to neighbors, schools and kids in that intersection and the Laurel and O'Hara intersection is going to be bigger problem. She requested the Council consider the public and intersection.

Donna Chaddock commented during a work session there was no timer and the community listened to the Council's vision, but this should be a time when the public is heard. She inquired if they are really limited to only 3 minutes, but the Council is not timed. She addressed Mr. Cole's comments that public comments should only be related to traffic studies, but she has more to say that doesn't have anything to do with the traffic study. She mentioned she emailed everyone on the Council but received only one response. She commented she heard Mr. McMurray say the City doesn't have small business grants. She inquired if the City gives small business grants. She expressed she doesn't want to see a McDonald's or any other fast-food establishment in the plaza and if there were more small business grants, Fehr & Peers would not be coming in from Missouri to find businesses there when they do not want them there. She mentioned they want small businesses, café's and quaint businesses.

Marilyn Tiernan commented that she sees accidents on O'Hara and Laurel almost daily and there have been at least 5 accidents where children have been

killed in the City due to traffic accidents. She expressed she cannot bear to have another child killed when it can be avoided. She mentioned a drive-through has no business in that plaza with 4 schools located within 1 mile of it and lots of kids walking that street.

Virgil Chaddock comment he is going to meeting to see what is going on. He shared he hears drag racing and sideshows, he counted 100 liquor bottles in the plaza parking lot today, empty boxes from stolen items, 10 McDonald's bags, and lots of weeds, concrete and junk that is ugly. He inquired why it is not being kept clean. He shared he is seeing needles and probably professional businesses and they don't need kids walking through that environment. He mentioned the traffic is bad. He suggested a vision of smaller units/businesses. He indicated he doesn't believe companies will make it any cleaner. He shared he works for Safeway in Concord and they have limitations on delivery hours and there are apartments suing their store which is something to think about.

Jaime Spohn shared she is a Woodglen resident, an original owner. She mentioned the traffic study and many children ride their bikes to that school and others. She mentioned she reviewed the original conception of the plaza and inquired why a modification was given to allow 7-Eleven to be vastly different from when the community and Council were working together and why the City continues to compound the issue of traffic with the drive-through, 7-Eleven and carwash. She expressed she is against approval of the drive-through and these businesses in the plaza. She suggested the developer look toward HWY 4 for the betterment of the community, residents, and children. She commented that she read the vision statement for Oakley and shared that she walks and hears the train whistle and coyotes, but fears will now she may hear, "May I take your order please?" She expressed she hopes the City will give residents a neighborhood community plaza.

Julie Polowski commented she is not a resident of Woodglen, but off of Rose. She expressed she wouldn't recommend a drive-through based on In and Out traffic that has been rerouted; drive-through traffic has increased with COVID. She inquired if the traffic study was conducted when the high school was also in session and if it is too late since they already have the permit. She mentioned the historic trail and bike way and suggested they offer bike rentals to ride the historic trail. She suggested ARPA could be used for small business and she is looking for job if the City needs part-time help. She thanked the Council for the work they are doing to hear the public's thoughts and opinions.

Roger Gonzalez inquired why the traffic analysis was done during the pandemic since it is not a true representation of the traffic going through. He suggested it be done over several years. He also inquired why the study was conducted in August when Laurel Elementary is on a track system. He suggested they look at each diff track for pick-up and drop off. He also suggested they do a video study so everyone can see the impact. He shared he will walk his son to school to be

safe and mentioned there are no accommodations for Grub Hub or Door Dash at the McDonald's. He mentioned post pandemic they repopulate which is not in the traffic data. He inquired where studies and emissions data is as he wants to see the exhaust impact. He mentioned 30 Nissan Sentras do not equal 30 Ford F-150s; the data needs to be more representative for a true analysis. He inquired if the traffic signal is backed up with power. He mentioned the data collection for page 11 is irrelevant because they are in a pandemic.

Mary Rooney commented she dittos what everyone said about the traffic study, plaza, etc.

Tasha Grey commented data can be manipulation in any number of ways to serve the narrative of the author and the traffic analysis convinces the reader that with minor recommendations, a fast-food near an elementary school and sharing a cross walk are safe proposals but that is not the case. She mentioned level of service and safety are not the same things; there is an inherent danger in relation to pedestrians in residential and school zones. She mentioned signage inside the plaza indicating no parking is unreal; there will be more pedestrian traffic if they have to park further. In relation to a high-visibility crosswalk, she shared that the crossing guard submitted opposition to it and concerns regarding safety, as well as the former and current Superintendent regarding safety; moving a crosswalk a few feet will not eliminate this danger, nor will it change opposition from school staff regarding safety concerns. She mentioned the school zone on Laurel Road is only 2/10 mile so this drive-through is the most inappropriate location.

Liz Elias emphasized some points in the letter from GreenFire Law, reading off many. She indicated the McDonald's and Quick Quack are not small businesses, there may be shorter traffic trips but more trips does not reduce traffic. She mentioned when she moved to Oakley, Laurel Road was a small roadway and what is proposed is non-sensical. She commented the added pollution for idling is inconsistent with the General Plan. She asked the Council to take the letter to heart.

Alicia Torres commented on the negative impact on the schools for pedestrians, parking, and drop off/pick up. She mentioned people are going to be hostile, there will be tempers and frustration; people won't follow rules and she feels for children who have no choice but to walk. She mentioned it is a huge risk that she hopes the Council considers.

Shalimar Belscher commented that many people have worked during the pandemic and they are all going through this together and she appreciates the comments earlier about it. She mentioned Oakley is a great city to build a family which is what brought her here and as she has been watching Laurel Plaza she has been excited to see what it is going to turn into. She shared she envisioned a Willy's bagel or Starbucks, not necessarily a car wash although she loves car washes and supports those in the city. She shared the same sentiments about the traffic assessment during Covid; it is not a realistic view when people are at

home with their children and the City needs a true traffic study. She mentioned parents share similar views and want their kids to get to school safely. She shared she doesn't like driving on Laurel because when school is in session, people drive the wrong way and don't follow traffic rules. She mentioned she sees trash left in her neighborhood and wants it to stay clean. She expressed she is not a fan of McDonald's in the plaza.

Randi Adler commented she ran for office twice and she became a motivational speaker 10 years ago. She commented that people who are frustrated have a bigger voice than they think they do- a class action lawsuit against the City and developers. She mentioned if Vice Mayor Meadows was here tonight, he likes gas stations, so he would approve the car wash. She commented she is happy to start a class action lawsuit and because she is multi-millionaire, she can do that.

Matt Beinke submitted a comment card and represents the property owner. He was available for questions.

Mayor Pope called a brief recess at 9:31 p.m.

The City Council reconvened at 9:37 p.m.

Councilmember Williams commented the traffic study found inadequacies at Laurel and she got hit at Laurel the other day. She inquired who enforces signage, what happens to cars when there is nowhere to park and does that circulation get taken into account with the study. She mentioned she watched the study and it took place during full class capacity when class was in session.

Mr. Burton responded that signage will be difficult to enforce; people will probably continue to do it so they will still see some level with that activity, but some people obey signs.

Councilmember Williams commented they will now go into the circulation of traffic though.

Mr. Burton confirmed that is correct.

Councilmember Williams inquired if safety enhancements will be at the applicant's cost.

Mr. McMurray confirmed that is correct.

Councilmember Higgins inquired where the school district is in helping parents to have more parking. She commented the Superintendent submitted a letter that said school sites have adequate facilities to the support school, but the traffic study shows inadequacies. She suggested the school district could approach the landowner of the vacant land across from the school.

Mr. McMurray responded he does not think that has taken place, but is the school district's responsibility to cure that deficiency.

Councilmember Higgins offered to help accommodate a meeting with the school district. She mentioned the City has no control over the McDonald's going in; they already have it; it is just a drive-through and traffic they are addressing. She mentioned with the decibels, the Quick Quack turned the car wash around for to hit traffic not homeowners but the car wash is loud. She mentioned the unhoused may be living in the parking lot and businesses will help with that when developed. She indicated litter exists and they have worked with the developer to keep frontage mowed, but now the back half has deteriorated. She expressed that the City is not putting the McDonald's there; the property owner is already entitled to have it there; the City is just looking at the drive-through.

Councilmember Fuller commented that the City couldn't enforce parking regulations on private property even if it wanted to because it is private property at the plaza. He commented he agrees it is untenable at Laurel and Mercedes; they don't have enforcement; signs are nice but unenforceable. He mentioned he can't go any further with it; they are marginalizing kids for profit. He mentioned they are saying there are kids there and it is dangerous, but they need profit and someone else 10 years ago said they can do it. He added even with all sorts of mitigation, it doesn't change the fact that they marginalize kids. He expressed opposition to the CUP. He commented that changes have taken place in that area which is a major thoroughfare and they keep adding more traffic, but he appreciates efforts that it is going down. He expressed he appreciates all that he has done and the report.

Mayor Pope commented he wants to address issues raised in relation to the traffic survey. He mentioned the traffic survey recommends no right turn on red when no children present but it doesn't conclude a direction; it should be in all 4 directions.

Mr. Burton responded it is when coming out of Laurel Plaza and turning right.

Mayor Pope indicated he wants to see all 4 covered for pedestrian safety.

Mr. Burton mentioned one has a crosswalk.

Mayor Pope indicated even so, traffic is still turning into the crossing. He agreed with timing to give pedestrians a lead for pedestrians occupy crosswalk before vehicles. He mentioned the school parking lot was conceptualized in the 1990s when there was no pick-up and drop off lane; the one now is inadequate as it backs up onto Laurel and blocks bike lanes which creates more problems. He mentioned he wants the City to do whatever it can to get OUESD to help remedy that.

Mr. Burton commented about their limited size.

Mayor Pope indicated the school is next to district headquarters; they can move the district office more parking. He expressed he wants the City to be a cooperative partner.

Mr. Burton suggested staggering school start and stop times may help.

Councilmember Williams commented that is horrible for parents with children in different grades.

Mayor Pope commented he has responded to complaints at schools in his job and parents are not setting good examples so he is not sure what to do, but driving the wrong way down the street means they are unprepared to prevent collision. He agreed with having a high-visibility crosswalk and to move the sight line. He expressed that he wishes the crosswalk doesn't have to go across the drive-through.

Mr. McMurray commented it is not a code requirement; it is an ADA and the requirement is to provide the closest possible path. He mentioned this was also in the original plans for the grocery store and Rite Aid and is in the Building Code.

Mayor pope commented he would like to see them mitigate the risk and push it further out and raid it with lighting and signage, along with a small wall separating the drive-through from the sidewalk area.

Mr. Strelo commented that the site plan is not part of this project application, but it is sketched and shared, and the wall is not in this set of plans in submission or on the website.

Mayor Pope suggested a wall or fence.

Mr. Strelo suggested the short wall.

Mayor Pope commented if it could be any other barrier preventing pedestrian access.

Mr. Strelo mentioned shrubbery and a wall with a metal railing should help prevent access.

Mayor Pope expressed he wants a wall or fence or railing to physically prevent people from cutting through as a deterrent. He suggested they move parking spots for the drive-through cue and take one step further; if it backs up, cars will que up and block the access road and onto Laurel so he wants to see the que go through to the east so it is within the boundaries within the McDonald's boundary and not onto the street. He also mentioned when vehicles turn, they need to stay

in the confines of the property, not on traffic lanes. He expressed he is disappointed the intersection of laurel and O'Hara was not included.

Mr. Burton commented they didn't look at it for accident rates.

Mr. Strelo indicated it was part of the original study and this this study focused on pedestrians.

Mayor Pope commented that during the pandemic with school in session is why the study was conducted supplemental; the speeding in school zones is not related to this other than speeding in front of the project. He shared the City does not have unlimited budget but police motorcycle units can assist with traffic watch and there can be traffic calming measures. In relation to sound, he inquired if you can see over the wall to the properties and mentioned he was told residents wanted a shorter wall because of the sun. She suggested a living wall that is taller and to have the noise-speaker for the drive-through pointed away from the houses.

Mr. Strelo responded that the speaker orientation will be facing to the north and McDonald's has variable decibel and microphones to control noise so the project speaker can regulate it not to exceed over ambient noise; this was proposed with the original project.

Mayor Pope commented there is Council vision versus reality and a property owner can facilitate free use of the property within the law. He mentioned there I a time limit for public speaking; the law allows the City to set a limit so everyone has opportunity to speak. He mentioned there is an existing 7-Eleven litter prevention plan and code requirements to help prevent trash and efforts can be stepped up to hold the property owner accountable and to set the tone and expectations. He mentioned hours of operation and delivery are not part of this but impacts circulation because trucks must park somewhere and should be incorporated into the study. He mentioned it does not encourage a pedestrian-friendly environment. He mentioned all schools were in session when the study was conducted.

Councilmember Williams commented that the start times at the school are the same, but end times are different.

Mayor pope inquired if the plan accommodates DoorDash and Uber.

Mr. Burton confirmed it does.

Mayor pope inquired if there are dedicated parking spots.

The applicant indicated there are dedicated parking spots, 4 spots in front of the building east.

Mr. Gonzalez who provided public comment earlier shouted out that he wants to see the numbers.

Mr. Burton responded they can break it out.

Mayor pope commented that CA regulates emissions and the City is prevented by state law from regulating this. He recalled hearing from the crossing guard, principal and superintendent. He mentioned this is private property, but there is a provision for Police to enforce if the property owner requests it. He explained they can't just say they don't like it and don't want it working since they are under some constraints.

Mr. Strelo inquired if whether the Council agrees with the recommendations or wishes to add recommendations. He mentioned these are not mitigation measures, but to enhance the site and compatibility with adjacent uses.

Mayor Pope commented he is thinking what conditions to condition it with.

Councilmember Fuller commented there are a lot of issues and he stated his; it is time to stop.

Ms. Fitzgerald who provided public comment earlier inquired why they can't go back to the drawing table like they did in 2008.

Mayor Pope commented the can speak with the developer, but they have struggled to find businesses.

Mr. Cole commented that the application is pending; the City has to move forward and staff needs direction. He mentioned the public can speak with the developer and can make requests, but the applicant is in control of their application; they have a right to get a decision and they are reaching that point.

Councilmember Fuller commented they have reached that point he believes with traffic and so he is opposed to the CUP and doesn't see any mitigation.

Councilmember Higgins commented she accepts the recommendations along with Mayor Pope's comments and extends the invitation to the school district to meet.

Councilmember Williams commented she is not sure if mitigation will help for these issues. She mentioned she was hit in the pick-up line and she can't turn out of Brown Road. She commented she understands it is the school's responsibility; she got some updated information and is disappointed they are not here, but she didn't see any mitigation, but they can't just say it is a school problem. She agreed with a condition and if they have to adopt something she will have more to say about sound.

Mr. Strelo commented that the goal of the traffic study is what the project generates on existing; it was never a goal to solve these issues or have McDonald's and the car wash to solve school traffic issues; this item is being addressed for the purpose of parking in Laurel Plaza; kids are walking from Laurel Plaza and this is not an attempt to have mitigation for that.

Mr. Cole added that the City can't put the onus on the developer to solve a public problem; there are limits on it. He commented it is unfortunate but it is a school district problem. He mentioned the property has longstanding development approved for 15 years and if they put a Chipotle or Peet's at the site, the City has no discretion and there may be the same problems. He mentioned traffic engineers found no difference between a drive-through and walk up. He added just because a problem has been created at a public property, it doesn't mean they can hold up a developer's project because of that.

Councilmember Williams inquired if the drive-through portion doesn't get approved, parking is still limited. She suggested a Peet's or Starbucks would generate heavy traffic like McDonald's traffic because more people are in the same area at the same time.

Mr. Cole indicated that the traffic study found there was not a huge, material difference between what drive-through and stand-alone traffic would generate. He mentioned he is not a decision maker; it is a problem if they are expecting parking spots in that area to be used for school parking; the City as a public agency cannot expect private parking spots be used for public purpose; it is not appropriate and these issues can't be held against the private property owner because of conditions across the street.

Mayor Pope agreed but mentioned he does not want to add to it. He mentioned a drive-through has to add more customers, otherwise they wouldn't build it; it multiplies the number of customers which causes a significant impact. He mentioned 3 Councilmembers raised issues and asked for additional conditions specific to traffic flow, pedestrian safety and signalization, so he supports those.

Councilmember Fuller clarified two Councilmembers and the Mayor.

Mayor Pope announced they will go back to Council reports (supra).

8) ADJOURN

There being no further business, the meeting was adjourned at 10:35 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk

MINUTES OF THE
REGULAR JOINT MEETING OF THE OAKLEY CITY COUNCIL/OAKLEY CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY/ OAKLEY PUBLIC FINANCING AUTHORITY
HELD
FEBRUARY 8, 2022

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 Randy Pope called the meeting to order at 6:31 p.m. in the Oakley City Council Chamber located at 3231 Main Street, Oakley, California. Vice Mayor Aaron Meadows and Councilmembers Anissa Williams, George Fuller and Sue Higgins were also present.

1.2 Pledge of Allegiance to the Flag

Mayor Pope led the Pledge of Allegiance to the Flag.

2.PUBLIC COMMENTS

Online Public Comments

Sean Ireland commented that Cypress Road was closed again January 30, 2022, due to an accident which has become a regular occurrence for residents of Oakley and Bethel Island. Further comments included safety improvements will take time and the City must start planning now, a two-lane, undivided road is insufficient for the amount of traffic in the corridor, and the frequency and severity of accidents has shown this time and time again.

Patsy Gottbehuet commented they have lived in the Summer Lake subdivision since 2015 and it is a great family community, but there have been numerous times they have been trapped in their subdivision with the only access out being levy roads which were not made for the volume of vehicles. She explained there have been too many traffic accidents that have shut down roads and they have driven out of their subdivision with fire on both sides of the road. She indicated the Council needs to be out there next time to be part of it and something needs to be done.

Sarah Vanni and Jason Vanni commented they are homeowners in Summer Lake and are disappointed the City is allowing more homes to be built without a safe alternative to get in and out of the community. While they acknowledged they knew the one way in, one way out was a problem, they indicated they felt the City was

taking care of it. They indicated they were told when they bought their home almost 10 years ago, they would have an elementary school, fire house, and road that came off of Bethel Island Road; they have the school and fire house, but no road. They expressed concern for safety of residents and children attending the elementary school in the event of emergency. They expressed they have seen too many times the road is inadequate for the number of homes in the area and more and more frequently they are trapped for hours waiting for a safe way out. They urged the City to build the road already planned.

Sylvia Gonzalez commented she lives in Summer Lake and one way in, one way out of the community is unacceptable. She mentioned there were two accidents last week where no one from her subdivision could enter or exit and they have been evacuated three times in two years due to fires where again, they could not get in or out. She mentioned if it had not been for a private property owner allowing access over her property, they could not escape the danger zone. She pleaded for the City to fix this problem and build another exit or overpass so they have a way out.

Jennifer Furer commented she has lived in Summer Lake since 2014 and loves it, but between vehicle accidents and fires she has felt stranded without an alternate route out that doesn't involve driving through someone's private property or down a scary levee "road". She mentioned she cannot believe with almost 500 students at the elementary school that this is still a discussion. She indicated they all deserve better.

Public Comment Cards

Sharon Kuykendall provided photos of the last accident to the Council which were made part of the meeting record. She commented that she has lived in Summer Lake for 13 years and has attending meetings held with Fire and Police regarding the issue with ingress and egress to the community. She mentioned something needs to be done, the community does not feel like the issue is being addressed, and when Cypress Road is closed, residents and 600 kids at the elementary school cannot get out. She mentioned in the extra time it would take for emergency response to reach them, they may be gone. She indicated she has spoken with people she knows from Fire and Police and the situation scares them. She urged the Council to remedy the situation.

Mayor Pope indicated he has many speaker cards on the same topic. He asked City Manager Joshua McMurray to be prepared at the end of public comments to summarize the steps the City has already taken and next steps to be taken.

Beverly Ng commented she has lived on Sandmound Blvd. since 1976 when they had a fire station on the island and volunteer firefighters. She explained they were promised a road when development began and now it is even more important as they have commuters, speeders, accidents, and the elementary school. She mentioned it is unfair to expect people to use the levee roads as they are too old and dangerous; they cannot accommodate an RV, trailer or school bus. She also mentioned that Police is not controlling traffic efficiently; there is only one lane and people get angry. She suggested a two-lane road like Sellers could be easily built

and they need safe access. She mentioned it is not fair to the private property owner to have potential liability of vehicles on her property to get out during an emergency. She requested something be done soon.

Connie Skoog commented she has lived 11 years on Sandmound Blvd. and spent one hour on Dutch Slough trying to get through. She mentioned the City indicates it is transparent and development information is available on its website; however, she could not find any information on what is planned for commercial development on Cypress Road. She also mentioned Oakley has the slowest response time for fire and emergencies, yet the City brings more and more people into the area because it needs tax funding for it. She commented that a person having a heart attack in that area is not going to say that someday taxes will pay for emergency services. She expressed it is up to the City to take care of its people and she doesn't see it happening.

Mary Ann Aldon commented she experienced the October 2019 Summer Lake fire, panicking, wanting to get out, with her young child, and it was horrible. She shared that she started attending the meetings with Fire and Police where they discussed a plan and she understands that 2020 was a giveaway year, but now it has been 3 years and nothing has happened. She explained she worked for a municipality and knows the city should listen to its residents. She mentioned they faced a similar issue again on January 30. She mentioned she has the same fear as her neighbors; they fear what will happen to them in another fire situation.

Virgil Chaddock commented he has lived in Oakley since 1990, originally on Sandmound, and the road is bad with vehicles constantly speeding and weaving around other cars. He shared people called him during the fire as they were watching it on the news and telling him people could not get out. He expressed concern that the City is not taking the issue seriously enough as it is allowing the building of 5,000 new homes to increase the problem. He mentioned he already sees tempers and violence increasing. He also mentioned roads take a lot of work and suggested the City consider 4 lanes rather than 2.

Alfred Zaragoza commented he is a lifelong resident and a year ago when the fire occurred, he had no way to get to his family in the area. He suggested the City let services catch up before building more homes. He mentioned they can forget about emergency responders; everyone is on their own.

Councilmember Fuller asked if someone in the back of the room has a comment card on this item.

The person responded it is for another item on the agenda.

Mayor Pope asked Mr. McMurray if he could provide an update.

Mr. McMurray shared that the City takes this issue very seriously, it is a main priority, and an issue discussed daily. He explained it is not as simple as the City building a bridge or a road as there are many parties involved, there is land owned by private developers and private property owners, and land that falls outside the City limit. He

shared the City is working with the developers toward a solution. He indicated an agreement which will guarantee access to Holland Tract has been approved by the Reclamation District and he is awaiting signatures. He explained this agreement will memorialize responsibilities. He also shared the City is developing procedures what to do during an emergency as many agencies are involved in response, i.e., the City, County, Sheriff's Office, Fire District and Reclamation District. He mentioned a workshop on this topic was held in October 2021, where he shared that this is an issue the City inherited from the County. He explained the County approved the homes in Summer Lake without a secondary exit. He shared that the City has not issued a permit east of Jersey Island Road since 2019 which was approved to finish the homes in Summer Lake.

Questions arose from the audience.

Mayor Pope commented that the audience may stay and have more dialogue during a break or after the meeting, but the meeting format is not conducive to calling out questions and having back and forth discussion. He requested staff place an emergency plan that is easily searchable on the City's website so residents know what to do.

Sharon Kuykendall inquired if the City can also include its progress steps on its website.

Mayor Pope commented that similar to the Planning projects it had a few months ago, there is a plan on E. Cypress which can be accessed through the Planning tab on the City's website or past meeting minutes can be reviewed which are also available on the City's website. He mentioned the issue of speeding may need to be addressed with additional dedicated traffic enforcement officers which they can look at during budget time. He explained that the City does not have water or fire services; these services are provided by separate agencies with boards elected by voters. He further explained that when a project comes to the City, the applicant must go to the service provider to confirm there are adequate services for the project. He suggested staff provide a business card and to respond to anyone with additional questions.

3.CONSENT CALENDAR

3.1 Approve Minutes from the Special Oakley City Council Meeting held January 25, 2022 (Libby Vreonis, City Clerk)

3.2 Accept Report Out of Closed Session Memo (Derek Cole, City Attorney)

3.3 City of Oakley Quarterly Investment Report (2nd Quarter FY 2021/22) (Tim Przybyla, Finance Director)

3.4 City of Oakley as Successor Agency to the Oakley Redevelopment Agency – Quarterly Investment Report (2nd Quarter FY 2021/22) (Tim Przybyla, Finance Director)

Mayor Pope mentioned Item 3.3 will be pulled.

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

Item 3.3

Mr. McMurray mentioned there is a correction to the rate under type 3; it is 0.230%, not 23.0%.

It was moved by Vice Mayor Meadows and seconded by Councilmember Fuller to approve item 3.3 as corrected. Motion was unanimous and so ordered. (5-0)

4.PUBLIC HEARINGS

4.1 Wendy's Drive-Through Conditional Use Permit (CUP 02-21) and Design Review (DR 05-21) (Ariana Ruiz, Planning Technician)

Planning Manager Ken Strelo presented the staff report on behalf of Ms. Ruiz.

Mayor Pope requested to have cross traffic and the drive-through addressed.

Bill Burton, Senior Associate with Fehr & Peers, explained with the traffic analysis, it was found that the queuing for the drive-through at Dutch Bros. extended to the east access point only for 5-10 minutes on one weekend, but would still allow vehicles to access the proposed Wendy’s drive-through on the west side. He mentioned there are 4 ways in and out of the Wendy’s site and 2 of them will be pretty clear most times of the day.

Councilmember Fuller inquired how the drive-through will be monitored for orderly transition from two lanes into one. He also inquired about the exit strategy when leaving the drive-through and heading across the Dutch Bros. queuing line.

Mr. Burton shared that the drive-through design is modern with two lanes merging into one lane and vehicles will figure it out. He explained that it is a low-speed, orderly maneuver which presents a low hazard. He also explained that upon exit from the drive-through, vehicles heading toward the Dutch Bros. queuing line will come to a “T” section where they can go left or right and signage will be placed directing vehicles to turn left to go to Bridgehead Road and the highway.

Councilmember Fuller inquired if vehicles turn left, if they will be crossing the Dutch Bros. queuing line.

Mr. Burton responded that there can be 15 cars in the queuing line at the Wendy's drive-through before getting into the median roadway, with a maximum 24-car capacity for the drive-through. He mentioned if there is an issue, striping can be placed indicating not to block the roadway.

Councilmember Williams commented she has seen fist fights at the Wendy's location in Brentwood. She mentioned Dutch Bros. has lots of traffic at times and she would like to get ahead of any potential problems. She expressed concern regarding the drive-through line and how it may compare to the Brentwood location.

Mr. Burton mentioned he won't comment about Brentwood as he is not familiar with that site, but the maximum que is 20 cars at Dutch Bros. and the proposed Wendy's can have 24 cars in the que. He added he has not seen that many cars at one site.

Councilmember Williams commented it only accommodates 15 cars before cars issue in and out.

Mr. Burton explained there is an excess que on the north side.

The applicant commented that the Brentwood Wendy's drive-through stack line is 8-10 cars and it is a high volume location which is a problem. He shared he is a hands-on owner with 30 years in this community and he will direct traffic if need be.

Mayor Pope referred to Chick-fil-A and inquired if the applicant would direct traffic like that.

The applicant responded he would if it is needed and now tablets are available for order taking.

Mayor Pope opened the public hearing and called for public comments.

Conan Moats commented he does not see an issue with this, but by granting this Conditional Use Permit (CUP), he would like to know if it will set precedent for other CUP's for drive-throughs.

There being no further public comments, Mayor Pope closed the public hearing.

Assistant City Attorney Elizabeth Fratarcangeli commented that she does not see an immediate issue of granting the CUP as it does not create a blanket rule; CUP's are evaluated on a case-by-case basis.

Councilmember Fuller suggested a condition of approval be included to address the drive-through line during busiest hours; an employee must be designated as an order taker to avoid back up in the que.

Mr. Strelo responded that if the application is approved and it is the wish of the Council, staff can include a condition of approval in the final resolution as it sounds like the owner is willing to do it.

Councilmember Fuller reiterated it would be only during busiest hours.

Vice Mayor Meadows asked Mr. Burton if under table 3 of the traffic analysis where it indicates Wendy's peak average que is 4.1 vehicles and 95% is 8.2, the most they are probably going to see, if all of these will fit in the 2 lanes before the driveway.

Mr. Burton confirmed they will.

Mayor Pope suggested rather than assigning hours, to set a trigger (i.e., if the line gets so long or approaches the cross isle) to have employees direct traffic. He asked Councilmember Fuller if that would satisfy his suggestion.

Councilmember Fuller responded his concern is if the trigger happens, but they are short-staffed, then it is not done. He mentioned is has to be a top priority for a person to go out there.

Vice Mayor Meadows shared that he runs a business and doesn't like people telling him how to run it. He mentioned the problem on that site is probably the Dutch Bros., not Wendy's, but it is a good problem.

Mayor Pope inquired about additional signage out of the drive-through to make a left turn only and he inquired about ingress signage to direct vehicles to the other entrance.

Mr. Strelo responded he doesn't believe there is signage. He mentioned when approaching the site, a driver can navigate if pulling into the Dutch Bros. from the west and if coming in from Bridgehead it is obvious.

Councilmember Williams commented she likes the idea of a condition, but as a restaurant owner, it is not realistically going to happen during these times. She explained there is no need to direct traffic if there is no one to cook the food.

Councilmember Higgins agreed. She inquired if they can widen any of the back road.

Mr. Strelo responded that area is a separate parcel from this project and is privately owned.

Vice Mayor Meadows moved to approve the resolution as presented.

Councilmember Fuller requested clarification.

Mayor Pope mentioned Vice Mayor Meadows is offering the motion as is.

Councilmember Fuller moved to amend the motion and approve the resolution as amended to include a condition of approval for traffic control from the point where traffic from the drive-through extends in the que into the median road.

Mayor Pope seconded the amendment to the motion.

Councilmember Williams inquired what repercussions are available if the condition is not met.

Mayor Pope inquired what the enforcement mechanism is.

Mr. Strelo explained that if a condition of approval is non-compliant, the CUP can go back to the Council for consideration and he can include that in the resolution.

Councilmember Williams inquired who is responsible for compliance.

Mr. Strelo responded it is the operator.

Councilmember Fuller mentioned he believes the Council has authority to pull the permit if there is non-compliance.

Mr. Strelo confirmed that is correct.

Vice Mayor Meadows commented he is not in favor of the amendment, but if they allow 24 cars, he is okay with it.

Mayor Pope responded that 15 cars are where it is at.

The vote was taken on the amendment to the motion. AYES: Fuller, Pope. NOES: Higgins, Meadows, Williams. The amendment failed.

The original motion made by Vice Mayor Meadows was seconded by Councilmember Fuller. Motion was unanimous and so ordered. (5-0)

4.2 CR-A (Commercial Recreation-Aquatic) District Zoning Text Amendment (RZ 02-21) Project (Ken Strelo, Planning Manager with Cindy Gnos, Senior Vice President, Raney Planning & Management, Inc)

Planning Manager Ken Strelo presented the staff report. He mentioned two letters were submitted in support of the text amendment which have been provided to the Council.

Rebecca Schmidt, Community Development and Planning Consultant with MRG, LLC, commented that the goal of the text amendment is to provide opportunity and find uses compatible with the waterfront so marinas don't have to stand alone; they can bring in residents and community recreation. She mentioned the text amendment clarifies uses on the Delta and that clarification opens up the door for use of the

waterfront for recreation. She mentioned the marinas were contacted and all are in favor of the amendment.

Chris Lauritzen commented he is available to answer any questions.

Vice Mayor Meadows inquired if Foundation Construction is present and if they are in favor of the text amendment.

A person on behalf of Foundation Construction in the audience confirmed they are in favor if it does not affect them.

Mr. Lauritzen commented that the property owner is also present.

The property owner confirmed he is also supportive of the text amendment.

Councilmember Fuller mentioned the CR-A districts covered are only those north of the Amazon project and Big Break.

Mr. Strelo confirmed that is correct; they are the only areas zoned CR-A.

Councilmember Fuller inquired if it applies to Jersey Island Road.

Mr. Strelo explained those are zoned differently.

Vice Mayor Meadows inquired if there is potential for housing.

Mr. Strelo responded that the Community Residential Waterfront Master Plan allows for some housing along with commercial similar to mixed use like with Twin Oaks. He mentioned that would be a large-scale project that would occupy most of the marina.

Mayor Pope opened the public hearing and called for public comments. He mentioned two letters were submitted by Driftwood and Big Break marinas. He inquired if either would like to speak or if the letter addresses their comments. Both indicated the letter is fine; they did not wish to speak. Mayor Pope mentioned both letters encourage the Council to vote to approve the text amendment.

Public Comment Cards

Virgil Chaddock commented that this is a nice opportunity that would have been great years ago when there was talk about a Bass Pro Shop but that fell through. He suggested 6 pack charter boats would be a nice to have with a separate area for them to offload customers and their catches, along with customer parking. He mentioned he is aware of about 50 6 pack boats in the area that may be interested. He also suggested 2 small fire boats in the harbor which could be shared with Bethel Island and Dutch Slough during emergencies as they can get to incidents fast. He also suggested additional Sheriff's boats.

There being no further public comments, Mayor Pope closed the public hearing.

Councilmember Fuller commented he is happy with it and appreciates that it is expanding into the Delta, a tremendous resource.

Councilmember Williams mentioned it will be great to have money spent here rather than at other marinas, the area is ripe for restaurants, she loves the tours with kayaks, and is in favor of it.

Councilmember Higgins mentioned she didn't see any drive-throughs and is all for it.

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

5.REGULAR CALENDAR

5.1 Adopt a Resolution Appointing Conan Moats to the Planning Commission to Serve a 2-year term and Changing the Term for Planning Commissioner Shannon Shaw from 2-years to 4-years (Joshua McMurray, City Manager)

City Manager Joshua McMurray presented the staff report.

Councilmember Fuller moved to table the item indefinitely to open the application process back up.

Vice Mayor Meadows requested clarification whether Councilmember Fuller's motion is to table it or open it back up.

Councilmember Fuller indicated he wants it tabled.

Vice Mayor Meadows commented he would like to open the application process asap to all applicants.

Councilmember Fuller agreed and also mentioned the process should begin immediately.

Vice Mayor Meadows commented that he believes they are saying the same thing and he seconded the motion.

Mayor Pope inquired if the motion is to table the action and direct staff to initiate a new selection process to accept applications.

Councilmember Fuller indicated the motion is to solicit applications and have the Council interview eligible applicants. He mentioned Shannon Shaw has not been asked if she wants a 4-year term.

Mayor Pope mentioned the motion is to table the action and direct staff to initiate a new selection process as done before with applications, interviews and selection.

The vote was taken. AYES: Fuller, Meadows. NOES: Higgins, Pope, Williams. (2-3)

Mayor Pope announced the motion failed.

Mr. McMurray commented that staff took the direction provided by the Council during its meeting held January 25, 2022, and prepared the resolution accordingly to appoint Conan Moats to the Planning Commission for a 2-year term and to change the term of Shannon Shaw from 2 years to 4 years. He mentioned Conan is willing to accept the position and is available to attend the CalCities' Planning Commissioners Academy in March.

Vice Mayor Meadows commented he did not attend the last meeting held January 25, 2022, and does not see the rush to fill the position. He mentioned if Edward had not applied, he wonders how the 5 votes would have been made. He shared there was a woman he would have voted for had he not voted for Edward. He mentioned they still have time to go through the process and have the selected person attend the March training.

Mr. McMurray mentioned it can be done and recommended a shorter period of time for the application process so staff can bring the item back on March 8. He mentioned he will notify applicants not previously selected should they wish to re-apply.

Councilmember Fuller commented if it is a no vote, then applications are re-opened and they would go through the process and make a selection.

Councilmember Higgins inquired if staff asked Shannon Shaw if she wants a 4-year term.

Mr. McMurray responded staff did not; it took the direction of the Council to prepare the resolution.

Shannon Shaw was in the audience and gave a thumbs up confirming a 4-year term is acceptable.

Councilmember Williams commented that the timeline seems unrealistic since it is already mid-February. She mentioned she does not think they will get many additional responses. She expressed that the Planning Commission was appointed in October and it is still not active, things will come up, residents feel like the Planning Commission is long overdue, and there will always be some potential barrier. She shared that she would have voted the same way so she feels like it is time to rip the band-aid off and get it up and running. She added that inaction is crippling them.

Councilmember Fuller commented the City is in position now to impanel the Planning Commission with 4 members to begin business; there is a quorum.

Mr. McMurray confirmed that is correct.

No public comment was submitted.

Councilmember Fuller commented they are gaining trust in the community and working with integrity, part of it is following policy, procedures to put people in office for the integrity of the community. He mentioned it has been 90 days since interviews, people change, and they need an opportunity to be heard. He mentioned a Planning Commission can come together by mid-March, but even without, it can commence business with 4 people. He indicated it may not be the best way, but to rush it by putting the next person in, is not the best way to go. He mentioned they should do as they originally said.

Councilmember Higgins commented that the system allows the Council to appoint someone so they can appoint Conan Moats to the Planning Commission and change the term for Shannon Shaw from 2 to 4 years.

Mayor Pope shared that during the previous Council meeting, there were only 4 Councilmembers present and there was an item on the agenda where they were deadlocked until he changed his vote. He commented he does not want to delay and he wants the Planning Commissioners to have training and get up and running so they can have a legitimate Planning Commission. He asked for the City Manager's assurance that they can do the selection process and not delay so the Council can select and appoint a Planning Commissioner on March 8.

Mr. McMurray responded it will be tight, but staff will make it happen. He mentioned the CalCities' Planning Commissioner Academy will be held March 16-18 and staff will make it known that the person selected must attend this training.

Mayor Pope added that staff will reserve a spot for that person for the training since the registration may already be open.

Mr. McMurray responded as soon as the person is appointed, the person will be registered.

Councilmember Higgins inquired how many staff hours have gone into the application process already for the Planning Commission and the cost.

Mr. McMurray explained that it has taken some time over this past year to get to this point, but they have everything ready from the previous application process so they can easily release information to the public to begin the application process.

Conan Moats requested to speak.

Mayor Pope commented he would not normally allow public comment at this time, but since Conan Moats is being considered for the position, he would like to hear from him.

Conan Moats commented that he has been listening to this back and forth and has been self-reflecting how to serve the community. He mentioned the previous application process in October had his name placed in a hat. He shared he is thinking of time management as he is a full-time teacher at a high school, a tennis coach, and a father to 3 children. He mentioned he understands the discussion, but given the time constraint, the City needs to make a decision. He expressed he is flustered because he did not realize there was that much dissent, but he wants to serve.

Councilmember Fuller commented that the process is worth every penny, time, and effort to bring this together. He mentioned the system works and the cost is well worth it.

Councilmember Williams commented that she has not heard one person in opposition of moving forward, but rather everyone is commenting why it is not moving forward and those voices need to be considered.

Vice Mayor Meadows moved to open the application process and hear the item during the March 8 Council meeting.

Mayor Pope inquired if his motion includes changing the term for Shannon Shaw from 2 years to 4 years.

Vice Mayor Meadows confirmed it does include that.

Councilmember Fuller requested for the motion to be formalized.

Mayor Pope mentioned the motion is to appoint Shannon Shaw to a 4-year term and open the application process back up to all applicants.

Councilmember Fuller seconded the motion.

The vote was taken. AYES: Fuller, Meadows, Pope. NOES: Higgins, Williams. (3-2)

5.2 Proclamation Policy (Joshua McMurray, City Manager)

City Manager Joshua McMurray presented the staff report.

Mayor Pope inquired if this item is similar to a work session where staff is requesting Council feedback.

Mr. McMurray responded staff is looking for direction.

Councilmember Williams commented that before they invest time, she would like to know how much staff time it will take to create a formal policy and if the policy will provide staff a better place to come from.

Mr. McMurray responded the policy will be something staff can point to should Councilmembers have any questions and it will establish an application process. He mentioned he is all for streamlining, but this is one area to provide a process. He explained if the Council gives staff direction to move forward with a policy, he would review existing policies from other cities and create something similar to bring back for the Council's review.

Councilmember Fuller commented he is all for approving, but would like to see the language, "on behalf of the City Council" omitted from the closing section of the proclamation. He explained the Mayor is issuing the proclamation and if there is any objection to the proclamation, there are other means to respectfully disagree and a mechanism for the Mayor to be asked to step aside should the Council be adversely impacted by the Mayor issuing the proclamation. He mentioned the Mayor should use best judgment.

Vice Mayor Meadows expressed he is in favor of a formal process and would lean toward Walnut Creek's policy.

Councilmember Higgins commented she is fine with a formal policy and with the Mayor issuing the proclamation on behalf of the Council.

Councilmember Fuller commented that if the proclamation is presented "on behalf of the City Council" there should be a vote and he doesn't want to hinder the Mayor if it is "on behalf of the City Council"; there should be a discussion. He indicated he is in favor of a formal policy.

Councilmember Higgins suggested a list could be put together of monthly proclamations which could be approved similarly to how the Council approves meeting dates because the Council may wish to be part of it.

Mayor Pope expressed he would like to share the history how this came about. He shared that he disagreed with a proclamation that a former Mayor wanted to read on behalf of the Council and the Council at that time voted to allow the Mayor discretion. He indicated his personal practice is not to allow any proclamations that are controversial. He shared that today, a proclamation was requested by the Red Cross which seems like a straight-forward, go ahead item. He mentioned proclamations are usually a feel-good recognition or they draw attention to a community issue. He added that the Mayor represents the Council and the Council represents the community. He mentioned he is fine with the status quo.

Councilmember Williams commented that since staff is asking for it, the Council could formalize the process it is already doing.

Mayor Pope mentioned a proclamation list could be provided to the Council by email prior to issuance for review and approval.

Councilmember Fuller commented he is not sure how to put it together if there is not consensus.

Mr. McMurray commented it sounds like at least 3 or 4 Councilmembers are in favor of a draft policy so he will bring back a draft policy for the Council to review.

6.REPORTS

6.1 CITY MANAGER

(a) City Manager

City Manager Joshua McMurray announced the first Strategic Plan workshop will be held Tuesday, February 15, beginning at 6:30 p.m., at the Oakley Recreation Center. He mentioned it will be the first of three meetings.

(b) Hybrid Meeting Discussion Follow-Up

Mr. McMurray mentioned staff was provided direction during the January 25 meeting to research and bring back to the Council hybrid meeting options. He mentioned Lindsey Bruno, Recreation Director and Website Coordinator, has a presentation for the Council to review options.

Ms. Bruno's presentation addressed current viewing and participation options, options used, hybrid meeting options, what other cities in Contra Costa and Alameda counties are doing and platforms being used, other types of hybrid engagement, costs, and considerations for hybrid meetings.

Mayor Pope commented that hybrid meetings were brought up under the current State of Emergency which expires at the end of March and there is uncertainty if it will be extended.

Councilmember Williams commented that she wants to be realistic; there were a lot of people here at the beginning of the meeting for a non-agendized item, but for those that were unable to stay and participate, they would know more if they were able to participate, and now they may feel like it is unfinished business. She mentioned if transparency is the goal, listening to residents and residents seeing the Council listen to them is important, and the current system is not great. She expressed she does not want to invest expense if the emergency order is going expire, but they need to be more transparent, meet people where they are, and if the order gets extended, bring it back for further consideration.

Councilmember Higgins commented "ditto".

Councilmember Fuller commented he is glad Ms. Bruno brought up schools. He mentioned many of the colleges are moving to in-person learning because it is best

for accreditation and for communication. He mentioned the only reason hybrid meetings came about was because of emergency which may no longer be in place soon. He shared he is in favor of having public participation in-person or in writing so meetings are more orderly and less chaotic as when they have tried to include both in-person and remote participation.

Vice Mayor Meadows commented that he does not think they need to go to two-way communication, but they do need to be able to broadcast something out that is more reliable than the current method. He mentioned staff already has a lot to work on and they don't need to create an elaborate system, but they do need to make sure people can watch the meetings.

Mayor Pope commented the County is already lifting restrictions and remote meetings are enabled by legislation which allows remote meetings, but without legislation, they may very soon not have remote ability. He mentioned they will continue to follow open meeting law, a long-established practice. He shared they could have a two-way system, but the law may not allow for it. He mentioned the focus right now should be a reliable system to allow people to watch the meetings.

(c) City Park Policy Discussion

Mr. McMurray mentioned this discussion is tabled and will be brought back during a future meeting as a full work session.

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 drove through the intersection of Laurel Road and Mercedes Lane and the City has done some work to make the intersection safer.

Councilmember Higgins reported search efforts for Alexis Gabe, a missing person, and anyone with information should call Oakley Police.

(b) Requests for Future Agendas

Councilmember Fuller proposed a resolution to oppose construction of the tunnel that would pump water from the Sacramento River to Tracy to the Central Valley. He explained it happens now by land but pumping would disrupt the ecosystem.

Councilmember Higgins supported his proposal.

Mayor Pope mentioned he would co-sign the letter and shared the City has an existing policy to instruct staff to send the letter out to state decision-makers and stakeholders.

7.WORK SESSIONS

None.

8.CLOSED SESSION

Mayor Pope announced the closed session Items.

The City Council heard the items in the antechamber.

8.1 CONFERENCE WITH LEGAL COUNSEL-INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(b)
Two potential cases.

8.2 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
City of Oakley v. Scelsi, et al.
Contra Costa Superior Court Case No. MSN16-1620

9.ADJOURN

There being no further business, the meeting was adjourned at 9:45 p.m.

Respectfully Submitted,

Libby Vreonis
City Clerk

OAKLEY
CALIFORNIA

MEMORANDUM

Office of the City Attorney

Date: February 14, 2022

To: Mayor and Members of City Council

From: Elizabeth Fratarcangeli, Assistant City Attorney

Cc: Joshua McMurray, City Manager

Subject: Closed Session Report-Out Memo

FOR CONSIDERATION AT THE CITY COUNCIL MEETING OF FEBRUARY 22, 2022

Background and Analysis

The City Council considered the following closed session items during its regular meeting held February 8, 2022:

CONFERENCE WITH LEGAL COUNSEL-INITIATION OF LITIGATION
Pursuant to Government Code Section 54956.9(b)
Two potential cases.

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
City of Oakley v. Scelsi, et al.
Contra Costa Superior Court Case No. MSN16-1620

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

Fiscal Impact

None.

Recommendation

Receive and file this report.

Attachments

None.

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: February 22, 2022

TO: Joshua McMurray, 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 the Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue) – Capital Improvement Project Number 250

Background and Analysis

The City's adopted FY 2021/22 Capital Improvement Program (CIP) Budget designates funding for the City's adopted FY 2021/22 Capital Improvement Program which designates funding for various infrastructure repair and replacement 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.

Laurel Road is a major arterial roadway and is the only designated truck route in Oakley. Laurel Road from Empire Avenue to O'Hara Avenue has only needed minor maintenance treatments in the past; however, with the increase in housing development and construction traffic, the roadway has begun to deteriorate more rapidly over the last couple of years. To keep Laurel Road from declining any further, staff had the civil design firm, NCE design a roadway that could structurally withstand the increase in traffic volumes.

Staff also implemented additional safety measures for bicyclists and pedestrians by restriping the roadway to include a buffer lane between the travel lane and bike lane. Also, rumble strips were added along the buffer zone to provide an auditory and vibratory effect to warn drivers that they are veering out of the travel lane. Lastly, sections of the bike lanes were painted green. The dashed green lanes leading up to intersections and heavily used driveways brings awareness where bicycles and vehicles may cross paths and the solid green area indicates "bicycle use only." This is a safety feature that communicates to road users that a portion of the roadway has been set aside for preferential or dedicated use by bicyclists.

On July 13, 2021, the City Council awarded a contract to Teichert Construction for the construction of the Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue). This work has been successfully completed by Teichert Construction.

Fiscal Impact

The authorized budget for the construction of this project was $2,767,019.00. This project was completed on time and under the authorized budget for a complete total of $2,416,960.56.

Pursuant to the contract documents, 5% of the accrued costs were withheld from the amount paid to the contractor. These funds are called “retention,” and are held until the end of the project to ensure that the contractor completes the project in a timely manner. Approval of this item will authorize the release of the retention payment to the contractor. The retention was already budgeted as part of the contract and change order approvals, so there is no additional fiscal impact associated with this action.

Staff Recommendation

Staff recommends that the City Council Adopt the Resolution accepting Capital Improvement Project Number 250 – Laurel Road Resurfacing Project (Empire Avenue to O’Hara Avenue) as constructed by Teichert Construction 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. __-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ACCEPTING THE WORK AS COMPLETE BY TEICHERT CONSTRUCTION FOR CAPITAL IMPROVEMENT PROJECT NUMBER 250 – LAUREL ROAD RESURFACING PROJECT (EMPIRE AVENUE TO O'HARA AVENUE)

WHEREAS, NCE prepared the plans, specifications, and estimates for Capital Improvement Project (CIP) Number 250 - Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue); and

WHEREAS, on July 13, 2021, by adopting Resolution No. 83-21, the City Council awarded a construction contract to Teichert Construction, for the construction of the Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue) - CIP Number 250; and

WHEREAS, Teichert Construction has satisfied the contractual requirements necessary for the acceptance of the Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue) - CIP Number 250 to be deemed complete in the amount of $2,416,960.56.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oakley that the Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue) - CIP Number 250 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 the Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue) - CIP Number 250 with the County Recorder.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 22nd of February 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Randy Pope, 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
Capital Improvement Project Number 250 - Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue)

NOTICE IS HEREBY GIVEN THAT:

The CITY OF OAKLEY, a political subdivision of the State of California, did, on July 13, 2021, enter into an agreement with Teichert Construction for the construction of Capital Improvement Project (CIP) Number 250 – Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue), with work located on Laurel Road between Empire Avenue and O'Hara Avenue.

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 CIP Number 250 – Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue).

On February 22, 2022, said contract, as a whole was completed and the work was accepted by the City Council of the City of Oakley.

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 22nd day of February 2022 at Oakley, California.

Date: _____

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

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: February 22, 2022

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Kenneth W. Strelo, Planning Manager

SUBJECT: **CalRecycle Notification of Intent to Comply - Adopt a resolution to file a "Notification of Intent to Comply" related to implementation of Short-lived Climate Pollutants: Organic Waste Reductions requirements in Title 14 California Code of Regulations (14 CCR) (Senate Bill 1383) to CalRecycle by March 1, 2022.**

Summary

This is a Consent Calendar item for City Council approval to authorize the City Manager, on behalf of the City of Oakley, to submit a Notification of Intent to Comply ("NOIC") with Senate Bill 1383 ("SB 1383") to the California Department of Resources and Recycling ("CalRecycle"). Jurisdictions are required to implement SB 1383 starting on January 1, 2022. A vast majority of local jurisdictions, including the City of Oakley, are facing implementation challenges. SB 619 authorizes the California Department of Resources Recycling and Recovery ("CalRecycle") to waive civil penalties if a jurisdiction submits and adopts, by resolution, a Notification of Intent to Comply for the regulatory requirements and implements a Corrective Action Plan.

Staff recommends the City Council adopt the proposed Resolution authorizing the City Manager, on behalf of the City of Oakley, to Submit a Notification of Intent to Comply with Senate Bill 1383 to CalRecycle.

Fiscal Impact

In the case that CalRecycle pursues enforcement of SB 1383 implementation items, submittal of this Notification of Intent to Comply will relieve the City and General Fund from civil penalties accrued during the 2022 calendar year. Once levied, civil penalties can accrue at a rate of up to $10,000 per day.

Background

SB 1383, Short-lived Climate Pollutants Reduction, as enacted in 2017 (Lara, Chapter 395, Statutes of 2016), established targets to reduce the statewide disposal of organics by 50% by 2020 and 75% by 2025; and requires that not less than 20% of edible food that is currently disposed be recovered for human consumption by 2025. SB 1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years and requires that each jurisdiction redefine and develop methods for managing and collecting

organics, procuring recycled organics and developing a policy, recovering edible food, tracking and document non-franchise haulers, planning for edible food capacity expansion, and enforcing SB 1383 provisions. In addition, it requires complying with the Model Water Efficient Landscape standards and CalGreen, California's green building standards code.

Despite the variety of major programmatic and policy-related requirements for jurisdictions, generators, and other entities set forth by SB 1383, this regulation is an unfunded mandate. It impacts all property owners, tenants, multifamily residences, commercial entities, and public entities within the City. Jurisdictions that are unable to fully implement the SB 1383 regulations, may submit to CalRecycle a Notice of Intent to Comply by March 1, 2022. The Notification of Intent to Comply includes a template for creating a Corrective Action Plan with proposed timelines and steps for bringing the City of Oakley into compliance with SB 1383. CalRecycle may waive calendar year 2022 administrative civil penalties for the violations if the local jurisdiction implements the actions proposed in the Notification of Intent to Comply.

Analysis

The City of Oakley has worked, and continues to work, closely with the City's solid waste franchisee, Mt. Diablo Resource Recovery ("MDRR"), on implementing SB 1383 regulations. On December 14, 2021, the City Council adopted Ordinance No. 11-21, which amended the City's ordinance regarding solid waste collections and regulations and brought it into compliance with SB 1383 regulations. City Staff has reviewed and provided feedback on MDRR public outreach efforts resulting in SB 1383 flyers being mailed out to commercial businesses, and Staff will do the same for residential customer flyers. City Staff and MDRR continue to meet with and engage staff from multiple other local jurisdictions as well as with staff from helpful resources such as CalRecycle, RecycleMore, and RecycleSmart in order to develop best practices, share resources, interpret regulations, and discuss potential strategies for meeting the challenging SB 1383 requirements.

Areas in which the City and many local jurisdictions will commonly experience implementation difficulty and potential civil penalties in 2022 include recycled organics procurement, edible food recovery, edible food capacity planning, and organics collection and management. Authorization to submit a Notification of Intent to Comply to CalRecycle will afford the City time to develop a stepwise plan with CalRecycle for achieving SB 1383 compliance in these areas without incurring fines in calendar year 2022.

Recommendation

Staff recommends the City Council adopt the proposed Resolution authorizing the City Manager, on behalf of the City of Oakley, to Submit a Notification of Intent to Comply with Senate Bill 1383 to CalRecycle.

Attachments

1. Notification of Intent to Comply Form
2. Draft Resolution

Notification of Intent to Comply

CalRecycle is providing this optional form as a convenience to assist jurisdictions (counties, cities, a county and city, or special districts providing solid waste collection services) for purposes of submitting a notification of intent to comply to CalRecycle [see Public Resources Code (PRC) section 42652.5(c)].

A jurisdiction may submit a notification of intent to comply if it is facing continuing violations of the Short-lived Climate Pollutants: Organic Waste Reductions requirements in Title 14 California Code of Regulations (14 CCR). The written notification of intent to comply, adopted by resolution of the jurisdiction's governing body, shall be sent to CalRecycle no later than **March 1, 2022,** to NOIC@CalRecycle.ca.gov.

A jurisdiction shall, at minimum, include the following in its notification:

1. A description, with specificity, of the continuing violations.
2. A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.
3. A description of the impacts of the COVID-19 pandemic on compliance.
4. A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in 14 CCR section 18996.2 with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

Upon approval by CalRecycle of a jurisdiction's notification and implementation of the intent to comply, a jurisdiction may be eligible for both of the following:

1. Administrative civil penalty relief for the 2022 calendar year pursuant to PRC section 42652.5(d).
2. A corrective action plan pursuant to 14 CCR section 18996.2.
    a. CalRecycle may address through a corrective action plan any violations disclosed in a jurisdiction's notification that will take more than 180 days to correct. In this situation, the proposed actions and schedule in the jurisdiction's approved notification will be in effect until a corrective action plan is issued.

CalRecycle will respond in writing to a jurisdiction within 45 business days of receiving its notification with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. CalRecycle will include details about why a jurisdiction did not meet the requirements for a Notification of Intent to Comply when disapproving the jurisdiction's notification.

Please clearly print or type responses. Attach additional pages as necessary.

Jurisdiction Name: City of Oakley	County:Contra Costa
Person Completing the Form:Ken Strelo	
First Name: Ken	Last Name: Strelo
Title: Planning Manager	
Mailing Address: 3231 Main Street	
City: Oakley	Zip Code: 94561
Email Address: strelo@ci.oakley.ca.us	
Phone Number: (925) 625-7036	

1. Select using the check boxes below or write in the continuing violations for each applicable regulatory section. For each selection, please describe the specific violations related to the regulatory section.

Example:

☒ (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services

i. *Not implementing mandatory residential foodwaste collection for all residents. Note: City already provides mandatory greenwaste collection to all residents*

ii. *Not implementing mandatory commercial organics collection for all businesses under 2 cubic yards. Note: City already provides mandatory commercial organics collection to all businesses 2 cubic yard or more.*

Disclaimer: The list of possible continuing violations below is not inclusive of all potential violations of the regulations.

(A) 14 CCR section 18984 Combined Organic Waste Collection Services. *This requirement is not included since the requirements are further specified in sections 18984.1-18984.11.*

☒ (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services

☐ (C) 14 CCR section 18984.2 Two-Container Organic Waste Collection Services

☐ (D) 14 CCR section 18984.3 Unsegregated Single Container Collection Services

☐ (E) 14 CCR section 18984.4 Recordkeeping Requirements for Compliance with Organic Waste Collection Services

☐ (F) 14 CCR section 18984.5 Container Contamination Minimization

☐ (G) 14 CCR section 18984.6 Recordkeeping Requirements for Container Contamination Minimization

☐ (H) 14 CCR section 18984.7 Container Color Requirements

☐ (I) 14 CCR section 18984.8 Container Labeling Requirements

☐ (J) 14 CCR section 18984.11 Waivers Granted by a Jurisdiction

☐ (K) 14 CCR section 18985.1. Organic Waste Recovery Education and Outreach.

☐ (L) 14 CCR section 18985.2. Edible Food Recovery Education and Outreach

☐ (M) 14 CCR section 18985.3. Recordkeeping Requirements for a Jurisdiction's Compliance with Education and Outreach Requirements

☐ (N) 14 CCR section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers

☐ (O) 14 CCR section 18988.3. Self-haulers of Organic Waste

☐ (P) 14 CCR section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program

☐ (Q) 14 CCR section 18989.1. CALGreen Building Codes

☐ (R) 14 CCR section 18989.2 Model Water Efficient Landscape Ordinance

☐ (S) 14 CCR section 18991.1. Jurisdiction Edible Food Recovery Program
☐ (T) 14 CCR section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program
☐ (U) 14 CCR section 18992.1. Organic Waste Recycling Capacity Planning
☐ (V) 14 CCR section 18992.2. Edible Food Recovery Capacity
☐ (W) 14 CCR section 18993.1. Recovered Organic Waste Product Procurement Target
☐ (X) 14 CCR section 18993.2. Recordkeeping Requirements for Recovered Organic Waste Procurement Target
☐ (Y) 14 CCR section 18993.3. Recycled Content Paper Procurement Requirements
☐ (Z) 14 CCR section 18993.4. Recordkeeping Requirements for Recycled Content Paper Procurement
(AA) 14 CCR section 18994.2. Jurisdiction Annual Reporting
Note: This requirement is not included since jurisdictions are still expected to report to CalRecycle.
☐ (BB) 14 CCR section 18995.1. Jurisdiction Inspection Requirements
Note: Section 18995.1(a)(1) should not be included because a jurisdiction should already be completing this action due to the requirements of PRC Chapter 12.9 (commencing with Section 42649.8)
☐ (CC) 14 CCR section 18995.2. Implementation Record and Recordkeeping Requirements
(DD) 14 CCR section 18995.3. Jurisdiction Investigation of Complaints of Alleged Violations
Note: This requirement is not included since jurisdictions are still expected to investigate complaints.
☐ (EE) 14 CCR section 18995.4. Enforcement by a Jurisdiction

Use the check box(es) below to write in the continuing violations for any regulatory section(s) not reflected above and describe the specific violations related to the regulatory section.

Example:
☒ (1) (Type regulatory section number) (Type regulatory section title)
i. *Describe the specific violations related to the regulatory section*
☐ (1)
☐ (2)
☐ (3)
☐ (4)
☐ (5)

2. A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

The City and its franchised hauler and operator of the Recycling Center and Transfer Station ("RCTS") in Pittsburg, Mount Diablo Resource Recovery ("MDRR"), have met significant milestones in creating capacity for organics collection and processing per SB 1383 requirements. MDRR currently upgrading the existing transfer station (RCTS) into the Mount Diablo Resource Recovery Park ("MDRRP") capable of receiving, processing, and converting organics in compliance with SB 1383. The City of Pittsburg has approved all discretionary items needed to commence the project; however, MDRR is experiencing delays receiving Regional Water Quality Control Board approvals that will allow for construction of a an 82,500 sf. organics building necessary for accepting and processing residential organics in compliance with SB 1383 due to its proposed location on an inland stream. MDRR has engaged CalRecycle in seeking approval from the RWQCB and all other agencies, including the Army Corps of Engineers have given permission to proceed with the construction. MDRR hopes to

receive RWQCB approval to move forward with construction of the organics building by April 15, 2022; however, additional delays may occur.

MDRR's current facilities are equipped to manage commercial organic waste, and the City has passed its mandatory ordinance and has established agreement with MDRR on the terms of an amendment to the City's franchise agreement, which is anticipated to be approved by City Council shortly.

Residential organics waste collection service that includes the collection of residential food scraps cannot commence until the organics processing building is complete at MDRRP. The City is in compliance with, or anticipates full compliance with, all other aspects of SB 1383 implementation aside from food scraps collection in the residential sector.

3. A description of the impacts of the COVID-19 pandemic on compliance.
The COVID-19 global pandemic has altered MDRR's traditional outreach methods as site visits and in-person audits, especially for encouraging required organics service at all commercial locations and multifamily locations, have been converted to mostly virtual experiences. Due to the pandemic, many commercial accounts have turned over and response rates received from commercial accounts have lengthened. In the midst of it all, MDRR expanded its outreach and customer service team in order to prioritize organics outreach, and still aims to have all remaining noncompliant businesses and multifamily residences registered and using the organics service (or properly waived). These delays on the commercial and multi family residential side have impacted staff's ability to shift its focus to residential organics outreach and marketing. Similarly, all City-sponsored school and public events at which solid waste regulations and new compliance programs are shared and discussed with the public have been paused since the beginning of 2020.

In preparation for SB 1383, City staff watched impending regulations carefully and began internally planning for staffing needed to carry out outreach, monitoring, and enforcement activities, as well as associated increased communications with MDRR upon SB 1383 implementation. At the same time, these departments have been bombarded with the fallout of the pandemic: major increases in homelessness, illegal dumping, abandoned businesses, construction projects, and more.

The City's anticipated amendment with MDRR includes full outreach and education services in compliance with the law, and the addition of one full-time enforcement officer responsible for SB 1383 compliance activities.

4. Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner. See optional format below.
Please see tables starting on page 6.

I hereby certify under penalty of perjury that the information provided herein is true and correct to the best of my knowledge.

	Ken Strelo	Planning Manager	2/22/2022
---	---	---	---
Signature	Printed Name	Title	Date

Regulatory Requirement: (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services **Description:** Not implementing mandatory residential food waste collection for all residents. Note: City already provides mandatory green yard waste collection to all residents and provides commercial organics service with mandatory subscription implemented by ordinance and full roll-out required of hauler.	
Action	**Proposed Schedule**
TASK 1: MDRR to receive RWQCB approval to construct organics building at the MDRRP facility.	Date to be completed: January 1, 2024
TASK 2: Establish a weekly (yard waste collection currently bi-weekly) Residential and Multifamily Organics Program once there is capacity for residential organic waste at the MDRRP facility. Single family homes and multifamily locations already have green yard waste carts for yard waste collection, which will be expanded to include Combined Organic Waste. Public outreach and education will commence by or before January 1, 2024.	Date to be completed: July 31, 2024
TASK 3: MDRR to add 1.5 additional residential routes/trucks/drivers, plus an additional commercial route of which Oakley has an approximately 7% share contribution.	Date to be completed: July 31, 2024

RESOLUTION NO. XX-22

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL AUTHORIZING THE CITY MANAGER, ON BEHALF OF THE CITY OF OAKLEY, TO SUBMIT A NOTIFICATION OF INTENT TO COMPLY WITH SENATE BILL 1383 TO THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

WHEREAS, THE California Department of Resources Recycling and Recovery ("CalRecycle"), in consultation with the California Air Resources Board, has adopted regulatory requirements ("Regulations"), consistent with the mandate of Senate Bill 1383 (Lara, 2016) ("SB 1383"), that are designed to achieve the organic waste reduction goals established in Section 39730.6 of Health and Safety Code through a 50 percent (50%) reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and 75 percent (75%) reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025; and

WHEREAS, the City of Oakley is a local jurisdiction required to comply with the Regulations; and

WHEREAS, the City of Oakley, like most entities required to comply with the Regulations, will not be able to achieve full compliance with the Regulations during the 2022 calendar year; and

WHEREAS, Senate Bill 619 (Laird, 2021) ("SB 619"), through amendments to Section 42652.5 of the Public Resources Code ("Statute"), created a mechanism called a Notification of Intent to Comply through which a local jurisdiction may secure administrative civil penalty relief from any continuing violations of the Regulations for the 2022 calendar year and may be eligible for a broader and longer-term regulatory compliance path, including suspended administrative civil penalties, through a corrective action plan; and

WHEREAS, the City of Oakley is a local jurisdiction authorized by the Statute to submit a Notification of Intent to Comply for CalRecycle approval; and

WHEREAS, by submitting the Notification of Intent to Comply the City of Oakley represents and certifies that it will implement the proposed actions to remedy the violations according to the proposed corrective action plan schedule as approved by CalRecycle and in accordance with the Statute and Regulations; and

WHEREAS, CalRecycle shall approve a Notification of Intent to Comply that is duly adopted by the City of Oakley by formal written resolution and meets the requirements of the Statute.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Oakley hereby authorizes the City Manager or his designee to sign and submit the Notification of

Intent to Comply, as included with this Resolution's Staff Report, to CalRecycle for approval.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 22nd day of February, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Randy Pope, Mayor Date

ATTEST:

Libby Vreonis, City Clerk Date

ORDINANCE NO. 02-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADOPTING A ZONING TEXT AMENDMENT TO OAKLEY MUNICIPAL CODE SECTION 9.1.512 (COMMERCIAL RECREATION-AQUATIC [CR-A]) RELATED TO THE PERMITTED AND CONDITIONAL USES ALLOWED IN THE CR-A DISTRICT (SUBSECTIONS 9.1.512[a], [b], [c], and [h] (RZ 02-21)

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

SECTION 1. Subsections 9.1.512(a), (b), (c), and (h) of the Oakley Municipal Code Section 9.1.512 titled, Commercial Recreation-Aquatic (CR-A), is hereby amended as follows:

a. Purpose and Intent. The CR-A Zone is designated in certain areas along the City's waterfront, which is part of the greater Sacramento-San Joaquin Delta. The Delta is a unique region that supports a wealth of natural resources, vibrant communities, agriculture, and recreation. The lands designated CR-A are within the Secondary Zone of the Delta, within the Contra Costa County Urban Limit Line, within City limits, and within the Urban Interface Zone in the Delta Plan. The purpose of the CR-A District is to provide designated areas for commercial, recreational and visitor-oriented uses compatible with the waterfront and the natural features in the Delta. The intent is to provide new and protect existing commercial and recreational opportunities. The CR-A Zone will encourage uses that allow residents and visitors to enjoy and appreciate the waterways of the Delta. The proximity to the Delta is considered a further opportunity to enhance the overall quality of the area.

b. Permitted Uses. Uses permitted in the CR-A district shall be as follows:

    1. Boat charter, rental, or sales. Boats include kayaks, canoes, stand up paddle boards, sail boats, wind sailing, jet skis, bass boats, cabin cruisers, electric boats, and similar watercraft;
    2. Boat storage/yards. Indoor or outdoor storage of boats, including stack storage, boat haul out, maintenance, and boat repair as an ancillary use;
    3. Boat tours, including fishing guides and tours of the Delta;
    4. Docks and boat launches;
    5. Eating and drinking establishments, including restaurants, cafés, take-out, floating restaurants, take-out by boat, and dock dining. Drive-throughs not permitted;
    6. Ferry services;
    7. Fishing tournaments;
    8. Houseboat charter, rentals, and sales;
    9. Indoor storage of marine or recreational equipment and supplies;
    10. Interpretive and educational facilities;
    11. Marinas;
    12. Marinas with recreational vehicle parks;

13. Marina mixed-use developments, including restaurants, offices, or retail shops;
14. Marine schools;
15. Offices;
16. Park and recreation facilities, including tent or recreational vehicle campgrounds;
17. Public safety facilities, including marine patrol, search and rescue, and reclamation district facilities;
18. Recreational vehicle repair and/or storage within enclosed structures;
19. Retail stores;
20. Studios and galleries for artists; and
21. Utilities, minor (utilities and energy efficient improvements to buildings and structures).

c. Uses Requiring a Conditional Use Permit. In the CR-A district the following uses are permitted after the issuance of a conditional use permit:

1. Boat storage/yards when including boat building or manufacturing;
2. Commercial waterfront master plan with a residential component (Residential component subject to the lot and yard requirements, building height and other regulations of multiple family residential districts (M-9, M-12 and M-17) (Sections 9.1.406(e) through (h));
3. Hotels and motels;
4. Utilities, major (Generating plants, electrical substations, water reservoirs, water or wastewater treatment plants, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification); and
5. Yacht club.

h. Other Regulations.

1. All new commercial development shall be consistent with the Commercial and Industrial Design Guidelines (See Appendix C of this chapter) and is subject to Design Review approval;
2. Marinas include covered or un-covered berths, fuel docks, electric boat charging stations, launch ramps, marine maintenance and repair services, lubricants, parts, and accessories for boats, pump outs, convenience store, office, harbormaster living quarters, and related uses;
3. Boat and houseboat sales may be new or used vessels that are operable and seaworthy;
4. Public safety facilities may include outdoor storage of mobile trailers for disaster preparedness (levee failures, oil spills, earthquakes);
5. Fences, walls, hedges, uncovered decks, landings, patios, platforms, porches and terraces and similar structures not more than 6 feet in height, may be located within any required side yard to the rear of the front setback or within any required rear yard other than those abutting an alley. Fences, walls, hedges, and accessory structures shall be limited to 3 feet in height above natural grade in all required front yard setback areas; and

6. Marina and Dock Regulations. Marina and dock projects may be allowed in the CR-A district based on the following criteria, as determined appropriate by the Community Development Director:

    a. Proposed locations should be along waterways having an adequate channel width as defined by the State Harbors and Navigation Code;
    b. Adequate public vehicular access and parking must be provided;
    c. Off-site improvements, such as required access roads, must be capable of supporting the proposed development and subsequent use;
    d. Adequate on-site sewage or public sewer disposal must be provided;
    e. Adequate access for emergency response vehicles must be available;
    f. Such uses should minimize the conflict with adjacent agricultural uses or natural resources;
    g. Adequate potable water must be provided, as appropriate, for all recreational uses; and
    h. Encourage public access to the delta and shoreline in conjunction with new dock and marina projects. Such access may be achieved upon the subject property or through cooperative efforts with adjacent property owners.

SECTION 2. California Environmental Quality Act.

An Initial Study/Negative Declaration (IS/ND) was prepared for the proposed project in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Sections 21000 et seq., and the State CEQA Guidelines to evaluate the potential environmental impacts of the project. The IS/ND was made available for public review from November 21, 2021 to December 20, 2021. As detailed therein, the IS/ND concluded the project would not result in a “Potentially Significant” impact with respect to any environmental issue area that would require the incorporation of feasible mitigation measures to reduce the potential project impact to a less-than-significant level.

SECTION 3. 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 22nd day of February, 2022 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

_____
Randy Pope, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: February 22, 2022

TO: Joshua McMurray, City Manager *Approved and Forwarded to the City Council*

FROM: Jeri Tejeda, Human Resources Director

SUBJECT: **Adopt Resolution Amending the Employee Personnel Manual adding section 9.16 for Police Management.**

Background and Analysis

It is the goal of the City to provide pay and benefits that are competitive with our surrounding cities, as well as ensure the compaction between staff and supervisors are fair and competitive as well. This philosophy will allow for us to recruit and retain employees who exceed the Oakley standards.

In a recent review of salary and benefits of our Police Management staff it was determined that the compaction between the sergeant and lieutenant level was lacking to meet the goals of the City. A promotion within the current policy would actually decrease total compensation by approximately -7%.

The City of Oakley salary and benefits are provided in two documents, the Employee Personnel Manual and the Oakley Police Memorandum of Understanding (MOU). The Police MOU only covers salary and benefits for the positions of Police Officer and Police Sergeant.

Our Police Management team consists of the Police Chief as well as two Lieutenant positions.

When a sergeant promotes into the lieutenant position, there has not been a formal document stating provided benefits. The recommended amendment will provide a formal documentation of the benefits that will continue to be provided when a promotions occurs from the Police MOU into a Police Management position.

The recommended addition of section 9.16 will formally allow for Police Management to retain some of the incentives such as longevity pay that they were receiving as a sergeant as well as add some additional benefits to make up for items they will not continue to receive such as holiday pay and other incentive pay.

Staff recognizes that the Employee Personnel Manual has not been updated in quite some time. We will be working on this update and will be bringing it back in the near future for consideration.

The need to provide the Police Department with a Management Team can not wait for a complete update to the manual, which is why this addition is being brought separately.

With approval of the addition, the Lieutenant positions can be filled immediately allowing for the Police Department to begin to organize under the Police Chiefs vision for the department and the City.

Fiscal Impact

The Fiscal Year 2021/2022 budget provided for two lieutenant positions. The transitions that have occurred within the department has left these positions vacant for most of the current fiscal year. Due to these vacancies, there is no need for a budget amendment in fiscal year 2021/2022.

In the Fiscal Year's to follow, the recommended addition of section 9.16 is expected to cost an additional $60,000 per year and will be part of the recommended budget moving forward, starting with Fiscal Year 2022/2023.

Staff Recommendation

Adopt Resolution Amending the Employee Personnel Manual adding section 9.16 for Police Management.

Attachments

1. Resolution
2. Section 9.16 Police Management
3. Employee Personnel Manual-Redlined
4. Police Memorandum of Understanding

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADOPTING AMENDMENTS TO THE CITY OF OAKLEY PERSONNEL MANUAL

WHEREAS, the Personnel System established by Ordinance No. 17-00 requires implementation of the City's personnel rules, police and procedures; and

WHEREAS, in 2001 The City Council Adopted and in 2004, 2008, 2012, 2016 and 2017 amended the Personnel Manual to implement these rules, policies and procedures; and

WHEREAS, the need to add a section to the personnel manual specific to Police Management staff is imperative to ensure benefits being offered are documented in the manual; and

WHEREAS, these benefits will ensure when promoting to Police Management, compensation will be internally aligned and competitive; and

WHEREAS, the addition of the Police Management Section will allow for recruitment and retention of qualified officers; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley hereby approves the amendment to the Employee Personnel Manual to include section 9.16 for Police Management salary and benefits.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Oakley held on the 22nd day of February, 2022 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

_____
Mayor

ATTEST:

_____
Libby Vreonis, City Clerk Date

9.16 Police Management Compensation & Benefits

Police Management is to be defined as all sworn officers not covered by the Police MOU.

Police Management employees are covered by the Personnel Manual and all benefits provided in this section are in addition to what is provided to other management employees covered by the personnel manual. The Police Chief will be the only "at-will" position covered under section 9.16.

- Post Certifications
  - All Police Management Personnel will receive a benefit equal to the benefit provided in the Police MOU under POST Certifications.
- Master's Degree
  - All Police Management Personnel will receive a benefit equal to the benefit provided in the Police MOU under Master's Degree.
- Longevity Pay
  - All Police Management Personnel, with the exception of the Police Chief, will receive a benefit equal to the benefit provided in the Police MOU under Longevity Incentive Pay. This is to include the language for former Contra Costa Sheriff's Officer Personnel.
  - The Police Chief will receive 5% of base pay if they have served the City of Oakley, in any position, for more than 5 years.
- Deferred Compensation
  - All Police Management Personnel, with the exception of the Police Chief, will receive a 2 % City contribution into one of the City's already established deferred compensation plans.
- PORAC
  - All Police Management Personnel will receive a benefit equal to the benefit provided in the Police MOU under Retiree Medical, PORAC. This is to include the language related to the Legal Defense Fund. Any fees to be a member of PORAC and participate in the legal defense fund, will be paid by the employee.
- Starting Base Pay
  - Lieutenant starting base pay will be at least 20% higher than the highest paid Sergeant's base pay. This is to compensate for the loss of holiday and incentive pays that are no longer available to Police Management employees.
- Compaction
  - Total compaction between the Sergeant and Lieutenant and Lieutenant and Chief will not fall below 10% when comparing total compensation at the maximum base salary for each position.
  - Compaction will be reviewed at the start of any new MOU agreement to ensure the 10% range still exists.

OAKLEY

CALIFORNIA

PERSONNEL MANUAL

Adopted by the City Council

April 25, 2017

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Section 1. Introduction & Purpose of Personnel Manual

The City of Oakley (hereinafter "City") has prepared this Personnel Manual to familiarize its employees with City policies, benefits and rules, as well as the privileges and responsibilities of City employment. It is important that all employees read, understand and follow the provisions of the Manual to make the City work environment as positive and productive as possible. Please feel free to contact the City's Human Resources Division, or the City Manager, with any questions.

The City strives to improve its policies and services and employees are encouraged to suggest improvements. By working together, the City hopes to instill a sense of individual and organizational pride that shows in the work, products and services that we provide to the community.

1.1 MISSION AND VALUES STATEMENT

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

Honesty and Integrity

Quality Customer Service

Community Input and a Proactive Approach to solving community issues

A Positive and Encouraging Environment

Teamwork

Professionalism

Fiscal Responsibility

All employees are committed to be polite, professional and progressive.

1.2 HUMAN RESOURCES DIVISION

The City's Human Resources Division, designated by the City Manager, provides employees with information and assistance in understanding the City's personnel policies and procedures. The Human Resources Division is the best place for employees to obtain current information on work rules, benefits, personnel policies and procedures, payroll data, personnel records, insurance, job opportunities, and training. Human Resources personnel are also responsible for maintaining complete and up-to-date personnel records for all current employees.

1.3 DISCLAIMER

This Manual describes important City policies, procedures, practices, and benefits and is intended to acquaint employees with the privileges and responsibilities of City employment. However, it is not a legal document and does not constitute or create any expressed or implied contractual obligations between the City and its employees.

1.4 ACCEPTANCE OF EMPLOYMENT

As a condition of employment, each employee agrees to be governed by and to comply with the provisions of the Personnel Manual, all City ordinances and the rules, regulations and directives of the City department in which the employee is assigned and other official rules, policies, practices and procedures of the City applicable to the employee. Each employee is required to sign a statement of receipt acknowledging that: (a) he or she has received a copy, or has been provided access to this Manual; and (b) understands that he or she is responsible to read and become familiar with the contents and any revisions to this Manual.

1.5 APPLICABILITY

Except as indicated, the provisions in this Personnel Manual shall apply to all officers and employees of the City, except for the City Council. Independent contractors

and volunteers are not officers or employees. By separate employment agreement, the City Council may provide alternate personnel rules for the City Manager and City Attorney.

1.6 PERSONNEL OFFICER

The City Manager is authorized by the City Council to implement these policies and procedures. The City Manager is designated as the Personnel Officer and has the authority to:

1. Act as the appointing authority for the City as to all employees, except the City Attorney and her/his staff
2. Prepare and recommend to the City Council personnel rules and revisions and amendments to such rules
3. Administer all the provisions of this chapter and of the personnel rules not specifically reserved to the City Council
4. Maintain a classification plan, including class specifications and periodic revisions to the plan
5. Maintain a compensation plan, including ranges for pay increases within classifications
6. Provide increases in compensation for employees as set forth in the compensation plan approved by the City Council
7. Discipline employees in accordance with the personnel rules
8. Delegate any of the powers and duties of this Manual to a staff member or any other officer or employee of the City or to recommend that such powers and duties be performed under contract

1.7 DEPARTMENT/DIVISION RULES AND REGULATIONS

Department Directors/Division Managers may develop, implement and revise as necessary any departmental policies, procedures, rules and regulations required by unique

operational requirements and their effect upon department/division personnel as needed for the full performance of duties and responsibilities and which are not contrary to this Personnel Manual, the City's ordinances and administrative policies, other official rules, policies and procedures of the City, state and/or federal law, or direction of the City Manager. All departmental policies, procedures, rules and regulations must be approved by the City Manager, or designee.

1.8 APPROVAL OF AND AMENDMENT TO PERSONNEL MANUAL

This Manual and any amendments thereto shall be approved by City Council resolution. The City retains the full discretion to modify this Manual, and the Policies and Procedures contained within this Manual, at any time, and in accordance with law.

1.9 RIGHTS OF MANAGEMENT

The approval of this Personnel Manual shall not be deemed a waiver or surrender of any management prerogative. Management rights are defined in Section 2 and outlined throughout this Manual, and any applicable Memorandum of Understanding ("MOU") with any City bargaining group.

1.10 VIOLATION OF PERSONNEL RULES

Each employee is responsible for knowledge of and compliance with the provisions of the Personnel Manual and any amendments hereto. Violation of any provision of this Personnel Manual shall be grounds for disciplinary action, up to and including termination.

Section 2. DEFINITIONS

The following terms, whenever used in this Manual, unless otherwise specified, shall be defined as follows:

Advancement: A pay increase within the limits of the salary range established for a classification.

Applicant: A person who has filed an application for an employment position.

Appointment: The offer to and acceptance by a person of a position in the City service in accordance with the provisions of this Manual.

Appointing Authority: The City Manager is designated as having the power to make appointments to any position to be filled in any City Department/Division, and to perform those duties and obligations set forth under the duties of the Personnel Officer in Section 1.

At-Will Employee: Employment with the City that may be terminated with or without cause and with or without notice, or right to pre- or post-disciplinary due process or evidentiary appeal. The employee serves at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time. At-will employees have no property interest, expressed or implied, in the positions to which they are appointed. An "at will" employee has no right of appeal of discipline or termination. Nothing in this Manual or in any document or statement shall limit the right to terminate an at-will employee.

Authorized Position: A full-time position authorized by the City Council.

Budgeted Position: An authorized full-time position for which funds are appropriated.

Candidate: Any person who has been accepted for participation in an examination.

City: The City of Oakley, California; to also include the Successor Agency to the Oakley Redevelopment Agency and the Oakley Public Financing Authority, and any other governing body in which the City Council of the City of Oakley serves as the majority membership of the governing board, unless specifically excluded in this Manual.

Classification Plan: A list of titles of the classes of all regular positions in the City service, including a written specification of each class title and general description of the

work to be performed by each class, a summary statement of duties and responsibilities for each class, and desirable qualifications for appointment.

Classified Service: All positions in the City service except the following: Elected Officials, the City Manager, the Assistant City Manager, the Assistant to the City Manager, the City Attorney, all Department Directors/Division Managers (as defined herein), all Limited-Term positions, and any other employee hired as "at-will."

Collective Risk Management Team (CRMT): A group of at least three employees appointed by the City Manager to be available to review, investigate, and evaluate, as a team, any workplace liability risk or wrongdoing, such as employee safety, theft, harassment, discrimination, etc. The CRMT will recommend to the City Manager appropriate corrective courses of action.

Compensation Policy: Policy adopted by the City Council that sets the salary ranges for each job position; and sets forth the process and procedure for adjustments of the salary ranges, benefits and movement within the salary ranges.

Continuous Service: Service without an unauthorized break during the period for which the employee has been employed by the City. An unauthorized break in continuous service shall be construed as a deliberate severance of employment initiated by either the City or the employee for a period of more than three (3) working days, unless otherwise provided by law.

Council: The City Council of the City of Oakley, California.

Days: Calendar days, unless otherwise stated.

Demotion: The movement of an employee from one class to another class having a lower salary range.

Department Director: The Director, or Lead Staff Person of a City Department or Division, or other manager who reports directly to the City Manager – all serve "at-will."

Other employees that report directly to the City Manager serve "at-will" pursuant to job description, job offer letter and/or employment agreement.

Dismissal or Discharge: The termination of an employee's employment with the City, usually for disciplinary reasons. At-will employees may be released from employment for any reason, whether disciplinary or not.

Division Manager: see Department Director.

Domestic Partners: Two adults who have satisfied all requirements of domestic partnership under the California Family Code.

Elected Official: A person currently a member of the City Council.

Eligible: A person who has earned a place on an active eligibility employment list established by a competitive examination.

Employee: A person who performs services for the City in the Classified, Limited, or Unclassified Service.

Exempt Employee: An employee who meets the qualifications for exemption from overtime compensation established by federal law.

Full-Time Position: Appointment to a position in which the employee typically works forty (40) hours per work week.

Grievance: An alleged violation, misinterpretation, improper application or non-compliance with the Personnel Manual, or other official City policies or departmental rules, affecting the status or working conditions of City employees, filed by one or more employees.

Human Resources Division: The staff designated by the City Manager to provide employment and benefit information, administer recruitments, safety and wellness programs, and other duties as assigned.

Job Description: A written statement of the general duties of a classification and the minimum qualifications required to perform them.

Immediate Family Member: Includes individuals who are related by blood, marriage or adoption with the following relationships: spouse, domestic partner, child, child of a domestic partner, step-children, parent, step-parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, first cousin, parent-in-law, daughter-in-law, son-in-law, brother-in-law and sister-in-law. A spouse is a partner in marriage as defined in California Civil Code 4100.

Layoff: The non-disciplinary separation of an employee because of a material change in organization, or shortage of work or funds, or for other business reasons as determined by the City Council. Layoff is action taken as a management prerogative and is without fault of the employee.

Leave: Absence, with or without pay, by an employee from work.

Authorized leave: Absence from work with prior approval from the supervisor or the Department Director and for which an employee will use accrued and available leave. Employees who do not have sufficient leave accruals, including eligibility for statutory leaves, to cover her/his absences shall not be granted authorized leave except for good cause.

Unauthorized leave: Absence from work without prior approval from the supervisor or the Department Director.

Limited Term Part-Time: A specifically budgeted position that is not a Part-Time Regular or Full-Time position. Limited Term Part-Time employees work less than Part-Time Regular and Full-Time employees, typically less than twenty (20) hours per week and not more than 960 hours in any fiscal year (includes all time spent in one or more positions). Limited Term Part-Time employees are paid for time worked on an hourly basis. Positions assigned as Limited Term Part-Time include, but are not limited to: Administrative Assistant, Accounting Assistant, Public Works Receptionist, Senior Recreation Leader, and

Management Analyst. Limited Term employees serve "at-will" and may be terminated at any time with or without cause and without right of appeal. They have no property interest, express or implied in the position. The only benefits provided to Limited Term Part-Time employees are those required by law.

Limited Term Seasonal: A position that is not a budgeted Part-Time Regular or Full-Time position, but rather has a specific term or seasonal purpose (limited to not more than 960 hours in any fiscal year). Limited Term Seasonal employees are paid for time worked on an hourly basis. Positions assigned as Limited Term Seasonal include, but are not limited to, hourly, temporary, intermittent positons, such as Recreation Aide, Recreation Leader, Seasonal Parks and Landscape Maintenance Laborer, Streets Laborer, Sports Field Maintenance Laborer, student, project, intern, some contract positions, and emergency positions. Limited Term Seasonal employees serve "at-will" and may be terminated at any time with or without cause and without right of appeal. They have no property interest, express or implied, in the position. The only benefits provided to Limited Term Part-Time Seasonal employees are those required by law.

Management Rights: The City of Oakley retains the exclusive right, except as expressly stated herein, to operate and direct the affairs of the departments of City government and all of their various aspects, including, but not limited to the right to direct the work force; to plan, direct and control all of the operations and services of the City; to determine the methods, means, organization and schedule by which such operations and services are to be conducted; to assign and transfer employees within the various departments to hire, promote, suspend, demote, discharge, reprimand, and evaluate employees; to relieve employees from duty due to lack of work or other legitimate reasons set forth in the City reduction-in-force policy; to change or eliminate existing methods, equipment, or facilities in order to maintain or increase the efficiency of

governmental operations; and to exercise complete control and discretion over its organization and the technology of performing its work.

These Management Rights also include, but are not limited to, the following:

1. To determine the mission of its departments, commissions and boards and to determine issues of policy;
2. To set standards of service to be offered to the public;
3. To exercise control and discretion over its own organization and operations;
4. To determine methods of financing;
5. To determine the methods, means, number and kind of personnel by which its operations are to be conducted, including the right to contract or subcontract work or City functions and to determine workloads and staffing patterns;
6. To prescribe qualifications for employment, selection procedures and standards, job classifications, and to reclassify employees in accordance with applicable resolutions, rules and ordinances of the City;
7. To administer the City's personnel system; to reclassify positions; to amend the Compensation Policy; and, to add or delete position or classes;
8. To issue reasonable employee performance standards and to require compliance therewith;
9. To maintain order, efficiency, and safety in its facilities and operations.

Nothing herein shall not be deemed a waiver or surrender of any management prerogative.

Nepotism Policy: Policy prohibiting the hire or promotion of individuals who are related by blood, marriage or adoption to a member of the City Council, to a member of the Planning Commission, the City Manager, the City Attorney, or any person exercising appointing authority, or would have or are likely to have in the future any supervisory authority over such individuals. This prohibition includes the following relationships: spouse,

domestic partner, child, step-children, parent, step-parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, first cousin, parent-in-law, daughter-in-law, son-in-law, brother-in-law and sister-in-law. A spouse is a partner in marriage as defined in California Civil Code 4100.

Outside Employment: Any employment, activity or enterprise outside of an employee's normal City working hours wherein the employee is compensated for specific hours or duties on a regular basis. Outside employment does not include sporadic employment or occasional employment unless the employee is required to perform work related to her/his position with the City or utilize any City owned/controlled facilities, equipment, information, records, supplies, and/or uniforms.

Overtime: Hours worked in excess of forty (40) during the workweek, with prior Department Director approval, are compensable as overtime. Overtime shall be compensated in increments of 15 minutes at a rate of time and one-half. Time within any 15 minute increment shall be rounded off, with 0-6 minutes adjusting back to the preceding increment and 7-15 minutes adjusting forward to the next increment. Therefore,

Overtime Eligible: Employees who are designated by the City as non-exempt pursuant to the Fair Labor Standards Act (FLSA). Such employees are eligible to receive overtime, with prior Department Director approval. FLSA exempt employees are not eligible for overtime.

Part-Time Regular: A person appointed to an authorized and specifically budgeted position who is scheduled to work at least 20 but less than 40 hours per week, or at least 1,040 hours but less than 2,080 hours per year in a job-share or continued part-time work schedule and who has successfully completed the probationary period. A Part-Time Regular employee occupies an authorized budgeted position and may be eligible for pro-rated benefits.

Personnel Officer: The City Manager or someone appointed by him/her to act in that position.

Promotion: The movement of an employee from one classification to another classification having a higher maximum rate of pay.

Personnel Action: Any action taken with reference to appointment, compensation, classification, leave of absence, disciplinary action, separation, or termination.

Personnel Ordinance: Oakley Municipal Code Title 2, Chapter 3 which creates a personnel system for the City and which the City Council from time to time may amend.

Position: A group of duties and responsibilities requiring employment of one person.

Probationary Period: A trial "at-will" period of one (1) year after date of appointment, or date of promotion, during which an employee is required to demonstrate her/his fitness to perform the actual duties required of a specific position. The probationary period is an integral part of the examination of an individual, and the City will use the employee's probationary period to evaluate the employee's conduct, performance, attitude, adaptability, job knowledge and adherence to the polices found within this Personnel Manual. During the probationary period, a probationary employee serves at the pleasure of the City, has no property right in continued employment, and has no right of appeal of discipline or termination, and is an at-will employee. The City Manager may extend the probationary period up to an additional six (6) months, in his/ her sole discretion. At-will employees do not have a formal probationary period and remain at-will during their tenure as employees.

Reclassification: The change in the assignment of a position from one existing class to a new class or another existing class.

Regular Day Off (RDO): The scheduled day off (the first and third Fridays) following eight nine hours days and one eight hour days in two weeks, stemming from the modified 9/80 schedule

Regular Full-time Employee: A person appointed to a regular position with the City who is scheduled to work five (5) days and forty (40), or more, hours per week, or other comparable full-time work schedule and who has successfully completed the probationary period. A regular full-time employee occupies an authorized budgeted position.

Reinstatement: The appointment, without examination, of either a former regular employee who resigned in good standing not more than one (1) year previously, or the return from a non-disciplinary demotion of an employee to a classification in which status was held not more than one (1) year previously. A reinstated employee must begin a new probationary period upon reinstatement.

Resignation: Resignation is a voluntary separation from the City with either verbal or written notice on the part of the employee. It is expected that employees will give at least two (2) weeks' notice of resignation, preferably in writing. If employee gives verbal notice of resignation, the supervisor or the City Manager will acknowledge and accept the resignation in writing. Notice of resignation shall be final and may only be rescinded with approval of the City Manager.

Retirement:

Service Retirement: The voluntary separation and concurrent retirement of a regular employee after becoming eligible for retirement benefits.

Disability Retirement: The separation and concurrent retirement of a regular employee due to physical or mental inability to perform the duties of the position.

Non-industrial disability means the disability need not be job-related. Industrial disability means the disabling injury or illness is work-incurred or job-related.

Salary Range: The minimum and maximum salary that is assigned to a job position. Salary ranges for full-time employees are set by the City Council.

Suspension: An involuntary absence from duty without pay imposed for disciplinary purposes.

Termination: The separation of an employee from City service, either voluntarily or involuntarily.

Time Sheet: The document on which an employee's actual hours worked and absences from work are recorded.

Transfer: A change of an employee from one position to another position in the same class or in a comparable class.

Unclassified Service: Positions that are not part of the Classified Service and in which there is no property interest. The Unclassified Service includes the City Manager, City Attorney, Assistant City Manager, all Department Directors, and Limited Term Part-Time, Limited Term Seasonal positions and any employees hired at-will. Employees serving in the Unclassified Service do so in an "at-will" status and employment may end at the lawful request of either the employee or the City.

Vacancy: An authorized position that is not occupied.

Work Week: The workweek for non-exempt City employees shall be from 12:01 p.m. Friday through the following Friday 11:59 a.m., unless otherwise designated in writing by the Department Director with approval of the City Manager.

Section 3. Classifications of Positions

3.1 CLASSIFICATION PLAN

The City Manager maintains a classification plan, authorized by the City Council, which arranges every regular employment position in the City into classes with titles and job specifications, duties and responsibilities for each class. The classification plan and all future amendments must be approved and adopted by the City Council. The City Council reserves the right to eliminate classifications or staffed positions with at least fifteen (15) business days' notice to any affected employee.

3.2 RECLASSIFICATION

The City Manager may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification. Upon completion of the job audit, the City Manager shall make a recommendation regarding reclassification to the City Council.

3.3 TYPES OF EMPLOYEES

Management Employees

Management Employees, including Department Directors and other designated positions with significant responsibilities and that report to the City Manager are "at-will" and these employees can be terminated with or without cause and without the right of appeal. Management Employees are paid on a salary basis and are exempt from overtime provisions pursuant to FLSA guidelines.

Probationary Employees

Probationary employees are not regular employees and are still being evaluated as part of the testing process for the position. Probationary employees are "at-will" and can be released from employment during the probationary period with or without notice

or cause and without the right of appeal. Probationary employees serve a probation period either at the outset of initial employment with the City or at the outset of a promotion to a higher position. The probationary period for the City is one (1) year.

Regular Full-Time Employees

Regular full-time employees are employees who, upon the recommendation by the Department Director and approval by the City Manager, have successfully passed probation and are employed in a budgeted position with an indefinite term, regularly scheduled to work full-time hours (5 days and 40 (or more) hours per week). within the classified service. Non-management, regular full-time employees can only be subject to certain types of disciplinary action that result in a deprivation of property for cause and may utilize the disciplinary appeal process outlined in this Manual. Management, regular full-time employees can be released from employment with or without notice or cause and without the right of appeal.

Regular Part-Time Employees

Regular part-time employees are employees who have successfully passed probation and hold a regular position in the classified service, but work between 20-40 hours per week. Regular part-time employees may hold either management or non-management positions. Non-management, regular part-time employees can only be disciplined or terminated for cause and may utilize the disciplinary appeal process outlined in this Manual. Management, regular part-time employees can be released from employment with or without notice or cause and without the right of appeal. Depending on the position, at the discretion of the City Manager, part-time employees may be eligible to receive pro-rated benefits for their position based on the number of hours worked. Employees working nineteen (19) hours or less per week shall not receive prorated benefits.

Limited Term Employees

Volunteers

Individuals who agree to provide specified services to the City for civic or philanthropic reasons on a strictly voluntary basis for no pay or other compensation, other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the City, has no property right in continued service or in employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. Unpaid interns are considered volunteers.

Independent Consultants/Contractors

An independent contractor is not an employee, and serves solely pursuant to a contract to perform specified services for the City that has been formed and approved as required by City purchasing policies and procedures. . These individuals are not City employees and are subject to the terms and conditions in their contracts with the City and have no employment rights with the City. An independent contractor cannot be used to perform any part of the City's regular and customary work.

Section 4. Recruitment and Selection of Employees

4.1 ADMINISTRATION

The City is committed to administering a fair and equitable recruitment and selection process for hiring new employees and promoting current employees. Vacancies that occur shall be filled by competitive process. This process shall include appropriate posting and notice of the vacancy, review of the qualifications of each applicant based upon the education, training, characteristics, skills, knowledge, abilities required, and establishment of a list of eligible candidates ("finalists"). As the appointing authority for the City, the City Manager shall review the list of finalists for each position and approve the final appointment of an applicant.

4.2 ANNOUNCEMENT OF VACANCIES

The recruitment announcement for vacant positions shall specify the position; title; salary range; nature of the work to be performed and essential job duties of the position; the minimum qualifications required for the job; the time, place and manner of making an application; a statement of the employment status of the position – for cause or at will; and any other pertinent information, including who to contact in the event that reasonable accommodation may be needed during the application process. In addition, if any medical examination and/or drug screen will be required following a conditional offer of employment, the recruitment announcement will include the type of examination and, if known, the time and place of the examination.

When the City seeks only promotional candidates, distributions will be limited to internal sources. Additionally, when distribution of a job announcement would detrimentally delay the filling of a position the City, in its sole discretion, may opt to fill the position temporarily from immediately available sources. At the City Manager's discretion, an

employment list may be maintained and may be utilized to fill vacant positions. Eligible persons would be those who meet minimum qualifications and originally applied through a competitive process. The eligibility list will expire within nine (9) months.

4.3 APPLICATIONS

An applicant for a position must submit an employment application as determined by the City. Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed in full and signed by the person applying. The City will not process any application which is not fully completed and signed.

Once submitted, the application will become an official record of the City and will not be returned. The City Manager, or designee, shall review all applications for completeness and will make final determination of the applicant's qualifications. Whenever an applicant is rejected, disqualified, or not selected for any reason, the applicant shall be notified in writing within a reasonable period. The City Manager may extend or reopen the time for filing applications.

Should an applicant be appointed to a position, the application and supplemental information shall become part of the individual's permanent employment records.

4.4 DISQUALIFICATION OF APPLICATIONS

The City Manager or designee may reject any application which is not properly completed or incomplete; received after the application deadline; or indicates that the applicant does not meet the minimum qualifications for the position. Whenever an application is rejected, notice of such rejection shall be mailed or emailed to the applicant.

4.5 COMPETITIVE SELECTION PROCESS

The City shall use a competitive testing and selection process designed to determine the applicants with the best qualifications to perform the job. The content of any tests or examinations will be kept confidential prior to the administration of the examination. An eligibility list will be established of all qualified candidates who successfully pass the testing and selection process and are deemed the finalists for the position. The City Manager shall approve the final appointment of an applicant to a position.

4.6 EMPLOYMENT CONDITIONS

1. United States Citizenship

All employees of the City, except as otherwise provided by the laws of the State of California, must be citizens of the United States or authorized to work in the United States.

2. Physical Examination

The City of Oakley may require an employee to submit to an independent medical examination by a doctor selected by the City of Oakley to determine an employee's fitness for duty. Human Resources Division will maintain a list of the applicable classifications. At the City Manager's discretion, other classifications may also be required to undergo a physical examination.

3. Background Check

Prior to employment, all candidates who the City determines meet the minimum qualifications are subject to a background investigation. For some classifications this which may include a criminal background check consisting of fingerprinting and law enforcement records being checked for past criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially

sealed, eradicated or expunged. The extent of the investigation varies by classification and type of appointment, and inquiry is limited to collection of the job-related information necessary to make an employment decision. Any information thus obtained shall be confidential. Employment of or the continuation of service of employees with a criminal conviction must have the approval of the City Manager.

4.7 REASONABLE ACCOMMODATION FOR DISABILITIES

In accordance with applicable Federal and State laws, the City will attempt to accommodate reasonably qualified individuals with disabilities unless doing so would create an undue hardship on the City. Any qualified applicant or employee with a physical or mental disability who requires an accommodation in the testing and/or selection process or in order to perform the essential functions of the job should contact the Human Resources Division and request an accommodation. Following receipt of a request for accommodation, the City Manager, or designee, may require additional information, such as reasonable documentation of the existence of a disability. With any such request, the City will follow its Reasonable Accommodation/Interactive Process policy contained in this Manual.

4.8 DRIVER'S LICENSES

All employees who are required to operate a City vehicle or operate City equipment shall be required to maintain a valid California Driver's License in the proper classification and with the proper endorsement (for example, a Recreation Supervisor responsible for transporting passengers must maintain a valid Class B license with passenger endorsement). All employees who may be assigned work entailing the operation of a City vehicle will be required to submit to a Department of Motor Vehicles driving records check as a condition of employment. The Human Resources Division shall process such checks.

4.9 EMPLOYER PULL NOTICE PROGRAM

The City participates in the Department of Motor Vehicles Employer Pull Notice Program. The purpose of the program is to provide the City with a means of promoting driver safety through the ongoing review of driver records. All records are maintained by the Human Resources Division and are strictly confidential.

A report indicating a suspended or revoked license status or indicating an unsafe driving record may be cause to deny or terminate employment. Any employee who does not hold a valid driver's license will not be allowed to operate a City vehicle until she/he obtains a valid license, and may be subject to disciplinary action. Any employee performing work, which requires the operation of a City vehicle, must notify her/his immediate supervisor in those cases where her/his license is expired, suspended, or revoked and/or who is unable to obtain an occupational permit from the Department of Motor Vehicles. Any employee who fails to report such revocation or suspension to her/his supervisor and continues to operate a City vehicle shall be subject to the full range of disciplinary action, up to and including termination from employment. Any employee whose job specification requires him/her to have a valid driver's license in order to fulfill the requirements of the position may be subject to disciplinary action, up to and including termination, for inability to obtain a valid license due to suspension or revocation of the license.

4.10 OTHER TYPES OF APPOINTMENTS

A vacant position may be filled from an original appointment, temporary appointment, reinstatement, transfer, promotion, or demotion.

4.10.1 Transfer

A transfer is the appointment of a person from one classification to another which is equivalent to that of the classification held prior to the transfer, and/or from one

department or division to another, upon approval of the City Manager and the affected Department Directors/Division Managers. A transfer of a regular employee from a position in one classification in the Classified Service to a position in another classification having related duties and responsibilities as determined by the City Manager and the same salary range, shall assume regular status in the classification to which assigned and may be required to serve a probationary period at the discretion of the City Manager. All other employees transferred to a position in the Classified Service shall serve a probationary period as set forth in this Manual.

4.10.2 Promotion

The appointment of any employee to a position, other than special assignment, in a classification, which has a higher maximum rate of pay than the employee's present position, constitutes a promotion. Advancement from level I to level II of a classification is also deemed a promotion. In all cases, such promotion will be at the recommendation of the Department Director and upon approval of the City Manager, with confirmation that the expenditure created by such promotion is covered by the department budget. If not, the request for a budget adjustment will be presented to the City Council for consideration.

The promoted employee's new anniversary date shall be the effective date of the promotion. Unless extended or otherwise stated, an employee who has been promoted to a position in the classified service must successfully complete a one (1) year probationary period in the new position in order to attain regular employment status in such position. A regular part-time or full-time employee who is rejected during the probationary period from a position to which she/he has been promoted, may be reinstated to a position in the classification from which she/he was promoted if a vacancy in such

a classification exists and unless the employee is terminated from City service as provided for in this Manual.

4.10.3 Demotion

A demotion is the appointment of a person to a classification having a lower maximum rate of pay. An employee may be demoted at her/his request, or because of a reduction in force, for disciplinary reasons, because of organizational restructuring, or for other reasons. Before a non-disciplinary demotion is considered effective, such action requires approval of the City Manager. Disciplinary demotions shall be imposed pursuant to the provisions in this Manual which address disciplinary actions. For a disciplinary demotion, a new anniversary date shall be established as of the effective date of demotion. For a non-disciplinary demotion, the employee's previous anniversary date shall be retained. If the demotion involves an employee with regular status in her/his position at the time of demotion, then the demoted employee shall assume regular status in the classification to which she/he is demoted.

4.10.4 Acting/Interim Position

Employees directed to work in a vacant higher level regular position may receive a ***temporary*** salary increase to the beginning of the salary range of the higher-level position, or at least a 5% temporary increase in pay, whichever is greater, when the employee serves in the higher level position in excess of 20 workdays. The increase does not apply to an employee who does not serve at least 20 workdays in the higher level position, but all employees who serve in an acting position for at least 20 workdays shall receive acting pay. Such increase shall be paid as if the assignment had been a promotion retroactive to the first day of such assignment. For purposes of this Manual, a vacant position is defined as an authorized regular position that is unoccupied due to attrition or due to the incumbent being on an extended leave of absence. The City

Manager must approve requests for higher compensation. The City Manager may only approve such requests upon certification that the assigned employee meets the minimum training and experience guidelines for the position and is held responsible to perform fully the scope of duties that are outlined in the job description of the higher-level position. Assignment rotations among qualified staff are encouraged unless such rotations would considerably disrupt the operations of the department/division(s).

4.11 MARITAL STATUS AND IMMEDIATE FAMILY

It is the City's policy not to discriminate against employees based on marital status. The City retains the right to:

1. Refuse to place one spouse or immediate family member under the direct or indirect supervision of the other spouse or immediate family member in that the placement has the potential for creating an adverse impact on supervision, safety, security, or morale.
2. Refuse to place spouses or immediate family members in the same department, division or facility in that it has the potential for creating an adverse impact on supervision, safety, security or morale, or potential conflicts of interest.

"Immediate family member" is defined in the definitions section of this Manual.

4.11.1 Anti-Nepotism Policy

The City prohibits the hiring or promotion of individuals who are related by blood, marriage, or adoption to a member of the City Council, to a member of the Planning Commission, the City Manager, the City Attorney, or any person exercising appointing authority, or could have supervisory authority over such individuals. This prohibition includes the immediate family members as defined in this Manual.

4.11.2 Marriage of Co-Employees

If employees marry or become domestic partners, or an employment relationship listed above is created by any other means, the City shall make reasonable efforts to assign job duties to minimize problems of supervision, safety, security, morale, or potential conflicts of interest. Should reasonable efforts to assign job duties to minimize such problems fail, one of the following must occur:

The City Manager or designee will attempt to arrange a transfer to a similar position in another department, division, or facility for one of the employees, usually the one in the junior classification. While the wishes of the involved parties will be considered, the controlling factors in determining which relative shall be transferred shall be the positive operation, efficiency, and needs of the City. There can be no guarantee that the new position will be within the same classification or at the same salary level; OR

One of the employees must be separated from City employment if a transfer or demotion is not available. If one of the employees does not voluntarily resign, the City Manager may dismiss one employee and retain the other based on the best interest of the City. Neither the transfer of an employee nor the separation from service of an employee or any other decision implemented pursuant to this policy shall be subject to any administrative appeal or the grievance procedures.

4.12 EMPLOYMENT INCENTIVES

In the process of recruitment, selection, and retention, the City may consider various employment incentives. In no case, however, shall the City offer or authorize loans for real property or for any type of equity share agreements for real property to potential or existing City employees.

Section 5. Equal Employment Opportunity

The City is committed to providing equal opportunity in all of its employment practices, including selection, hiring, promotion, transfer, training, discipline, termination, and compensation to all qualified applicants and employees. The City prohibits discrimination on the basis of race/color, national origin/ancestry, sex (including gender, gender identity, and gender expression), religious creed (including all aspects of religious belief, observance, and practice, including religious dress and grooming), age, mental or physical disability, veteran status, medical condition, marital status or status as a registered domestic partner, sexual orientation, citizenship status (including a driver's license issued to undocumented persons), pregnancy (including, medical conditions related to pregnancy or childbirth, and breastfeeding, or medical conditions related to breastfeeding), or any other protected status in accordance with the requirements of all federal, state and local laws. Unless based upon a bona fide occupational qualification, employment procedures and policies shall be implemented without regard to any protected classification listed above. Discrimination and harassment on the basis of a protected classification is unlawful and all persons involved in the operations of the City are prohibited from engaging in this type of conduct. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination are encouraged to report the conduct immediately by using the complaint procedures provided in this Manual or by contacting the U.S. Equal Employment Opportunity Commission or California Department of Fair Employment and Housing.

The City's Equal Employment Opportunity Policy can be found in Section 5 of this Manual. The City's Harassment, Discrimination, and Retaliation policy can be found in this Manual.

Section 6. Probationary Period

6.1 APPLICATION

This section applies only to employees who have been hired or promoted to regular full-time or regular part-time positions. It does not apply to management employees, Limited Term Part-Time, and Limited Term Seasonal employees or any other employees that are "at-will" employees as set forth in this Manual.

6.2 PROBATIONARY STATUS

All regular part-time and regular full-time employees hired or promoted shall be required to serve a one (1) year probationary period beginning from the date of appointment or promotion. The probationary period is considered an extension of the testing process, is intended to allow the City to determine if the employee can successfully perform the job, and is a good fit for the organization. The probationary employee's performance will be periodically reviewed during this period. The probationary period does not include time served under a temporary or part-time appointment or for any period of unpaid leave.

During the probationary period, the employee may be rejected from employment at any time, with or without cause, and without any right of appeal, hearing, or grievance procedure. No justification or cause will be provided to a probationary employee rejected from probation.

A regular part-time or full-time employee who is rejected during the probationary period from a position to which she/he has been promoted, may be reinstated to a position in the classification from which she/he was promoted if a vacancy in such a classification exists and unless the employee is terminated from City service as provided for in this Manual.

6.3 ACTION REQUIRED TO REMOVE EMPLOYEE FROM PROBATIONARY STATUS

An employee remains on probation until the City takes formal, written action to remove the probationary employee from probationary status.

6.4 EVALUATION AFTER REMOVAL FROM PROBATIONARY STATUS

If an employee successfully completes the probation period, her/his Supervisor shall complete a performance appraisal review at the approximate date of the probationary employee completing one (1) year in the probationary position. This performance appraisal will be accompanied by a Personnel Action Form (PAF) fully executed by the Department/Division Director, Finance Director, Human Resources Division, and the City Manager.

6.5 EXTENSION OF PROBATION

An employee's probation may be extended for up to six (6) months if it is determined by the City Manager that there is a need for further evaluation before making a regular appointment to the position. An employee not removed from probationary status pursuant to the provision of Section 6.3 within ten (10) working days following the completion of one (1) year of probationary employment shall have his/her probationary status automatically extended for thirty (30) working days. An employee who is automatically extended may request a written performance appraisal to be completed within ten (10) working days of the request. The failure to perform the performance evaluation does not in any way limit the City's ability to release the employee from probation, without cause and without right of appeal, hearing, or grievance procedure.

An employee's probationary period will also be automatically extended for any leave of absence or sick leave of more than thirty (30) calendar days taken by the employee during the probationary period. The probation period will be extended by the length of time that the employee is on leave. A transfer of a regular employee from a

position in one classification in the Classified Service to a position in another classification having related duties and responsibilities as determined by the City Manager and the same salary range, shall assume regular status in the classification to which assigned and may be required to serve a probationary period at the discretion of the City Manager.

6.6 REJECTION FROM PROBATION

The City Manager may determine that an employee did not pass probation at any time during the probationary period with or without cause or notice. The probationary employee does not have the right to appeal this decision. No justification or cause will be provided to the probationary employee rejected from probation.

6.7 COMPLETION OF PROBATION

Once a regular full-time or regular part-time employee has successfully completed the probationary period, including any extended probationary period, or subsequent probationary period if promoted or transferred, the employee will hold a regular position and can only be disciplined or terminated for cause or a reduction in force as set forth in this Manual.

Section 7. Performance Expectations, Evaluations and Professional Development

7.1 PERFORMANCE EXPECTATIONS

The City's expectation is for all employees to perform their job duties in a polite, professional and progressive manner. The City's goal is to provide the guidance and tools necessary to make this level of job performance possible. Together, with effective communication, the employer/employee team can be more successful.

7.1.1 The 3P's of Public Service

POLITE means we are customer-friendly, courteous and tactful. We have a "CAN DO" attitude. We acknowledge people who have concerns and we listen and try to understand. We treat people fairly and how we would like to be treated. We are respectful and we are friendly. We never raise our voices or use unkind words or expressions.

PROFESSIONAL means we are trained and competent in our jobs. We seek to learn more about our jobs so we can perform better - we "sharpen the saw." We take pride in the quality of our work and we do not just seek to do our best, we always strive to do better. If we are not moving forward professionally then we are moving backward. "Every job is a self-portrait of the person who did it."

PROGRESSIVE is that we are willing and anxious to find more creative and efficient ways of doing things. We do not do things "the same way we have always done them." We listen to suggestions from our supervisors, co-workers (especially new employees), and members of the public. We take advantage of new technology and ideas. We have a vision and look to the future of how things can and should be. In fact, we dream of things that never have been and say, "Why not?"

7.2 PERFORMANCE EVALUATION

Performance evaluations are communication tools used to provide constructive feedback on work performance, professional relationships, goals, and expectations. During the evaluation, the parties should discuss progress on goal achievement from the prior year, identify and correct weaknesses, encourage and recognize strengths, and discuss methods for improving individual and team performance. Performance evaluations also provide an opportunity for the employee to notify the supervisor of any problems, concerns, or suggestions that would help improve the City, the work environment, or the employee's job performance. Employees and supervisors should not wait to discuss any matters of concern until a performance evaluation is held. These items of concern should be addressed as they arise.

A performance evaluation for each regular employee (including regular part-time) shall be made each year by the Department Director/Division Manager using the City's performance evaluation form (see Appendix A), pursuant to the City's Compensation Policy. The performance evaluation will serve as the basis for determining any increase in pay within the pay range for the employee's position pursuant to the City's adopted Compensation Policy, as it may be modified from time to time by the City Council.

7.3 PROCEDURE FOR CONDUCTING PERFORMANCE EVALUATIONS

As a part of the performance evaluation, each employee will be given the opportunity to conduct a written self-evaluation regarding her/his own performance and to develop goals and identify areas for professional development. The employee's supervisor and Department Director will utilize the employee's self-evaluation as part of the formal preparation of the annual performance evaluation. The Department Director/Division Manager will utilize the City's performance evaluation form and prepare a draft for the City Manager's review. Following the City Manager's review, the Department Director will meet

with the Employee to complete the evaluation. The employee shall sign the evaluation to acknowledge its contents and that he or she has met with his/her supervisor to discuss the evaluation. The employee's signature shall not mean that he/she endorses the contents of the evaluation. The Department Director shall then forward the completed evaluation to the Human Resources Division, and a copy of each performance evaluation shall be retained in the employee's personnel file on a permanent basis.

An employee does not have the right to appeal or submit a grievance regarding any matter related to the content of a performance evaluation. Instead, the employee may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written statement must be submitted within 10 days after the employee receives the evaluation.

7.4 INFORMAL PERFORMANCE EVALUATIONS

In addition to the more formal annual performance evaluations, the City encourages discussions of an employee's job performance on an ongoing basis.

7.5 EMPLOYEE TRAINING AND DEVELOPMENT

The City encourages all employees to seek additional training and development of their job skills and knowledge. When possible, the City will provide periodic training to assist employees in developing their professional skills and knowledge.

7.6 TUITION REIMBURSEMENT

7.6.1 Eligibility

To be eligible for tuition reimbursement, an employee must:

1. Be a regular full-time, employee of the City at the time of enrollment in course(s)
2. Obtain prior written approval for the course from her/his Department Director and the City Manager

3. Enroll at an accredited college or university for courses taken for credit

Regular part-time employees may request to participate in the Tuition Reimbursement Program. Approval is at the discretion of the City Manager. If approved by the City Manager, the maximum reimbursable amount would be pro-rated.

7.6.2 Criteria

In order to be approved, the course(s) must be:

1. Scheduled on the employee's own time
2. Directly related to the employee's work
3. Required for an academic degree in a field that is directly related to the employee's work or of clear benefit to the City, at the discretion of the City Manager.

7.6.3 Tax Issues

Tax consequences of participating in the City's Tuition Reimbursement Program depend on current IRS regulations and are ultimately the responsibility of the employee, not the City.

7.6.4 Reimbursement

When an employee has demonstrated completion of the approved course with a Grade of "B" or better, or a "pass" if the course is offered on only a "pass or fail" basis, the employee will be reimbursed for one hundred percent (100%) of the expenses covering tuition, registration fees, textbooks, and any required or mandatory fees for the approved class. The maximum allowable reimbursement is $2,500 per fiscal year. No other expenses will be considered. Amounts not used are not carried over to the next calendar year. Should an employee drop or fail to complete a course, she/he shall not be entitled to reimbursement.

7.6.5 No Reimbursement

No tuition reimbursement will be made in the event of employment termination prior to satisfactory completion of the course.

7.6.6 General Information Regarding Tuition Reimbursement Program

The City reserves the right to amend, modify, or terminate the program at any time. All employees will be notified in writing if any such changes occur. Under such circumstances, all commitments made up to the time of cancellation will be honored by the City.

Participation in the program is intended to help employees improve their knowledge and skills in order that they may perform their present and future job assignments in a more proficient manner. However, promotion within the City is predicated upon many factors; therefore, participation in the program is not a guarantee of advancement or promotion.

7.7 PROFESSIONAL ORGANIZATION MEMBERSHIP/CERTIFICATE RENEWAL

The City encourages participation in professional organizations and shall reimburse employees for professional memberships and certification expenses, which are considered by the City Manager to enhance the employee's job-related skills, abilities, and knowledge. Questions on whether or not a particular membership or certification is an approved expense must be brought to the employee's Department Director or to the City Manager, prior to joining the professional organization. Dues for approved membership in professional organizations and fees for approved professional certification may be paid directly by the City or will be reimbursed upon submittal of satisfactory evidence of payment.

7.8 TRAVEL AND TRAINING FOR PROFESSIONAL DEVELOPMENT

`The City strongly encourages on-going training and professional development, some of which requires out of town travel. Such out of town travel and training will follow the policies and procedures outlined in the City's Travel Policy, found in Appendix B.

Section 8. Workweek, Schedules, Attendance and Overtime

8.1 HOURS OF BUSINESS

The City operates under a modified 9/80 Work Schedule Policy. City offices shall be open Monday through Thursday from 8:00 a.m. to 6:00 p.m. and Friday from 8:00 a.m. to 5:00 p.m., except that City offices are closed on the first and third Fridays of each month, unless otherwise established and authorized by the City Manager in writing.

8.2 ATTENDANCE

Employees shall be in attendance at their work or assigned duties at the time and place prescribed by the department to which they are assigned. Tardiness and absenteeism will not be tolerated.

Employees who anticipate an absence from all or a portion of their regular work schedule and wish to request a form of accrued leave time or unpaid leave must file written notice to the Human Resources Division.

Employees who are unexpectedly unable to report for work as scheduled on any particular day must call their immediate supervisor no later than their scheduled time to begin work for that day, or as otherwise required by the Department Director/Division Manager. Employees must inform their supervisor of the expected duration of any absence. Employees who fail to call to inform their supervisor of their absence shall be deemed to have an unauthorized absence in violation of this attendance policy.

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. A non-exempt employee who fails to timely notify the supervisor of any absences as required by this Manual, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence. The employee may be subject to a reduction

of pay for unauthorized tardy or absence. Any such reduction in pay will be subject to the disciplinary/due process procedures in this Manual.

8.2.1 Excessive Tardiness/Absenteeism and Abuse of Leave

Excessive tardiness occurs when an overtime-eligible employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination. Abuse of, or misrepresentation of any form of accrued or unpaid leave time may be grounds for discipline, up to and including termination.

8.2.2 Abandonment of Position

Failure on the part of an employee, who is absent without notification or authorization to return to duty within twenty-four (24) hours after a notice to return to duty has been delivered to their last known telephone number and/or address will be deemed a voluntary resignation, effective as of the last day an employee worked. If, within ten (10) days of said notice, the employee can show good cause for the failure to return to duty, the City Manager, in his/her discretion may, reverse the resignation. In the event that an employee's absence is deemed a "voluntary resignation" in accordance with the Rule, the employee shall have the same right to appeal afforded the employees who are terminated for cause. However, an employee's absence without notification or authorization for twenty-four (24) hours or more shall be deemed just cause for automatic resignation pursuant to this rule.

8.3 OFFICIAL WORKWEEK FOR COMPUTING OVERTIME AND COMPENSATORY TIME

The workweek for non-exempt City employees shall be as follows, unless otherwise designated in writing by the Department Director with approval of the City Manager. The workweek for City employees is a 168 hours (i.e. seven 24-hour periods) beginning at Noon on Friday and ending at 11:59 a.m. on the following Friday. The workday begins at Noon on any given day and continues until 11:59 a.m. on the following day.

Employees using the 9-80 work schedule are required to work nine (9) hours (for example form 8:00 a.m. to 6:00 p.m.) for eight (8) work days, and eight (8) hours on a ninth (9th) work day (Fridays). Due to City Hall being closed the first and third Fridays of every month, the first and third Fridays are the scheduled week days off for employees designated to work a 9/80 schedule.

For employees working a 9/80 schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds to the employee's alternating regular day off. Overtime would not be paid unless an employee exceeded 40? hours of work in the work week (not the calendar week).

There are also two or three times per year when an employee would work 44 hours in two consecutive weeks due to City Hall closure the first and third Fridays of the month. These extra four hours and any hours exceeding 40 in any given work week (not calendar week) are compensable as overtime for any employee eligible for overtime.

8.4 STANDARD WORK PERIODS FOR NON-EXEMPT, FULL-TIME EMPLOYEES

Consistent with the 9/80 work schedule, non-exempt full-time employees are normally scheduled to work a total of 44 hours in one calendar workweek and 36 hours in the

second calendar of the two-week payroll period. The customary workday or work period for non-exempt City personnel shall be as follows:

8.4.1 Non-Exempt Office Personnel:

8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on the second, fourth and any fifth Fridays of each month with a one (1) hour unpaid lunch period.

8.4.2 Non-Exempt Public Works/Parks Field Personnel:

7:30 a.m. to 4:30 p.m. with a one (1) hour unpaid lunch period. These employees do not have a 9/80 schedule.

The City Manager shall designate the work schedule for employees. Due to the changing needs of the City, work schedules of employees may vary from time to time. Supervisors will be in charge of notifying employees when work schedules change, and employees will be notified in writing of any changes in the employee's standard work schedule with at least ten (10) working days' notice. Employees shall be in attendance at work in accordance with their approved work schedule.

8.5 LUNCH OR MEAL PERIODS

A regular schedule for lunch or meal periods will be authorized by the supervisor or Department Director for non-exempt employees. Typically, this will include a break of 1/2 hour, after 5 hours, except when the workday will be completed in 6 hours or less and there is mutual employer/employee consent to waive meal period. After 10 working hours per day the employee will be provided with a second meal period of not less than 1/2 hour.

The customary lunch period for full-time employees is one (1) hour and typically from 12:00 pm to 1:00 pm. A Department Director/Division Manager may consider a thirty (30) minute non-paid lunch period in lieu of the regular one (1) hour lunch period,

if requested in writing or via email by an employee and if such a schedule will not impair the efficiency and effectiveness of the department, at the discretion of the Department Director. The Department Director/Division Manager may rescind approval of a shortened lunch period with at least ten (10) working days written notice to the employee.

8.6 DESIGNATION OF ALTERNATIVE WORK SCHEDULES

The City Manager is authorized to designate alternative work schedules for employees. Examples of alternative schedules are the 9/80 or 4/10 workweek.

An employee may request an alternative work schedule by submitting a written request to her/his Department/Division Director. For an alternative work schedule other than a shortened lunch period, the Department/Division Director will then discuss the request with the City Manager who shall have final authority to approve or deny the request. The employee will then be notified if the requested alternative work schedule is approved. Approval will be on a case-by-case basis and the City Manager reserves the right to rescind approval of the alternative work schedule with at least ten (10) business days written notice to the employee. A record of approval of an alternative work schedule shall be on file in the Human Resources Department.

8.7 BREAK PERIODS - NON-EXEMPT ELIGIBLE EMPLOYEES

Non-exempt employees shall be allowed one, paid fifteen (15) minute break for each four (4) hour period worked. Breaks are generally scheduled in the middle of each four (4) hour work period. However, the supervisor or Department Director shall have the authority to arrange break times which best meet the needs of the department, but not within one (1) hour of the employee's starting time, quitting time, or lunch period. With approval of the Department Director and City Manager, an employee may voluntarily agree to place one or both break periods within one (1) hour of the employee's quitting

time. Break periods may not be scheduled or taken consecutively or in conjunction with the lunch period. Further, break periods do not accrue and cannot be “saved” or used at a later time.

8.8 LACTATION BREAKS

8.8.1 Lactation Break Time

An non-exempt employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Those desiring to take a lactation break must notify a supervisor prior to takin such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

8.8.2 Private Location

The City will make reasonable efforts to accommodate employees by providing an appropriate location to express milk in private. The City will attempt to find a location in close proximity to the employee’s work area, and the location will be other than a toilet stall. Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

8.8.3 Storage of Milk

Any employee storing expressed milk in any authorized refrigerated area within the City shall clearly label it as such. No expressed milk shall be stored at the City beyond the employee’s work day/shift.

8.9 TIME SHEET SUBMITTAL

Department Directors must submit time sheets to the Finance Department's employee who is designated to process payroll, every other week by 10:00 a.m. on the Monday following the completion of a pay period. The failure to submit a timesheet within the appropriate time frame may result in the paycheck not being processed until the following pay period. Time sheets must be signed by the employee and her/his Department Director, or designee, in order to be processed. All employees must accurately report all work time to the nearest five minutes.

8.10 TIME REPORTING - EXEMPT EMPLOYEES

Exempt employees may be required to use accrued leave time (e.g., vacation, sick, or management leave) for partial day absences of four hours or more if the employee has such accrued time available.

8.11 TIME REPORTING - NON EXEMPT EMPLOYEES

8.11.1 Purpose of Time Reporting

Recording of hours worked and/or leave time taken by employees is necessary to provide an accurate basis for preparing paychecks, monitoring leave accruals, assuring compliance with Federal and State law, and maintaining an effective and efficient accounting system.

8.11.2 Hours Worked

Overtime eligible employees will be paid for all hours worked. Hours worked include:

1. Hours before or after the normally assigned shift, if approved in advance by the Department Director in writing. Record hours worked to the nearest quarter (1/4) hour. Periods of six (6) minutes or less are not considered overtime when such work periods are not regularly recurring. Prior permission of the

employee's supervisor or Department Director must be obtained for overtime work. Unless it is a justifiable emergency, working overtime that has not been pre-approved will result in disciplinary action.

2. Rest periods of fifteen (15) minutes or less, as outlined in this Manual.
3. Out-of-town travel is covered by two sets of rules, depending on whether the assignment is for one day or requires an overnight stay. If an employee is given a one-day assignment in another city which does not require an overnight stay, all the time spent traveling between cities is counted as hours worked. However, time spent traveling between the employee's home and the airport or train station (during the employee's departure or return) is not considered work time because it is equivalent to travel between work and home. If the employee's out-of-town travel requires an overnight stay, time spent traveling to another city is counted as hours worked only to the extent that it coincides with the employee's regular workday. Travel that occurs during hours of the day in which the employee normally works, is counted as work time, even if it falls on a non-working day for the employee (for example, a Saturday or Sunday). If, on the other hand, the travel occurs during hours that are outside the employee's regular workday, it is not counted as hours worked unless the employee actually performs work for the City while traveling during these regularly unscheduled hours. Please see the City's Travel Policy in Appendix B.
4. Hours spent at lectures and training activities conducted by the City, unless attendance is voluntary and the employee's job performance is not dependent upon such training.

5. Hours spent in public or charitable work if it is at the City's request or as part of an employee's regularly scheduled shift.

8.11.3 Responsibility for Completion of Time Sheets

Employees are responsible for the accurate and timely submission of time sheets and other supporting documentation to their supervisor for approval. Timesheets should reflect the actual time worked and be filled out on at least a daily basis.

1. All overtime eligible employees will record all hours worked and all leave time taken, and the type of leave to be charged, whether paid or unpaid, on the time sheet.
2. All exempt employees in positions which require an accounting of hours worked by work order (as determined by the Department of Industrial Relations by work order number) number will record their hours worked for each project and all leave hours taken on the time sheet.
3. Exempt employees in positions not required to account for hours worked by work order number will record only those hours off for sick leave, management leave, vacation, or other applicable leave.
4. Supervisors or Department Directors shall not alter or adjust the hours that an employee reports on her/his time sheet. If an employee's time sheet is inaccurate or appears to be inaccurate, the Department Director/Division Manager will meet with the employee and if it is determined the employee's time sheet is, in fact, inaccurate, the Department Director will direct the employee to correct the time sheet. If an inaccurate time sheet is forwarded for payment by the Department Director due to an error by the employee and the pay to the employee is more or less than what would have been payable due to the

error, the adjustment in pay will be made on the employee's next regular paycheck.

5. Intentional inaccuracies or falsification of any kind of the submitted timesheet will result in disciplinary action, up to and including termination.

8.12 OVERTIME REPORTING

Employees designated as "non-exempt" pursuant to the provisions of FLSA are eligible for overtime pay. As stated in this Manual, overtime must be approved in advance and in writing by an employee's Department Director/Division Manager. Overtime-eligible employees who are directed to work overtime must do so.

8.12.1 Hours for Overtime

For overtime purposes, City employees in positions designated as overtime eligible will receive additional compensation, either cash or compensatory time off, in any workweek during which they work more than 40 hours. Employees required to work overtime will not be forced to take time off in the same workweek to avoid paying overtime, but may volunteer to do so. City employees in exempt positions are not eligible for overtime pay or compensatory time off.

Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay. Time paid but not worked, including sick leave, compensatory time off, holiday and vacation, does not count as hours worked for the purpose of computing overtime hours. If an employee is compensated for holidays on which he or she does not work, the holiday hours do not count in determining overtime entitlement as overtime premiums are based upon hours worked, not upon hours paid.

1. The Human Resources Division will maintain a list of employees in positions eligible for overtime pay.

2. Overtime pay for work on an employee's scheduled day off will be based on actual hours worked in excess of 40 hours per workweek.
3. Hours worked on a regular day off (RDO) may be taken as unpaid time off at a later date at the discretion of the Supervisor and City Manager

8.12.2 Accounting for Portions of an Hour Worked

Partial hours of overtime are accounted for in quarters of an hour as indicated below:

Time Worked	Indicate on Time Sheet
7 - 15 min.	¼ hour
16 - 33 min.	½ hour
34 - 48 min	¾ hour
49 - 60 min.	1 hour

8.12.3 Work Period for Police - FLSA Section 207(k)

The workweek for employees, consistent with the 7(k) exemption of the Fair Labor Standards Act, is one hundred seventy-one (171) hours per 28-day period. The workweek is not necessarily the same as the calendar week. The workweek for all sworn police officers, begins at 12:00 a.m. Sunday and ends at 11:59 p.m. Saturday as adopted in August of 2015.

8.12.4 Compensation for Overtime

Compensation for overtime hours worked shall be at the rate of 1.5 times the eligible employee's regular rate of pay (including all FLSA-applicable salary differentials and special pays), in either cash or compensatory time off.

The form of compensation shall be at the option of the employee; provided, however, that no employee shall accrue more than forty hours (40) of unused compensatory time off. Accrual of compensatory time off shall be at the rate of 1.5

hours of compensatory time off for each overtime hour worked, or fraction thereof. An employee who has accrued the maximum allowed balance of compensatory time off shall be paid cash on her/his next regular paycheck for any additional overtime hours worked. Compensatory time off is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays).

Compensatory time off is intended to be taken as soon as it is mutually convenient following the date on which it was earned. When requesting to use compensatory time, the employee shall complete a Request for Leave form and submit it to her/his supervisor for approval. The City will grant an employee's request to use accumulated Compensatory time off provided that: 1) the Department or Division can accommodate the use of compensatory time off on the day requested without undue disruption to Department or Division operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date the employee requests the compensatory time off. If the employee does not provide five days' notice, or if the Department or Division cannot accommodate the time off without undue disruption, the City will provide the employee the opportunity to cash out the amount of compensatory time off requested at the end of the pay period in which the employee made the request.

At any time, the City may pay an employee in cash on any regular paycheck for compensatory time off earned and not used, no matter the amount of hours accrued. A promotion or reclassification will result in the cash out of any accrued compensatory time prior to the effective date of the promotion or reclassification. Employees separating from City employment will be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their FLSA regular rate for the prior three (3) years, whichever is higher.

8.13 NO REMOTE ACCESS

Unless the City Manager approves otherwise, non-exempt employees may not have remote access to City equipment, resources, or email.

8.13.1 No Volunteering of Work Time

All time spent for the benefit of the City must be reported as hours worked on time records so that the employee is paid for all work. Non-exempt employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees have no authorization to work without compensation. No supervisor has authority to request overtime-eligible employees to volunteer work time.

8.14 EXEMPT EMPLOYEE POLICY

FLSA exempt personnel are hired with the understanding that they are responsible for accomplishing the duties outlined for their assigned position or job, and not for a certain number of hours each day. The focal point is the job to be done, not the number of hours worked. However:

1. Exempt positions are designed with an “at least 40-hour” workweek in mind. The necessity to perform consistent work for a substantial amount of hours over 40 per workweek should be examined so that exempt employees are utilizing their time wisely. A part-time regular employee may be classified as exempt and would be expected to perform work for “at least” the hours she/he is on average expected to work.
2. Exempt employees, including Department Directors/Division Managers, are generally expected to be available to perform their job duties during normal business hours (usually 8:00 a.m. to 6:00 p.m., Monday through Thursday and 8:00 a.m. to 5:00 p.m. on the second, fourth and any fifth Fridays of each month). However, completing the work assigned for an exempt position will,

from time to time, require extra work to be performed outside of normal business hours or on the weekend (Saturday and/or Sunday).

3. Recognizing the varying demands placed on an exempt employee's time, and in recognition of exempt employees spending substantially more than a typical workweek in accomplishing the job, the City allows exempt employees to take limited periods off without using accrued vacation or sick leave. Typically, an exempt employee will have a deduction from her/his accruals to equal the amount of time absent from work that reduces the employee's normal workday, similar to non-exempt employees. For an exempt employee, absences of less than four (4) hours are not to be charged to leave accruals, as long as at least 80 hours total have been worked otherwise during the timesheet reporting period (this would include a holiday day). Absences of 4 hours or more (including a full day) may also be eligible to not be charged leave time, if prior approval has been granted by the City Manager via email and the timesheet is clearly marked "flex time" on the day the absence or partial absence took place. Regular days off (RDO) may also be exchanged with prior approval of the City Manager.
4. Neither flexible work hours nor paid management leaves constitute additional compensation to exempt employees on an hour-for-hour basis for hours worked in excess of 40-hours per week. Accordingly, exempt employees do not accrue a balance of compensatory leave hours.

8.15 MANAGEMENT LEAVE - EXEMPT EMPLOYEES

In lieu of the payment of overtime, exempt employees are granted eighty (80) hours of management leave (sometimes called "Admin Leave") on January 1st of each calendar year. The City Manager may grant up to sixteen (16) hours of additional management

leave for exempt employees working the modified 9/80 schedule. An exempt employee hired or promoted after January 1st of any given year will have her/his management leave prorated according to the following schedule:

Month of Hire or Promotion	Allocation of Hours
January	80.00
February	73.33
March	66.67
April	60.00
May	53.33
June	46.67
July	40.00
August	33.33
September	26.67
October	20.00
November	13.33
December	6.67

All 80 hours of management leave must be used during the calendar year in which they are granted. Management Leave will not be cashed out except for resignation, layoff, or retirement of an employee who has passed her/his probation period. An employee eligible for Management Leave that separates prior to July 1st of any given year, shall have his/her payout of Management Leave reduced by 50%. Management leave will not carry over into the next calendar year unless approved in writing by the City Manager. Such a request must be submitted to the City Manager on or before December 15th of each year. Failure to request carry over by December 15th will waive an employee's right to

receive carryover. If an exempt employee has been previously approved to take Management Leave in December of a calendar year and the City then requires the employee to cancel such previously approved leave, the employee may carry over the amount of previously approved Management Leave to the next calendar year; however, the previously approved leave must be used by the employee no later than March 1st of the next calendar year.

Section 9. Compensation and Benefits

9.1 COMPENSATION PLAN

The City Council shall by resolution adopt and maintain a Compensation Policy with a salary range for each regular full-time position. The City Manager shall administer the Compensation Policy.

9.2 NEW EMPLOYEES

New employees shall be appointed at the pay rate designated by the City Manager within the pay range to which their classification is assigned. Typically, a new employee's salary will be placed at the beginning of the salary range. When the City Manager determines that the education and previous training or experience of a proposed employee, or the difficulty in recruiting for the position, would justify a salary in excess of the beginning salary, the City Manager may authorize a higher beginning salary within the pay range for the classification.

9.3 MERIT INCREASES

Advancement within the salary range will be made based on merit as determined by the supervisor and approved by the City Manager after reviewing the employee's work performance and contributions to the City. All increases will be consistent with the City's Compensation Policy, which may be amended from time to time by the City Council.

9.4 PAY UPON SEPARATION

An employee separated from employment for any reason, including resignation, termination, release from probation, layoff or retirement, is entitled to pay for any work completed for the City from the first day of the final pay period to the effective date of separation. The employee is also entitled to receive payment for any accrued vacation, floating holidays, management leave, and compensatory time actually earned, but not taken. The City does not compensate employees for unused sick leave, unless the employee has successfully completed at least five (5) years of total employment with the

City, then the employee will be compensated for fifty percent (50%) of the value of any unused sick leave at separation, pursuant to the terms and conditions found in this Manual.

9.5 EMPLOYEE PAYCHECKS

Paychecks are distributed biweekly on the normally scheduled payday unless otherwise notified. Employees who enroll in direct deposit will receive a pay stub in lieu of a check. Any questions about pay amount or deductions should immediately be brought to the attention of the Finance Director.

9.6 OVERTIME AND COMPENSATORY TIME OFF

Overtime will be paid pursuant to Section 8 of this Manual.

9.7 INSURANCE BENEFIT PROGRAMS

The City provides health insurance (dental/medical/vision), life insurance and long term disability insurance benefits for regular full-time employees at percentages or rates determined by the City Council. (See Sections 9.15 and 9.16 for applicability to Part-Time and Limited Term employees). Employees should contact the Human Resources Division for details concerning the terms, enrollment, and eligibility to receive these benefits, as well as other optional benefits provided, if any. The City Council reserves the right to modify the insurance benefit program at any time and provide as much notice as possible to employees affected by any change.

9.8 HEALTH INSURANCE BENEFIT AND WAIVER

The City provides a health insurance benefit for regular employees at percentages or rates determined by the City Council. Staff employed by the City prior to August 1, 2016 who have alternate qualified group health coverage, can waive group insurance coverage by completing the Waiver Form and providing evidence of the coverage, certifying that adequate health care benefits are being provided by another group insurance source.

The City will provide "cash in lieu" to the employee equivalent to the health benefit amount set by the City Council, not to exceed $1,235. An employee whose group coverage costs less than $1,235 per month may receive the difference between the costs of coverage and the $1,235 as "cash in lieu", which will be considered regular income for taxation purposes. Any employee hired after August 1, 2016, who waives coverage as described herein or has group coverage cost that is less than the $1,235, the City will provide a benefit payment of an amount not to exceed $400 per month as "cash in lieu", which will be considered regular income for taxation purposes.

This election may take up to 30 days to process.

9.9 RETIREMENT BENEFIT PROGRAM

The City participates in the California Public Employees Retirement System (CalPERS). The Human Resources Division and/or CalPERS should be contacted for details concerning the terms, enrollment, and eligibility to receive these benefits as well as other optional retirement plans that may be provided. Current CalPERS policy stipulates that when an employee completes five (5) years of employment within the system, she/he is then fully vested in CalPERS.

Eligible City employees currently fall within one of three different levels of CalPERS Plans. Employees hired before October 18, 2010 are currently enrolled in the 2.5% at 55 CalPERS plan. Any employees hired between October 18, 2010 and December 31, 2012 would have been enrolled in the 2% at 60 CalPERS plan. Currently, the City pays both the employer and the employee contributions for these plans, and this may be modified from year-to-year by action of the City Council.

Any individual hired any time after January 1, 2013 will be enrolled in the 2% at 62 CalPERS plan, in compliance with the California Public Employees' Pension Reform Act (PEPRA). Those enrolled in the PEPRA Plan are required to pay the employee

contribution for their own plan and contribution rates vary from year to year. To learn what the current employee rate is, please contact Human Resources.

New employees can apply for member reciprocal self-certification, if they had previously participated in CalPERS or any other eligible retirement system, in order to be enrolled as a "Classic" member in the 2% at 60 CalPERS Plan. To find out if you are eligible for reciprocity, please contact Human Resources.

9.10 EMPLOYEE ASSISTANCE PROGRAM (EAP)

The City offers an employee assistance program that allows confidential discussions with a professional counselor at no initial cost to the employee. This program is intended to help employees when they have personal problems or other matters that are affecting their work.

All employees are given an informational brochure with their new employee information package upon hire. The brochures are also available via the Employee Bulletin Board and from the Human Resources Division. The EAP brochure explains in more detail how to use the program and provides the phone number to call. The City encourages employees to use this benefit when needed.

9.11 CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA) CONTINUATION OF GROUP HEALTH BENEFITS

The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan. The coverage is for a limited period under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals may be required to pay the entire premium for coverage up to 102 percent (102%) of the cost to the plan.

Employees covered by the City's medical insurance plan who voluntary or involuntary terminate employment for reasons other than gross misconduct or who have a reduction in the number of hours of employment have a right to choose to pay for continuation coverage if they lose their group health coverage, pursuant to applicable state or federal law. An employee's eligible dependents may also have the right to elect and pay for continuation of coverage for a temporary period in certain circumstances where their coverage under the plan would otherwise end.

Questions concerning employee rights under COBRA should be directed to the Human Resources Division.

9.12 BILINGUAL PAY

With a significant percentage of Oakley residents being Hispanic, the City embraces its cultural diversity and recognizes that there are occasions when a customer needs to communicate with employees in Spanish. This bilingual ability is not only beneficial in the performance of department tasks, but also reflects the City's progressive approach to its delivery of services. Employees who receive bilingual pay shall be determined at the discretion of the City Manager based on the business needs of the City. Employees who demonstrate a proficiency in Spanish based on an oral and/or written assessment, approved by the City Manager or her/his designee, shall receive thirty-five dollars ($35) per pay period as bilingual pay. Employees receiving bilingual pay will be asked to translate and assist other departments/divisions as requested. Bilingual pay shall be prorated for employees working less than full-time and/or who are in an unpaid status for any part of the biweekly pay period.

Unless operational needs of the City change, a maximum of ten (10) employees, not including the Police Department, will be eligible to receive bilingual pay. Other languages

in addition to Spanish may be added in the future, if it is determined that it is necessary to meet the operational needs of the City.

9.13 CALL OUT PAY

Non-exempt regular full-time employees designated as "call out employees" by their Department Director who are called to perform work after hours, shall be compensated for at least two (2) hours pay at one and one-half (1.5) times the employees hourly rate of pay for each call out occurrence.

9.14 WELLNESS PROGRAM

The City encourages health and wellness for its employees. As a part of this effort, and as a benefit to employees, the City may pay a portion of monthly health club dues for employees that join an approved local health club located in Oakley. Employees must notify Human Resources within seventy-two (72) hours for all changes to membership status or dues level. Employees are responsible for all membership dues or amounts incurred pursuant to their membership less the City's monthly contribution.

The City's payments for this benefit do not qualify for income tax exclusion under Section 132 of the Internal Revenue Code and therefore are taxable income. Taxes are the responsibility of the employee, and for those employees electing to participate in the program, applicable income will be reported and taxes withheld as part of payroll processing.

9.15 PART-TIME EMPLOYEES ELIGIBILITY FOR PRO-RATA BENEFITS

Regular part-time employees receive employee benefits such as medical, dental, vision, and retirement benefits as do regular full-time employees in the same job classification, but the health benefits amounts are pro-rated beginning at 30 hours (average of hours worked per week over the course of a fiscal year), based on the anticipated

regularly scheduled work hours indicated at the time of hire. For example, a regular full-time employee, working 40 hours per week is considered as 100% full-time equivalency, whereas a part-time regular employee, working 30 hours per week is considered 75% of full time equivalency and would receive health benefit amount prorated to 75%. Sick leave, vacation leave, bereavement leave, floating holidays, and holidays are also available to regular part-time employees on a pro-rated basis.

9.16 Police Management Compensation & Benefits

Police Management is to be defined as all sworn officers not covered by the Police MOU.

Police Management employees are covered by the Personnel Manual and all benefits provided in this section are in addition to what is provided to other management employees covered by the personnel manual. The Police Chief will be the only "at-will" position covered under section 9.16.

- Post Certifications
  - All Police Management Personnel will receive a benefit equal to the benefit provided in the Police MOU under POST Certifications.
- Master's Degree
  - All Police Management Personnel will receive a benefit equal to the benefit provided in the Police MOU under Master's Degree.
- Longevity Pay
  - All Police Management Personnel, with the exception of the Police Chief, will receive a benefit equal to the benefit provided in the Police MOU under Longevity Incentive Pay. This is to include the language for former Contra Costa Sheriff's Officer Personnel.
  - The Police Chief will receive 5% of base pay if they have served the City of Oakley, in any position, for more than 5 years.
- Deferred Compensation
  - All Police Management Personnel, with the exception of the Police Chief, will receive a 2 % City contribution into one of the City's already established deferred compensation plans.
- PORAC
  - All Police Management Personnel will receive a benefit equal to the benefit provided in the Police MOU under Retiree Medical, PORAC. This is to include the language related to the Legal Defense Fund. Any fees to be a member of PORAC and participate in the legal defense fund, will be paid by the employee.
- Starting Base Pay
  - Lieutenant starting base pay will be at least 20% higher than the highest paid Sergeant's base pay. This is to compensate for the loss of holiday and incentive pays that are no longer available to Police Management employees.
- Compaction
  - Total compaction between the Sergeant and Lieutenant and Lieutenant and Chief will not fall below 10% when comparing total compensation at the maximum base salary for each position.
  - Compaction will be reviewed at the start of any new MOU agreement to ensure the 10% range still exists.

Section 10. Holidays, Vacation, Sick Leave and Other Leaves of Absence

10.1 HOLIDAYS

The City observes the following twelve (12) holidays and two (2) floating holidays for use at the employee's discretion

New Year's Day

Martin Luther King Day

Presidents' Day

Memorial Day

Independence Day

Labor Day

Veterans' Day

Thanksgiving Day

Day after Thanksgiving

Christmas Eve Day

Christmas Day

New Year's Eve Day

Floating Holidays (2)

All regular and probationary full-time and management employees receive two (2) eight (8) hour floating holidays on January 1 of each year. Regular part-time employees who are eligible for benefits will receive the floating holidays on a pro-rated basis according to her/his work schedule. An employee who is requesting to use her/his floating holidays shall complete and return a Request for Leave form to her/his supervisor for approval.

Newly hired full-time employees will receive floating holidays based upon the quarter in which they are hired. The hours will be pro-rated according to the following schedule:

MONTH OF HIRE	HOURS
January - March	16 hours
April - June	12 hours
July - September	8 hours
October - December	4 hours

Employees shall be paid for any accrued but unused floating holiday hours at the time of separation of employment.

10.2 HOLIDAY BENEFITS FOR FULL-TIME EMPLOYEES

The City provides regular and probationary full-time and management employees with eight (8) hours of pay for the observed holidays listed in Section 10.1. If a full time employee is working an alternative schedule, including the 9/80 schedule, the employee must use vacation or compensatory time (one hour) to make up the difference. Alternatively, with supervisory permission, an employee may work the additional time necessary to make up the difference, with approval of her/his Department Director/Division Manager. Overtime will not be paid for this make-up time. In addition, holiday time does not count as time worked for the purpose of calculating overtime eligibility.

10.3 HOLIDAY BENEFITS FOR REGULAR PART-TIME EMPLOYEES

Regular and probationary part-time regular employees are entitled to receive time off with pay on a pro-rated basis for the holiday, unless scheduled to work at the direction of the City. Holiday pay for regular and probationary part-time employees shall be paid on a pro-rated formula, based on the number of hours per week budgeted for

their position during the fiscal year. For example, a regular part-time employee whose position is budgeted to work twenty (20) hours per week will receive one-half of the hours received by regular full-time employees or four (4) hours of paid holiday time (20 divided by 40 = .50 x 8 = 4).

Limited Term Part-Time and Limited Term Seasonal employees that are normally scheduled to work on an observed holiday are provided the day off without pay.

10.4 WORK PERFORMED ON HOLIDAY

Employees are expected to observe all City-designated holidays unless job demands require the employee to work.

A regular and probationary full-time employee scheduled to work on a holiday shall be paid at her/his straight time regular hourly pay for actual hours worked, and the eight (8) hours of holiday pay.

Part-time regular, Limited Term and Limited Term Seasonal employees scheduled to work on a holiday shall be paid at their straight time regular hourly pay for actual hours worked, and the actual hours worked of holiday pay.

10.5 HOLIDAY FALLING ON A WEEKEND OR SCHEDULED DAY OFF

Generally, if a holiday falls on a Saturday, the City will observe the holiday on the preceding Friday. If the holiday falls on a Sunday, the City will observe the holiday on the following Monday. If the preceding Friday or succeeding Monday is also a holiday, the holiday is observed on the next preceding or succeeding work day, as determined by the City.

If the holiday falls on an employee's regularly scheduled day off, the employee's day off is moved to the next closest work day within the same pay period or another

day within the same pay period, with supervisory approval. The employee will still be paid for the holiday.

10.6 RELIGIOUS OR OTHER OBSERVANCES

An employee who wishes to observe a holiday particular to the employee's ethnicity or religion may do so with approval of the City Manager. The time off shall be charged to vacation, floating holiday, or compensatory time off.

10.7 PAID VACATION LEAVE

Vacation accruals are calculated on a bi-weekly basis in accordance with the City's pay-period schedule and are reflected on the employee's paycheck.

The City recognizes its employees' loyalty and longevity of service by granting an increase in vacation hours at milestone anniversary dates. Regular full-time employee shall be entitled to accrue paid vacation for active completed service according to the following schedule:

YEARS OF SERVICE	VACATION HOURS ACCRUED PER YEAR
Year 0-3	80 hours per year
Year 4-7	120 hours per year
Year 8+	160 hours per year
Year 15+	200 hours per year

The increase in rate of paid vacation accrual is effective on the next pay period following the anniversary of the employee's hire date. For example, if an employee completes three full years of service on July 1st and the next full pay period begins on July 5th, the employee will begin accruing the 120 hours per year on July 5th.

Regular part-time and probationary employees earn vacation hours on a pro-rated basis.

Service anniversary dates shall be established as of the effective date of employment into a regular full-time position. For example, a 100% FTE employee works 2,080 hours per year (40 hours x 52 weeks = 2,080 hours per year), therefore, an employee would not be eligible to accrue 120 vacation hours until having completed 6,240 hours (2,080 hours x 3 years), which may or may not coincide with the calendar 3 year anniversary of the date of the employee's employment.

10.8 ELIGIBILITY FOR VACATION

There is no waiting period before an employee can request to take accrued vacation time. However vacation hours cannot be used in the pay period within which they are earned. Further, employees may not utilize vacation that has not yet been accrued.

Each employee requesting vacation time must submit a written/email request to her/his immediate supervisor for review and approval. The time at which an employee may use her/his accrued vacation leave and the amount taken at any one time shall be determined by her/his Department Director, with particular regard for the needs of the City.

10.9 INITIAL ACCRUALS - CITY MANAGER DISCRETION

The City Manager may grant up to two weeks of additional vacation leave and sick leave at the time of initial appointment without City Council approval to new employees who enter the City with prior local government experience as necessary to recruit and retain employees.

10.10 ELIGIBILITY TO EARN VACATION

At the discretion of the City Manager, a regular employee will accrue vacation leave while on paid leave, such as sick leave, vacation or non-industrial leave. An

employee may not accrue vacation while on any unpaid leave of absence or while on Family Medical Leave.

10.11 HOLIDAY DURING VACATION

An employee will not be charged vacation leave for a holiday occurring during the employee's scheduled vacation.

10.12 ILLNESS DURING VACATION

Vacation leave may be changed to sick leave if an employee submits a doctor's certificate stating that the employee was ill and unable to work during the employee's scheduled vacation.

10. 13 EARNING AND ACCUMULATING VACATION LEAVE

The City provides vacation leave to encourage employees to take time away from work on a regular basis. For this reason, employees may earn and accumulate vacation leave up to a maximum of two and one-half (2.5) times the amount of the annual accrual of the employee:

10.14 MAXIMUM AMOUNT OF ACCRUAL

Year 0-3	200 hours maximum
Year 4-7	300 hours maximum
Year 8+	400 hours maximum

Any hours accrued above this maximum as of December 1st of any given year will be paid to employee at the next full pay period following December 1st.

10.15 VACATION BUYBACK

Employees are eligible to exchange up to forty (40) hours of accrued vacation for a lump sum payment at the employee's current salary rate twice each fiscal year as follows:

1. The lump sum payments will occur in conjunction with the last pay period for March and for October of each year.
2. The employee must have reached his/her three-year (3) anniversary date in order to be eligible to exchange vacation pay.
3. The employee desiring to exchange vacation leave must have taken at least two weeks (the equivalent of ten 8-hour working days) of vacation, compensatory time off, or management leave during the previous twelve (12) months. . Use of sick leave or leave without pay does not satisfy this program requirement.
4. The employee, after the requested exchange of vacation leave, must still have at least one-hundred and twenty (120) hours of vacation leave remaining.

10.16 HARDSHIP REQUEST

In the event that an employee eligible for vacation accrual experiences a financial hardship due to circumstances beyond his/her control, he/she may submit a request to the Human Resources Division to receive cash payment of accrued vacation at any time during the year. The Hardship Request form is available in the Human Resources Division. Examples of qualifying hardship requests include unexpected legal expenses, unbudgeted medical expenses not covered by other means, or any unforeseen situation that would necessitate a hardship request.

In order to keep hardship requests and the circumstances surrounding such a request as confidential as possible, all hardship requests will be reviewed in the following manner:

1. The employee submits a completed Hardship Request form to Human Resources.

2. The Human Resources Division will obtain an updated copy of the employee's absence schedule from payroll to verify the number of vacation hours available. The employee must still have at least one-hundred and twenty (120) hours of vacation leave remaining to be eligible for a Hardship Request.
3. If clarification of the request is necessary, Human Resources will contact the requesting employee to obtain additional information.
4. A request that meets the qualifications described above will be reviewed by Human Resources and then presented to the City Manager with a recommendation for denial or final approval.
5. The employee will receive a response regarding the status of their request within five (5) working days from the date it is received by Human Resources.
6. The approved request will be delivered to payroll. A check will be prepared within three (3) business days.

10.17 REGULAR PART-TIME EMPLOYEE VACATION LEAVE BENEFIT

Consistent with Section 10.7, Regular Part-time employees, who are eligible for benefits, accrue vacation leave on a pro-rata basis, depending on the average expected hours of work per week. See the table below that sets forth the rate of accrual for an employee who has 0-3 years of service:

20-22 Average Hours	1.53 per pay period (.50 FTE)
23-25 Average Hours	1.92 per pay period (.625 FTE)
26-30 Average Hours	2.30 per pay period (.75 FTE)

10.18 LIMITED TERM AND SEASONAL EMPLOYEES

Limited Term Part-Time and Limited Term Seasonal employees do not accrue vacation leave.

10.19 PAID MANAGEMENT LEAVE

In addition to paid vacation leave, full-time FLSA exempt management employees receive 80 hours of paid Management Leave as outlined in Section 8.13 of this Manual. The City Manager may grant up to sixteen (16) hours of additional management leave for exempt employees working the modified 9/80 schedule.

10.20 SICK LEAVE

Sick Leave is to be used if an employee or his/her family member becomes ill. Sick leave shall be used only as permitted in this Manual. Abuse of the sick leave benefit, as described in this Manual, is grounds for disciplinary action, up to and including termination.

10.20.1 Sick Leave Notice

An employee must notify her/his immediate supervisor prior to the beginning of any working shift, which the employee will not report for work and for which she/he desires to use sick leave.

An employee is to request prior authorization for any absence due to attendance at any medical appointment. For the purpose of this section, “request prior authorization” shall mean that the employee has notified her/his supervisor with at least one (1) workday’s advance notice.

10.20.2 Eligibility

All regular and probationary full-time and part-time employees shall be eligible to accrue sick leave benefits. Employees working in a Limited Term Part-Time or Limited Term Seasonal capacity who work 30 or more days within a year from commencement

of employment will accrue sick leave consistent with the Healthy Workplaces, Healthy Families Act of 2014. Limited Term Part-Time and Limited Term Seasonal employees can begin to use accrued paid sick leave upon reaching their 90th day of employment. For regular, full-time and part-time employees there is no waiting period to utilize sick leave; however, sick leave hours cannot be used within the pay period which they were earned. Further, employees may not utilize unaccrued sick leave.

10.20.3 Accrual

Regular full-time employees earn 3.69 hours per pay period. All part-time regular employees accrue sick leave on a pro-rata basis depending on the average expected hours of work per week (.50 FTE, .625 FTE or .75 FTE). In no case does the number of sick leave hours accrued each pay period exceed 3.69 hours. Limited Term Part-Time and Limited Term Seasonal employees will accrue sick leave at the rate of .034 for every hour worked.

Sick leave is earned during any paid leave of absence, but it is not earned during any unpaid leave of absence, or during Family Medical Leave. Employees that are off of work due to illness or injury shall not accrue sick leave once they begin to receive disability benefits or are no longer receiving wages through payroll, beginning with the first full pay period that they are off payroll, unless otherwise required by law.

10.20.4 Earning and Accumulating Sick Leave

Regular and probationary full-time and part-time employees may accrue a maximum of seven hundred and twenty (720) hours of sick leave. For Limited Term Part-Time and Limited Term Seasonal employees accrued sick leave is capped at 48 hours, or 6 days. Once the accrual maximum is reached, the employee can earn no other paid sick leave until the accrual balance is reduced.

10.20.5 Sick Leave at Separation

Sick leave is forfeited and not cashed out upon separation from employment, unless an employee has completed five (5) years or more with the City at the date of separation. For such employees, fifty percent (50%) of the value of an employee's accrued sick leave will be paid to the employee at separation. For Limited Term Part-Time and Limited Term Seasonal employees, accrued sick leave not used will carry over to the following year of employment, but is capped at 48 hours, or 6 days. If an employee is retiring at separation, the cash payment for sick leave may be disbursed to the retiring employee through a lump sum cash payment that is deposited into the employee's deferred compensation account (as allowed under terms and conditions of the plan and Internal Revenue Service regulations), used as a payment to CalPERS to buy service time (I eligible), placed in a retiree health savings account, or a combination of these options, at the election of the employee.

10.20.6 Use of Sick Leave

Sick leave shall be requested only in cases of actual personal sickness or qualifying instances. The employee requesting sick leave shall notify his/her supervisor or Department Head prior to the start of the employee's regular work shift that he/she will be absent and will utilize sick leave. Sick leave with pay shall not be allowed unless the employee has met and complied with the provisions of these Rules and Regulations and his/her Department Head has approved such payment. Failure to reasonably provide notice of the need for leave, or otherwise comply with the sick leave benefit provisions of this Manual, may be grounds for denial of such sick leave with pay.

Sick leave can be used for the following purposes:

1. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members:

child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or

2. For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his/her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety. An employee shall have her/his accumulated sick leave balance reduced by an amount equal to the number of hours of sick leave for which pay is received.

10.20.7 Abuse of Sick leave

The City of Oakley provides a generous amount of sick leave hours and encourages employees to use these hours wisely and maintain a comfortable number of hours available for unforeseen situations. The City considers the abuse of sick leave as a serious offense and evidence substantiating use of sick leave for willful injury, gross negligence, intemperance, or any instances of misrepresentation will result in disciplinary action, up to and including termination from employment.

Other examples of abuse of sick leave include the following:

1. Failure to notify supervisor of medical absence
2. Failure to provide physician's verification when required
3. Fraudulent physician verification
4. Use of sick leave for that which it was not intended or provided
5. Continued pattern of maintaining zero or near zero leave balances or seeking approval of leave without pay because sick leave accrual has been exhausted
6. Pattern of abuse, for example, the routine use before, and/or after holidays;

before, and/or after weekends or regular days off; after pay days; of any one specific day; following overtime worked; frequent use of half days; and/or any routine use of any combination of the above.

The City of Oakley maintains minimum staffing levels, and excessive absenteeism creates a negative impact on the workplace by disrupting work schedules, increasing overtime costs, leaving projects incomplete, decreasing organizational efficiency, moving additional work upon others, and creating an overall negative morale within the organization.

10.20.8 Proof of Illness/Injury

The City Manager, or designee, may request, in his/her discretion, that the employee produce a certificate issued by a licensed physician or other satisfactory proof of illness before sick leave is granted.

Additionally, an employee may be required to provide a health care provider's statement verifying the employee's absence from work in the following instances:

1. When an employee returns to work after three (3) days of absence on sick leave
2. Frequent use of sick leave
3. When a pattern of sick leave use has been identified
4. When a supervisor has reason to believe that sick leave is being abused
5. Release to Return to Work

The employee may be required by her/his Department Director or the Human Resources Division to submit a statement/certificate from the attending physician or dentist stating that the employee is or was incapacitated and unable to perform her/his duties, and attest to the employee's ability to resume work. In the event that the employee is not released to full duty, a written statement is required that specifically defines the

employee's limitations. The City has the right to determine whether or not it has meaningful modified work for the employee to conduct based on her/his work restrictions and the duration that such work, if any, is available.

If the employee has a disability covered under the Americans with Disabilities Act (ADA), the City will enter into an interactive discussion with the employee in an attempt to comply with any reasonable accommodation requested or reasonable alternative accommodation that does not create an undue hardship for the City. The City reserves the right to get a second medical opinion, at the City's expense, regarding the employee's ability to return to work and/or any reasonable accommodation requested.

10.20.9 Sick Leave Donation Program for Catastrophic Circumstances

With the City Manager's written approval an employee may be eligible to receive donations of up to four-hundred eighty (480) hours of paid sick leave. The employee must have suffered a catastrophic illness or injury which prevents her/him from being able to work, and only if the employee is in good standing (defined as not in the process of a disciplinary separation from employment). The donated hours will be added to an employee's sick leave "bank", if exhausted.

A catastrophic illness or injury is defined as a medically certified illness, injury impairment, or physical condition that prevents an eligible employee from returning to work for a period of 60 or more calendar days.

10.20.10 Rules of Sick Leave Donation Program

An employee is not eligible to receive sick leave donations if she/he is currently receiving workers' compensation, short-term or long-term disability benefits.

An employee using donated sick leave accrues no sick leave or other leave accruals while utilizing donated leave; however, other benefits, such as insurance and

participation in the CalPERS defined benefit plan, will continue to be provided to the employee while utilizing donated sick leave.

Donated leave will be counted as sick leave, but shall never be converted into a cash benefit.

10.20.11 Donation Guidelines

An Employee may donate sick leave if the donating employee:

1. Voluntarily elects to donate sick leave and does so with the understanding that donated leave will only be returned if not used by the affected employee within ninety (90) days of the donation;
2. Donates a minimum of eight hours;
3. Retains a combined leave balance (vacation and sick) of at least one-hundred sixty (160) hours;
4. Donates time in one (1) hour increments. For every one (1) hour of sick leave time donated by the donor, the recipient will be credited with one (1) hour of sick leave. The pay levels of the two employees shall not affect the transaction

10.20.12 Donations are Voluntary

The City Manager shall respect an employee's right to privacy, however, she/he may, with the permission of the employee who is in need of leave, inform employees of their co-worker's critical need for sick leave hours. The City Manager or any other employee shall not directly solicit leave donations from employees. The donation of leave shall occur on a strictly voluntary basis.

10.21 MEDICAL TERMINATION

If during an employee's leave of absence, it is medically determined that the employee's condition is permanent and that the employee will not be able to perform the essential functions of her/his job with or without reasonable accommodation (including

transfer to an alternate available position within the City for which the employee qualifies and where a position is available, or a leave of absence), the City and/or the employee may choose to process an application for non-industrial disability retirement and the employee will separate from employment with the City.

10.22 FAMILY MEDICAL LEAVE ACT AND CALIFORNIA FAMILY RIGHTS ACT

It is the policy of the City of Oakley to provide family care and medical leave to eligible employees in accordance with the federal Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1994 (CFRA). If you are eligible, and the leave you have requested pursuant to the City's policy qualifies as family care and medical leave, all eligible employees shall be entitled to take up to twelve (12) weeks of unpaid, job-protected leave during any twelve (12) month period for specified family and medical reasons .If the employee has accrued paid leave available, then the employee shall use paid leave first and if insufficient to cover the entire FMLA/CFRA absence in full, the balance of the leave shall be in an unpaid status. This Policy is supplemented by the Federal Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). Unless otherwise stated in this Policy, "leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the City will run each employee's FMLA and CFRA leaves concurrently.

Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use FMLA or CFRA leave are not protected by the law's provisions for job restoration or maintenance of health benefit provisions.

10.23 DEFINITIONS

1. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

2. “Single 12 Month Period” means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.
3. “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child. A child is “incapable of self care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
4. “Parent” means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
5. “Spouse” means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.
6. Domestic Partner" is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.

7. "Serious Health Condition" means an illness, injury impairment, or physical or mental condition that involves:
    a. Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered "inpatient" when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
    b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
        i. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
        ii. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
            - Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
            - Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the

supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

c. Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a "serious health condition" only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave.

d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

   i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

   ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and

   iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

e. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or

family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.

f. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

8. Health Care Provider" means:

a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;

b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;

c. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

d. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;

e. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

f. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

9. "Covered active duty" means: 1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or 2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

10. "Covered Servicemember" means: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

11. "Outpatient Status" means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

12. "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his/her nearest blood relative for purposes of military caregiver leave under the FMLA.
13. "Serious Injury or Illness" means: 1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

10.23.1 Covered Reasons for Leave

The following are the reasons for which leave may be taken:

1. The birth of a child or placement of a child for adoption or foster care;

2. To care for an immediate family member (spouse, domestic partner, child, or parent) with a serious health condition;
3. To take medical leave when the employee is unable to work because of a serious health condition.
4. Leave for a variety of "qualifying exigencies" arising out of the fact that an employee's spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (29 C.F.R. §825.126 - This is a FMLA leave and not a CFRA leave); or
5. Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness either: incurred in the line of duty while on active military duty; or existed before the beginning of the member's active duty was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period. (29 C.F.R. §825.127 - This is an FMLA leave and not a CFRA leave.)

Disabilities due to pregnancy or pregnancy-related conditions are covered under FMLA, but not the CFRA. In California, pregnancy and pregnancy-related disabilities are covered under the Pregnancy Disability Leave Act (PDL). For additional information, please see Section 10.22 Pregnancy Disability Leave Act (PDL).

10.23.2 Employee Eligibility

An employee shall be entitled to family leave if:

1. The employee has worked for at least twelve (12) months for the City. The twelve (12) months need not have been consecutive. (If the employee was on

the payroll for part of a week, the City will count the entire week. The City considers fifty-two (52) weeks to be equal to twelve (12) months.)

2. The employee has worked for the City for at least one-thousand two hundred fifty (1,250) hours over the twelve (12) months immediately preceding the commencement of the leave
3. The City directly employees at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The workweeks do not have to be consecutive. The phrase "current or preceding calendar year" refers to the calendar year in which the employee requests the leave or the calendar year preceding the request.

10.23.3 Parents Both Employed by the City

When both spouses are employed by the City, they are jointly entitled to a combined total of twelve (12) work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition. If both parents of a covered servicemember are employed by the City and are entitled to leave to care for a covered servicemember, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 workweeks during the 12-month period. This limitation does not apply to any other type of leave under the City's Family Medical Leave Policy.

10.23.4 Amount of Leave

Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered servicemember) of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first. The City

will use a rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the City computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (12) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twelve (12) months, the employee could take an additional seven (7) weeks under this policy.

10.23.5 FMLA Coordination with CFRA and Other Leaves

Leave granted under the FMLA runs concurrently with CFRA, California Pregnancy Disability Leave, Workers' Compensation and other leaves in accordance with law. Although family and medical care leave is unpaid, an employee may elect and the City will require an employee to concurrently use all paid accrued leaves during family and medical care leave as described below:

1. An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the employee's own serious health condition or that of the employee's parent, spouse, domestic partner or child.
2. Employees must use and exhaust their accrued leaves concurrently with family and medical care leave to the same extent that employees have the right to use their accrued leaves concurrently with family and medical care leave with two exceptions:
    a. Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on

leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and

b. An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner.

3. If an employee takes a leave of absence for any purpose which also qualifies under both the FMLA and CFRA, the City will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers who are on paid industrial injury leave.

In unusual circumstances, leave beyond the 12 work weeks granted under FMLA and CFRA may be available in accordance with the City's leave policies and other state and federal laws.

10.23.6 City Designated FMLA/CFRA Leave

Even when an employee does not specifically request family and medical leave under FMLA or CFRA, the City may designate time away from work as FMLA and CFRA after three days of absenteeism if the leave meets the requirements outlined in this policy as outlined by state and federal law.

10.23.7 Cities and Employee's Rights if Employee Requests Accrued Leave Without Mentioning FMLA/CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City may require the employee to exhaust accrued leave as described above.

10.23.8 Maintenance of Benefits

An employee shall be entitled to maintain City group health, dental, and vision insurance benefits (if any) on the same basis as if she/he had continued to work for the City. To maintain uninterrupted coverage, the employee will have to continue to pay her/his share of insurance premium payments, if any. This payment shall be made either in person or by mail to the Finance Department by the fifteenth (15th) day of each month. The coverage will be dropped by the City if the employee's payment is more than 30 days overdue. Employee contribution rates are subject to any changes in rates that occur while the employee is on leave.

If the employee informs the City that she/he does not intend to return to work at the end of the leave period the City's obligation to provide health, dental and vision insurance benefits (if any) ends. If the employee chooses not to return to work, the City will require the employee to reimburse the City the amount the City contributed towards the employee's health, dental, and vision insurance benefits (if any) during the leave period.

If the employee contributes to a life insurance or disability plan, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the City will require that the employee continue to make those payments. If the employee does not continue these payments, the City will recover the payments at the end of the leave period, in a manner consistent with the law.

No sick leave, vacation, floating holiday, or administrative leave shall accrue to the employee during any time in which the employee is on FMLA/CFRA leave that is unpaid. Holidays, as identified in Section 10.1 of this Manual, shall be paid and no other leave will be required to be used for holidays that occur while an employee is on

FMLA/CFRA leave; however, holidays do count in the calculation of the twelve (12) weeks of FMLA/CFRA leave.

10.23.9 Job Restoration and Return to Work

Under federal law (FMLA) and state law (CFRA) you must be reinstated to the same position you had prior to taking the leave, or to an equivalent position provided that you return to work immediately following the conclusion of family and medical leave. If your position is unavailable (for example, due to a temporary or indefinite layoff), you have no greater right to reinstatement than had you been continually employed during the FMLA leave period. You are not entitled to reinstatement if your appointment end date occurs before your scheduled return date from family care and medical leave.

As a condition of returning to work, an employee must provide a certification from her/his health care provider verifying her/his ability to return to work, including any work restrictions. Failure to return to work on the date the employee indicated on the FMLA/CFRA request form (if not extended) may result in disciplinary action up to and including termination. Failure to return to work after the exhaustion of all twelve (12) weeks of FMLA/CFRA leave may result in immediate termination, at the discretion of the City Manager.

The City may choose to exempt certain highly compensated, “key” employees from the job restoration requirement and not return them to the same or similar position at the completion of FMLA/CFRA leave. Employees who may be exempted will be informed of this status when they request leave. If the City deems it necessary to deny job restoration for a key employee on FMLA/CFRA leave, the City will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.

10.23.10 Intermittent Leave and Reduced Work Schedules

In certain cases, intermittent (a few days or hours at a time) use of the twelve weeks of FMLA/CFRA or a reduced workweek may be allowed by the City. Employees wishing to use leave intermittently or to utilize a reduced workweek for birth or adoption purposes will need to request and gain approval for such use from the employee's Department Director and the City Manager.

Employees may also use FMLA/CFRA intermittently, or as a part of a reduced workweek whenever it is medically necessary. "Medically necessary" means that there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. If the need to use leave is foreseeable and based on preplanned and prescheduled medical treatment, the employee is responsible to schedule the treatment in a manner that does not unduly disrupt the City's operations. This provision is subject to the approval of the health care provider. In some cases, the City may temporarily transfer an employee using intermittent or a reduced workweek to a different job with equivalent pay and benefits if another position would better accommodate the intermittent or reduced schedule.

10.23.11 Minimum Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken.

However, compliance with the notice and medical certification provisions in this Policy is required.

10.23.12 Procedure for Requesting Leave

All employees requesting leave under this policy must complete the Family Medical Leave form available from the Human Resources Division. When an employee plans to take leave under this policy and the leave is foreseeable, the employee must give the City 30 days' notice. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If it is not possible to give 30 days' notice, the employee must give as much notice as is possible. If the situation was unforeseen, the employee must submit a leave request form within the first three (3) days of missed work. While on leave, employees are requested to report on a monthly basis to the City regarding the status of the medical condition and her/his intent to return to work.

For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

10.23.13 Procedure for Notice & Certification of Serious Health Condition

When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the City within the time frame requested by the City (which must allow at least 15 days after the City's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

Qualified health care providers include: doctors of medicine or osteopathy, podiatrist, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners and nurse-midwives authorized to practice under State law and performing within the scope of their practice under State law.

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

1. Employee's Own Serious Health Condition: Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his/her position. Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.
2. Family Member Serious Health Condition: Employees who request leave to care for a child, parent, domestic partner or a spouse who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment

or supervision of the child, parent or spouse. The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

3. Servicemember Serious Injury or Illness: Employees who request FMLA leave to care for a covered servicemember who is a child, spouse, parent or "next of kin" of the employee, must provide written certification from a health care provider regarding the injured servicemember's serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.
4. Qualifying Exigency: The first time an employee requests FMLA leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service. A copy of the new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member. The City will verify the certification as permitted by the FMLA regulations. If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established

in this Policy, the City may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

10.23.14 Deficiencies in Certification

The employee must provide a certification for his/her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the City Manager will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the City Manager may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The City Manager may not ask for additional information beyond that required on the certification form.

10.23.15 Second and Third Medical Opinions

If the City has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the City may ask for a second opinion. The City will pay for the employee to get a certification from a second doctor, which the

City will select. If there is a conflict between the original certification and the second opinion, the City may require the opinion of a third doctor. The City and the employee will jointly select the third doctor, and the City will pay for the opinion. The third opinion is considered final. The City must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon request of the employee.

10.25. 16 Return to Work

Except as provided by law, the employee will return to the same position she occupied when the leave commenced or, if the position is no longer available, the employee will return to a comparable position (equivalent pay and benefits),. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

As a condition of returning to work, an employee must provide a certification from her health care provider verifying her ability to return to work, including any work restrictions. Failure to provide this certification will result in a denial of reinstatement. If the employee fails to return to work within three (3) days after the approved leave expires, the employee will be considered to have voluntarily resigned employment.

10.26 PREGNANCY DISABILITY LEAVE

10.26.1 Eligibility and Leave Purposes

An employee who is disabled due to pregnancy, childbirth, or related medical condition may request an unpaid pregnancy disability leave. There is no length of City

service requirement before an employee disabled by pregnancy is entitled to a pregnancy disability leave. An employee is "disabled" if, in the opinion of her health care provider, she is unable due to pregnancy to work at all, or is unable to perform any one or more of the essential functions of her job, or to perform these functions without undue risk to herself, the successful completion of her pregnancy, or to other persons. An employee is also considered to be "disabled" if she is suffering from severe morning sickness or needs to take time off for prenatal care.

10.26.2 Duration of Leave

Subject to the conditions of this policy, eligible employees may take pregnancy disability leave as defined by law up to a maximum of the number of hours the employee would normally work within four (4) calendar months (one-third of a year or 17 1/3 weeks. For an employee who works 40 hours per week, "four (4) months" means 693 hours of leave entitlement, based on 40 hours per week times 17 1/3 weeks). An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

Leave granted under the PDL runs concurrently with FMLA and other leaves as appropriate and sanctioned by law. While pregnancy disability leave counts against the amount of leave required to be provided under the FMLA, it does not count under the California Family Rights Act (CFRA). As a result, the employee still may be eligible for an additional twelve (12) weeks of leave under the CFRA for "bonding" leave. Leave may be taken intermittently or on a reduced work schedule if the employee's health care provider determines that it is medically advisable for the employee to take such leave. Intermittent leave may also be taken for prenatal care appointment and for morning sickness.

10.26.3 Requirements Regarding the Use of Paid Leave

Pregnancy disability leaves are without pay. However, the employee must use accrued sick leave (if any) during a pregnancy disability leave for any portion of the leave that is otherwise unpaid. After the employee's sick leave is exhausted, she may elect to use accrued vacation time, compensatory time and administrative leave (if any) in order to continue to receive pay during the leave.

10.26. 4 Notification Requirements

An employee requesting pregnancy disability leave must provide proper notification to the Human Resources Division. If the leave is foreseeable, the employee must provide written notice at least 30 days before the leave is needed. If 30 days advance notice is not practicable or the need for the leave is not foreseeable (i.e., a lack of knowledge of when leave will be required, a change in circumstances, or a medical emergency), notice must be given as soon as practicable. All leaves must be confirmed in writing and have agreed-upon specific date of return.

A failure to comply with these notification requirements may result in a denial or postponement of the requested leave until the employee complies with these provisions. However, if the need for pregnancy disability leave results from an emergency or is otherwise unforeseeable, the leave will not be denied for failure to provide advance notice.

10.26.5 Certification by Health Care Provider

Employees must provide the Human Resources Division with a written certification issued by the employee's health care provider verifying that the employee is disabled from working by the pregnancy, or related medical conditions, , the date on which the employee became disabled by pregnancy, child birth or a related medical condition; and the expected duration of the leave.

10.26.6 Benefits, Transfers, Job Restoration and Return to Work while taking Pregnancy Disability Leave

An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The City may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.

Matters of other benefits, transfers, job restoration, and return to work shall be under the same terms and conditions as the City's Family Medical Leave policy found in this Manual.

10.27 DOMESTIC VIOLENCE LEAVE

Employees may take domestic violence leave pursuant to California Labor Code 230.1 An employee must provide reasonable advance notice to the Human Resources Division of the employee's intention to take time off for domestic violence leave, unless the advance notice is not possible.

If the appointment is unscheduled, or the leave is taken to respond to an emergency or crisis, the employee will be required to provide the Human Resources Division with written documentation of her/his status as a domestic violence victim within a reasonable time after the absence from work. The written documentation will be kept confidential, and can be any of the following:

A police report indicating that the employee is a domestic violence survivor;

A court order protecting or separating the employee from the batterer, or other documentation from the court or the prosecuting attorney that the employee has appeared in court; or documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse caused by domestic violence.

The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave, accrued vacation or personal leave, or compensatory time off.

This Domestic Violence Leave Policy does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by the City's Family Medical Leave Act Policy.

10.28 LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING TO OBTAIN RESTRAINING ORDERS OR INJUNCTIVE RELIEF

Any employee who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave, accrued vacation or paid leave, or compensatory time off.

10.29 CRIME VICTIM/FAMILY MEMBER VICTIMS' RIGHTS PROCEEDINGS LEAVE

Any employee who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the City, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.

10.30 BEREAVEMENT LEAVE

A regular, full-time or management employee is allowed a leave of absence with pay not to exceed three (3) working days per calendar year in the case of the death of a member of the employee's immediate family. Immediate family is defined as spouse, domestic partner, child, child of a domestic partner, stepchild, brother, stepbrother, sister, stepsister, parent, step-parent, mother-in-law, father-in-law, or any other person serving as a parent, grandmother, grandfather, or any other person living in the same household as the employee or an immediate family member of the employee's spouse. (The definition of "immediate family member" for purposes of bereavement leave is different from the definition located elsewhere in this Manual.) Any additional days of absence must be approved by the City Manager and may be charged to sick leave, vacation time or compensatory time.

10.31 COURT APPERANCES

10.31.1 Jury Duty

Employees who are summoned for jury duty shall be granted leave for this purpose upon presentation of the jury notice to the supervisor or City Manager. Employees are to notify their supervisors of the jury duty notice as soon as possible in order to minimize any disruption of work.

Employees who are released from jury service before the end of their regularly scheduled shift or who are not asked to serve on a jury panel are expected to call their supervisor as soon as possible and report to work, if feasible.

An employee who is summoned for jury duty is entitled to receive full pay if she/he remits to the City all compensation received for jury duty. Compensation for mileage is not considered compensation for jury duty.

10.31.2 Personal Court Appearances/Depositions

If an employee is required to appear in court or at depositions for personal or non-work related reasons, he/she must notify her/his supervisor immediately and present any relevant documentation, such as a subpoena. Employees are expected to return to work as soon their court appearance is completed. Vacation or compensatory time off must be used for this purpose. If the employee does not have accrued vacation or compensatory time off, the time will be unpaid.

10.31.3 Job-Related Court Appearances

If an employee is required to appear in court or at depositions for work-related cases, she/he will be compensated for her/his time spent for this purpose. The employee should give his/her supervisor as much advance notice as possible of any subpoena received for this purpose. The City will determine whether the matter is work-related (i.e., involves a matter regarding an event or transaction that occurred in the scope of

the employee's City job duties). Any witness fees received by the employee must be remitted to the City.

10.32 PARENTAL PARTICIPATION LEAVE

Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades one (1) through twelve (12), or who are in a licensed child care facility, shall be allowed up to forty (40) hours each school year to:

1. participate in activities of their child's school or licensed child care facility (time for this purpose cannot exceed eight (8) hours per month);
2. find, enroll, or reenroll a child in a school or with a licensed child care provider (time for this purpose cannot exceed eight (8) hours per month); or
3. to pick up a child due to a child care provider or school emergency.

The employee must provide reasonable advance notice to his/her supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. If both parents, guardians or grandparents having custody work for the City at the same City work site, only the first parent requesting will be entitled to leave under this provision. The Department Director may require the employee to provide documentation from the school or day-care facility that the employee participated in a school activity on a specified date and a specified time.

Employees wishing to take leave for a child's school activity and who have exhausted their vacation or other accrued leave must request leave without pay and gain the approval from the City Manager or designee for the planned absence.

10.33 CHILD SUSPENSION LEAVE

Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to his/her supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

10.34 INDUSTRIAL LEAVE

Employees, other than those covered by Labor Code section 4850, who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status under the following provisions.

10.34.1 Coordination of Benefits

When the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated sick leave, vacation, personal holidays, and compensatory time, if any. The employee will continue in pay status and receive his/her pay until his/her accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

10.34.2 Accrual of Sick and Vacation Leave Continues While on Paid Leave

During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by Workers' Compensation, he or she shall continue to accrue sick leave and vacation benefits as though he or she were not on leave of absence.

10.34.3 Unpaid Leave and Continuation of Health Care Benefits

Any employee subject to this Policy who depletes his/her accumulated sick leave, compensatory time, personal holiday time and vacation days while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

10.35 INDUSTRIAL LEAVE: EMPLOYEES COVERED BY LABOR CODE SECTION 4850

Sworn Police and Fire employees covered by Labor Code Section 4850 et seq. will be allowed up to one year leave of absence for an industrial injury or illness without loss of salary in lieu of disability payments, consistent with state law. The employee will continue to accrue sick leave and vacation benefits while in paid status.

10.35.1 Coordination of Benefits

Whenever the injury or illness continues beyond the one-year 4850 leave period, and when the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's pay may be deducted from the employee's accumulated sick and vacation leave, personal holidays, and compensatory time, if any. Thereafter, the employee may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

10.36 PAID ADMINISTRATIVE LEAVE

The City has the right to place an employee on leave with full-pay for non-disciplinary reasons at any time when the City Manager, or designee, has determined that the employee's and/or City's best interests warrant the leave. The employee does not have the right to appeal the decision to be placed on administrative leave with pay.

10.37 FITNESS FOR DUTY

10.37.1 General Policy

If, in the opinion of the Department Director, an employee is unable to perform the duties of her/his position for physical or psychological reasons, the Department Director shall refer that employee to the City Manager. The Department Director/Division Manager, in consultation with Human Resources, may direct an employee to attend a physical examination, at City expense, to ascertain whether the employee is fit to perform the duties of his/her position if there is significant evidence that:

1. The employee's ability to perform one or more essential functions of his/her job has declined; or
2. Could cause a reasonable person to question whether an employee is still capable of performing one or more of his/her essential job duties, or is still capable of performing those duties in a manner that does not harm him/herself or others.

The fitness-for-duty examination is a medical assessment the results of which determine an employee's ability to perform the duties of the position. Specific reasons for the fitness-for-duty request must be stated by the requesting official.

10.37.2 Role of Health Care Provider

The City may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a City-selected health care provider to do so at the City's expense. The City will allow an employee paid time off to attend the exam. The City will provide the heath care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of his/her position and any work restrictions and/or functional limitations that apply to the applicant or employee. The

health care provider will examine the employee and provide the City with non-confidential information regarding whether:

1. the applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
2. the applicant or employee is fit to perform essential job functions;
3. workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
4. there are any reasonable accommodations that would enable the employee to perform essential job functions; and
5. the employee's continued employment poses a threat to the health and safety of him or herself or others.

Should the health care provider exceed the scope of the City's request and provide confidential health information, without valid consent of the applicant or employee, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

10.37.3 Results of the Fitness-for-Duty Exam

If the results of the fitness-for-duty exam indicate that the employee has a disability which impacts his/her ability to perform the essential functions of his/her position, the City will engage in the interactive process with the employee to determine whether the City can provide a reasonable accommodation to the employee that would allow the employee to perform his/her duties. This may include a leave of absence, paid or unpaid. If the fitness-for-duty exam results state that the employee is cleared to return to work with no restrictions, the employee shall be returned to his/her duties.

10.37.4 Confidentiality of Medical Information

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization. All fitness-for-duty examination results are strictly confidential.

10.38 VOTING

The City encourages each of its employees to perform her/his civic duty and vote. An employee may request up to two hours of paid leave either at the beginning or end of scheduled working hours if he/she does not have sufficient time outside of working hours to vote. An employee who needs time off from work in order to vote should notify her/his supervisor or the City Manager with at least three (3) working days' notice in order to make the necessary arrangements to allow the employee to take time off to vote. Employees are encouraged to vote by mail/absentee ballot.

10.39 MILITARY LEAVE OF ABSENCE

Employees who require time off from work to fulfill military duties will be treated in accordance with applicable requirements of State and Federal laws. An employee granted military leave shall give the City Manager a copy of the orders calling him/her to military duty, which will be filed in the employee's personnel file. The military leave of absence will be unpaid and computed as part of the employee's service with the City, except that an employee who takes a military leave of absence before the completion of her/his probationary period shall be required to complete the remaining probationary period upon return to employment. As outlined by law, upon return, the employee shall be reinstated to a position in the same classification or a classification with equivalent status, pay, benefits and other employment terms, if she/he returns to work following the military leave of absence. Under USERRA, employees and their dependents may elect to

continue coverage for up to 24 months, or if earlier, up to the day after the date that they fail to apply for, or return to work within the time required by USERRA. Employee rights to continued health coverage under USERRA are similar to an employee's rights under COBRA. Any election that employees make pursuant to USERRA will also be an election under COBRA (and vice versa), and COBRA and USERRA will both apply with respect to the continuation coverage elected. The U.S. Armed forces may also provide coverage.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protect the job rights of individuals who voluntarily or involuntarily leave employment to undertake military service or certain types of service in the National Disaster Medical System. USERRA prohibits employers from discriminating against past and present members of the uniformed services and applicants to the uniformed services. The USERRA provides for reemployment rights, the right to be free from discrimination and retaliation, and health insurance protection.

Except in cases of emergency, employees must provide notice to their supervisor or the Department Director prior to utilizing leave under this policy. Please contact Human Resources for additional information regarding your USERRA rights.

10.40 LEAVE WITHOUT PAY

Any leave without pay must be approved by the City Manager based on the operational needs and the best interests of the City. Such leave is not a right, but a privilege. Employee must make a written request stating the date of leave, the reason for the leave and the estimated duration of the leave. (Leaves of absence as accommodation for disability are not covered by this policy.)

Requests for use of leave without pay will not be approved if an employee has applicable leave hours available to cover the absence.

Benefits such as vacation or sick leave will not accrue during any leave without pay. Except for as provided elsewhere in this Manual, benefits such as health, dental, vision insurance and retirement contributions may not accrue during leave without pay, at the City Manager's discretion.

10.41 UNAUTHORIZED ABSENCE FROM WORK

Whenever an employee is absent from work during her/his regular shift without permission or without advance notification to her/his supervisor, or without sufficient accrued leave to cover the absence, it shall be reported as an unauthorized leave of absence. Such unauthorized absence shall be considered as unpaid time off and the amount equal to the time the employee was absent without pay will be deducted from the employee's pay to the extent provided for by law. Without extenuating circumstances, an unauthorized leave of absence is grounds termination of employment.

Non-permanent employees (e.g., external interims, intermittent, student help, and college interns) are ineligible for any benefits, including but not limited to leave benefits. All non-permanent employees must notify and receive approval from their supervisor or Department Director in advance for all absences from work. Any non-permanent employee who is absent without proper authorization of leave without pay may be subject to discipline, up to and including termination.

An employee is considered to be on an unauthorized leave of absence if he or she fails to return to work after authorized leave of absence within the time specified. Failure of an employee to return to work upon the termination of an authorized leave of absence is cause for termination.

Section 11. Employee Conduct

11.1 EMPLOYEE CONDUCT

The City's goal is to provide responsive and high quality public services in partnership with our citizens celebrating our community's rich history, cultural diversity, and pride in its prosperous future. This requires employees to take pride in their work and to ensure personally that all members of the public, as well as co-workers, receive timely, efficient and courteous responses to their needs. Accordingly, the highest standards of professional conduct are considered essential for all employees. City employees are committed to be POLITE, PROFESSIONAL and PROGRESSIVE.

11.2 PERSONAL APPEARANCE

The City strives to be a quality and well-respected organization that serves the needs of its community in a professional manner. City employees have the opportunity to reinforce this expectation by their appearance, by their actions, and by their accomplishments. The City believes in the intelligence, pride, and good taste of its employees and, as such, chooses not to impose a strict dress code. Employees are expected to demonstrate a demeanor and appearance that is professional, businesslike, neat, and clean as determined by the requirements of the area in which the employee works. Provocative, suggestive, or other inappropriate and/or offensive attire, as determined by the City Manager, is not acceptable. If employees have questions about whether particular attire is appropriate, they should immediately inquire with their supervisor for consideration and determination.

11.2.1 Casual Friday

To recognize the hard work and dedication of City employees, the City has established Fridays and the Thursdays prior to Regular Days Off (RDOs) as "Casual Dress Days." Employees should exercise good judgment and common sense when

dressing casually and take into consideration any meetings that might require more professional dress. The City Manager may at her/his sole discretion, start, stop, or otherwise regulate "Casual Friday."

11.3 SERVICE OF PROCESS

No employee, except those specifically designated, should accept service on behalf of the City of any legal documents pertaining to work-related cases. Any such documents received should be immediately turned over to the City Clerk.

11.4 OFF-DUTY SOCIAL AND RECREATIONAL ACTIVITIES

The City may sponsor social or recreational activities for its employees. Employee attendance at these social activities is voluntary and is not work-related. Neither the City nor its insurer will be liable for the payment of worker's compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social, or athletic activity that is not part of the employee's work-related duties.

11.5 PUBLIC EMPLOYEES AS DISASTER SERVICE WORKERS

Government Code Section 3100 et seq. declares public employees as disaster service workers and requires employees to report to work (and if not possible, then to the next closest public employer) following the effects of natural, manmade, or war-caused emergencies. The City shall establish and maintain a method, or methods, of informing employees of their disaster service worker status. Employees who fail, without good cause, to honor their obligations as disaster service workers shall be subject to disciplinary action up to and including termination.

11.6 SMOKING

Smoking is not permitted in any City facility, and only in designated areas outside of a City facility. Smoking and the use of any tobacco products while in or operating

any City-owned or City-leased vehicle is not permitted in accordance with California State Labor Code 6404.5.

11.6.1 AB 846 Statewide Smoke-Free Entryway Law

Employees are prohibited from smoking within 20-feet of main entrances, exits and operable windows of all City buildings.

Section 12. Employee Relations

12.1 EMPLOYEE RELATIONS PHILOSOPHY

The City is dedicated to positive employer/employee relations. The City will strive to maintain good working conditions, competitive wages and benefits, open communication, and employee involvement. The City encourages all employees to report any problems, concerns, ideas or suggestions for improvement to her/his supervisor or to the City Manager. The City is very receptive to employee concerns and is always looking for ways to make the City a better place to work.

12.2 EMPLOYEE CONCERNS

The City strives to promote open discussions regarding any problems or concerns that employees may have with their jobs or their working environment.

Employees are required to follow the "chain of command" and any employee who has a concern is to discuss the concern first with her/his supervisor and Department Director/Division Manager. If the supervisor and/or Department Director are unable to resolve the problem to the employee's satisfaction, the employee should direct her/his concerns to the City Manager, either in person or in writing. The City Manager shall make the final decision regarding all problems and concerns raised by employees.

12.2.1 Procedure

In almost every circumstance an employee should follow the "chain of command" as outlined in Section 12.2 of this Manual; however, if for good cause an employee feels uncomfortable about reporting a matter of concern to his/her immediate supervisor, Department Director, the Human Resources Division, or City Manager, then the employee should report directly to a member of the City's "Collective Risk Management Team." If for good cause the individual feels uncomfortable about reporting the matter to the City's "Collective Risk Management Team," then the individual should report through the

"Employee Reporting Line." This number is currently 1-800-576-5262 and will be posted in the Employee Break Room. The names of the members of the CRMT will also be posted.

12.3 COLLECTIVE RISK MANAGEMENT TEAM (CRMT)

A team of at least three employees will be appointed by the City Manager to be available to review, investigate, and evaluate any workplace liability risk or wrongdoing, such as employee safety, theft, harassment, discrimination, etc. The CRMT will recommend to the City Manager appropriate corrective courses of action.

12.3.1 CRMT Activities

The CRMT receives any reports of alleged workplace wrongdoing, and categorizes the complaint into the type or types of wrongdoing, appropriately assigns the complaint to either an internal or external individual for investigation, and receives notification from the investigator that an investigation has been completed and that the investigator has notified the appropriate individuals (typically expected to be the Human Resources Department and the Department Director) as to the results of the investigation. The CRMT is to maintain confidentiality of the allegation(s) of wrongdoing, investigation(s) and investigative report(s). Discussions are to occur with and among only those individuals who have a legitimate business need to know.

The CMRT will follow City procedures for investigations of disciplinary actions, as set forth in this Manual.

12.4 EMPLOYEE GRIEVANCE

A grievance is an alleged violation of a specific provision of this Manual that adversely affects the employee and that contains all of the information required by Informal Resolution Procedure and Formal Grievance Procedure, below. The following procedure applies to all City employees, unless: the employee is covered by a grievance

procedure in a memorandum of understanding; another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The following procedure also does not apply to employee evaluations.

Concerns regarding Management Rights as defined herein are not subject to the grievance procedure. Similarly, the grievance resolution procedures do not apply to performance evaluations, performance-based salary determinations, or disciplinary matters.

12.4.1 Reporting Time Limitation

An employee who wishes to initiate the grievance process must bring the grievance to the attention of her/his Department Director within ten (10) calendar days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will waive the employee's right to pursue the grievance.

12.4.2 Informal Resolution Procedure

To initiate informal discussion of a grievance, the employee shall provide the Department Director with a written description of the circumstances causing the grievance within the timeframe set forth in Section 12.4.1 and must indicate that in the written description that the matter is being pursued as a grievance as outlined in this Manual. Within ten (10) calendar days after the receipt of the grievance, the Department Director and the employee shall discuss the grievance and attempt to identify a resolution of the perceived problem. Within ten (10) calendar days after the meeting, the supervisor shall provide the grievant with a written memorandum of the meeting, stating the resolution identified, if any. Employees must complete the informal resolution process prior to submitting a formal grievance.

12.4.3 Formal Grievance Procedure

If the employee and supervisor are unable to resolve the grievance by the informal resolution procedure, the employee may request formal resolution of the grievance.

12.4.4 Written Grievance

A written grievance shall be submitted within ten (10) calendar days of the completion of the informal resolution process to the Human Resources Division, with a copy to the employee's Department Director. The grievance shall contain the following information:

1. A description of the specific grounds of the grievance, including names, dates and places necessary for a complete understanding of the grievance;
2. A listing of the provisions of City Rules, ordinances, policies and/or procedures which are alleged to have been violated;
3. A list of all persons who are witnesses or who are involved;
4. A listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable; and
5. A listing of specific actions requested of the City, which will remedy the grievance.

12.4.5 Grievance Meeting

The City Manager's designee shall meet within ten (10) calendar days with the employee and the Department Director, separately or together, at the discretion of the City Manager's designee, to resolve the subject of the grievance. The City Manager's designee shall issue a written decision concerning the grievance within ten (10) calendar days from the date of the last meeting with either the employee, Department Director, or both.

12.4.6 Appeal Process

The employee may submit a written appeal to the City Manager if the City Manager's designee decision does not resolve the grievance to the employee's satisfaction. The employee appeal must be presented within ten (10) calendar days after receipt of the formal grievance decision. The appeal shall include the subject of the grievance and all supporting documents. If the City Manager is the supervisor involved in the informal grievance resolution procedure, she/he shall designate an uninvolved Department Director, or the City Attorney to hear the appeal. If no appeal has been submitted within ten (10) calendar days from the date of receiving the formal decision, the City Manager's designee formal decision shall be considered as final.

12.4.7 Timelines

Failure of the City to comply with the time limits of the grievance procedures allows the grievant to appeal to the next level of review. Failure of the grievant to comply with the time limits of the grievance procedure constitutes a settlement and resolution of the grievance on the basis of the last disposition. The parties may extend time limits by mutual written agreement in advance of a deadline.

12.4.8 City Manager Decision

Upon receipt of an appeal of a formal grievance, the City Manager, or designee, shall discuss the grievance with the employee, the supervisor or Department Director, and any other involved parties, if any. The City Manager, or designee, shall render a formal decision in writing to the employee within ten (10) calendar days after receipt of the appeal. Such a decision shall be considered final.

12.4.9 Representation

The employee shall be entitled to one representative at the grievance meeting. The employee and the employee's representative may be allowed to use a reasonable

amount of work time (as determined by the Department Director) for the actual meetings involved in the grievance process (not preparation time).

12.4.10 Freedom from Reprisal

The employee shall be assured freedom from reprisal or retaliation for utilizing the grievance procedure.

Section 13. Employee Discipline

13.1 DISCIPLINARY ACTION

The City Manager has the authority to take disciplinary action against any employee in accordance with the disciplinary procedures set forth in this Manual. The City Manager also has the authority to delegate this responsibility to her/his designee. The City Manager has the authority to take disciplinary action against any Management employee or any other at-will employee, at any time, with or without cause, and without affording her/him a right to appeal.

13.2 CAUSES FOR DISCIPLINARY ACTION

Disciplinary action may be taken for any just cause. Cause for disciplinary action shall include, but is in no means limited to, any of the following:

Absence without leave

Abuse of sick leave privileges, including, but not limited to use of leave from work in a manner not authorized or provided for under City policies.

Acceptance of any bribe or kickback, when it appears it was given in the hope or expectation of receiving preferential treatment

Any action that brings discredit to the City or is a direct hindrance to the effective performance of City functions

Any violation of the policies and procedures outlined in this Manual, departmental rules and policies, or any other written policies that may be prescribed by the City

Being under the influence of an intoxicating beverage or non-prescription narcotic or drug while on duty or Failure to notify a supervisor, in writing, when the employee is taking prescription medication that can impair judgment or performance

Breach of confidentiality

Bringing a gun or any other dangerous weapon onto City property, unless such item is specifically required as part of the employee's job duties

Claim of leave under false pretense, or misuse of leave

Conduct unbecoming of an employee of the City

Conviction of any felony or misdemeanor in State or federal court of which is reasonably-related to the individual's position with the City

Discourteous or non-cooperative treatment of the public, City elected officials or employees, City volunteers

Dishonesty or immorality on the job, including making any false representation or statement, or making any omission of a material fact;

Endangering self or others, or failure to follow adopted safety practices, or failure to properly use required personal protective gear or equipment.

Engaging in outside employment without authorization

Engaging in unlawful discrimination or unlawful sexual harassment in violation of the City's policy and/or state and federal law

Excessive absenteeism

Excessive tardiness

Failure to cooperate in an official inquiry or investigation into an alleged violation of these Personnel Rules

Failure to immediately report a vehicle accident

Failure to obtain and maintain a current license or certificate as a condition of employment

Failure to remain on duty or return to duty after a requested leave of absence has been disapproved, revoked or canceled

Failure to report to work as scheduled or failure to notify supervisor, in accordance with department standards, of one's inability to report to work

Favoritism

Fraud of any kind; falsification of any City application, medical history record, invoice, paperwork, time sheet, investigative questionnaire or any other City document, report or record or misstatement or untruths or omissions of any material fact in the application process or in securing appointment or promotion; or falsification or untruths concerning records, fellow employees, or work performed

Improper or unauthorized use or misuse of City equipment or supplies, or damage to, or negligence in the care and handling of City property

Improper political activity as defined by State law

Inattention, inefficiency, incompetence, carelessness or inexcusable negligence in the performance of duties

Incompetence or inefficiency in the performance of required duties

Inducing or attempting to induce a City employee to commit an unlawful act in violation of any lawful department or official regulation or order

Insubordination or failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized supervisor

Less than satisfactory job performance

Misconduct, willful disobedience, or failure to obey any proper direction made and given by a superior officer or supervisor

Misuse or misappropriation of City property or funds; carelessness or negligence with the monies or other property of the City; appropriating to the employee's own use any property of the City, or loaning, selling or giving away such property without legal authorization

Neglect of job duties

Offensive or obscene language in public, or towards the public, City elected officials, City employees

Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.

Outside work that creates a conflict of interest with City work, or that detracts from the efficiency of the employee in the employee's City work

Reporting for duty or being on duty under the influence of any intoxicant or absenting oneself from duty or rendering oneself unfit to perform fully one's duties for reasons attributable to or produced by intoxicants

Taking for personal use, from any person, a fee, gift or other valuable thing in connection with official work when such fee, gift or other valuable thing is given in the expectation of receiving favored treatment

Theft

Conversations in the workplace which are disruptive because of their negativity

Working overtime without supervisory authorization

Violation of the City's or a department's confidentiality policies, or disclosure of confidential City information to any unauthorized person or entity.

Misuse of unauthorized use of any City property, including but not limited to: physical property, electronic resources, supplies, tools, equipment, communication systems, vehicles, or intellectual property.

Any violation of the City's personnel rules on regulations, including those found in this Manual

Any other conduct equal to the reasons enumerated above as determined by the City Manager

This list is not to be considered all-inclusive and there may be other circumstances which employees may be disciplined for, up to and including termination.

13.3 TYPES OF DISCIPLINARY ACTION

The purpose of disciplinary action is to correct deficiencies in employee performance, to assure improvement to meet appropriate standards, to correct violations of City policies and procedures and, if necessary, to terminate employees whose misconduct is egregious or whose inadequate performance is not corrected. The types of disciplinary action that may be implemented include, but are not limited to:

13.3.1 Counseling

Counseling can include any informal discussion with the employee, which is designed to assist the employee to develop or improve her/his skills, abilities, or conduct. The supervisor is usually the individual who counsels the employee. The purpose of counseling may be to clarify agency rules, solve a problem, or discuss particular weaknesses. Ideally, counseling will achieve the goal of remedying problems quickly before they require more severe discipline. Counseling is not subject to the disciplinary appeals process. A memo, confirming the counseling provided, will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary.

13.3.2 Oral Reprimand

The oral reprimand is simply a verbal (i.e., spoken) notification to the employee that her/his performance or behavior must be improved. Oral reprimands are usually given when counseling has failed or when the employee's conduct warrants action that is more serious. The reprimand identifies the areas in which the employee must improve, establishes goals for improving and informs the employee that failure to the oral reprimand. Oral reprimands are not subject to the disciplinary appeals process. A memo, confirming

the oral reprimand, will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary.

13.3.3 Written Reprimand

Written reprimands are not subject to the disciplinary appeals process. A written reprimand is written direction from a supervisor to discontinue inappropriate conduct or correct a performance issue. The following procedure applies to written reprimands:

1. The supervisor shall provide a copy of the written reprimand to the employee and review the violation and the reason for the written reprimand
2. The employee must be instructed both verbally and in writing that failure to correct the identified deficiencies and improve performance to meet the City's standards as outlined in this Manual, may result in further discipline up to and including termination
3. The employee will sign the file copy (or refusal to sign will be noted on the copy);
4. The written reprimand is placed in the employee's personnel file
5. The employee has the right to respond in writing to the written reprimand; a copy of any response will be attached to the written reprimand in the employee's personnel file. The written reprimand shall contain notice of the employee's right to respond in writing.

13.3.4 Reduction-In-Pay

A reduction-in-pay is the placement of the employee in a lower salary within the employee's current pay range. As a disciplinary action, the City may reduce an employee's pay to a lower rate within the pay range, or may withdraw increments that were granted for merit. Documents related to the reduction-in-pay shall become part of

the employee's personnel file when the reduction-in-pay is final, and documented in the performance evaluation. Reduction-in-pay is subject to the disciplinary appeals procedures described below.

13.3.5 Disciplinary Demotion

Demotion is the involuntary reduction of an employee to a lower-paying classification. The City may demote an employee when she/he has demonstrated that she/he does not have the competence or other qualifications to perform at the higher skill level. The City may also demote an employee when she/he has demonstrated a chronic inability to perform properly his/her assigned job tasks. Documents related to the disciplinary demotion shall become part of the employee's personnel file when the reduction-in-pay is final, and documented in the performance evaluation. Disciplinary demotion is subject to the disciplinary appeals procedures described below.

13.3.6 Suspension

The City Manager may suspend an employee for cause without pay, for up to 30 calendar days per disciplinary occurrence. Suspension is considered unpaid leave; therefore, an employee will not accrue sick leave; vacation leave; insurance benefits; or CalPERS retirement contributions. Documents related to the suspension shall become part of the employee's personnel file when the suspension is final, and documented in the performance evaluation. Suspension is subject to the disciplinary appeals procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.

13.3.7 Termination

Regular employees shall be terminated for cause after appropriate disciplinary proceedings have been followed, in accordance with state law. If necessary, the employee may be removed from service immediately and placed on paid leave pending the

completion of an investigation and/or disciplinary determination. The City Manager may terminate the employment of any management employee or any other at-will employee, at any time, with or without cause and without affording the employee a right to appeal. At-will employees are not subject to the disciplinary procedures as outlined in this Manual.

13.4 PROCEDURES FOR TAKING DISCIPLINARY ACTION

The courts have established minimum procedural protections (due process) which public employers must provide to public employees who are subject to significant disciplinary action. These procedural protections apply to any public employee, who through the state or local agency laws, has acquired a right to be disciplined or terminated only for "good" or "just" cause. The City of Oakley will follow applicable legal requirements when taking disciplinary action.

These procedures apply to regular merit employees who are subject to termination, suspension, disciplinary demotion, or reduction in pay for disciplinary purposes. They do not apply to management employees, probationary, limited term, seasonal or other at-will employees. These employees may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below.

13.4.1 Investigation

If appropriate, the Department Director of the employee, or another impartial third party, shall conduct an investigation into the misconduct and shall prepare a report of the findings and submit the report to the Human Resources Division. The City Attorney shall be advised of any investigation and shall provide direction to the person who is conducting the investigation.

13.4.2 Notice of Proposed Disciplinary Action

Written notice of the proposed Disciplinary Action to be imposed shall be served on a regular employee personally or sent to his/her address of record by Certified Mail

not less than seven (7) working days prior to the date of the proposed action. If served by Certified Mail, such notice shall be effective and constitute receipt by the employee upon deposit in the United States Post Office.

Such formal notice shall include:

1. A statement of the nature of the Disciplinary Action to be taken;
2. A statement of the causes therefore;
3. A statement of the act(s) or omission(s) upon which the causes are based;
4. A copy of the materials upon which the Disciplinary Action is based; and
5. A statement informing the employee of his/her right to respond to the intended discipline within seven (7) days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both.
6. A statement informing the employee of his right to have a representative of his/her choice present at all meetings related to the discipline, including the *Skelly* conference.
7. Notice to the employee that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

13.4.3 Right to Respond - "Skelly" Process

Any regular employee shall have the right to respond, either orally or in writing, to the authority (most likely the Department Director) imposing Disciplinary Action and have the response considered prior to any final decision being made with respect to the proposed discipline.

Such a response must be made within seven (7) working days after receipt of the written notice of the proposed Disciplinary Action. Failure to respond within such

period constitutes a waiver of the right to respond. However, failure to respond shall not affect the employee's right to appeal the Disciplinary Action as provided in this Manual.

After reviewing the employee's response, if any, the Department Director imposing discipline shall formally notify within seven (7) working days the employee in writing of his/her decision to dismiss, modify or impose the proposed discipline. If the Department Director determines to impose discipline, a final "Notice of Discipline" shall be served on the employee. The final notice of discipline shall contain the following:

1. The level of discipline, if any, to be imposed and the effective date of the discipline;
2. The specific charges upon which the discipline is based;
3. A summary of the facts that show that the elements of each charge at issue in the intended discipline are met;
4. A copy of all materials upon which discipline is based; and
5. A reference to the employee's appeal right and deadline to appeal.

The specified discipline, if any, may be imposed when the "Notice of Discipline" is received by the employee. The final notice must be sent by a mail method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is not deliverable because the employee has moved without notifying the City or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery

13.4.4 Right of Appeal

Any regular employee shall have the right of appeal for any disciplinary action, except for counseling, oral, and written reprimands. Reclassifications, layoffs, demotions as a substitute for layoffs, changes in status due to employee's loss of a required

license or certificate, pay increases or denial of pay increases are “non-disciplinary” actions, and, as such, are not subject to appeal, but may be addressed through the City’s grievance procedure as outlined in this Manual.

An appeal must be filed in writing with the Human Resources Division within seven (7) working days of the date of service of the “Notice of Discipline”. Failure to file an appeal within such period constitutes a waiver of the right of appeal, and notice that the employee has accepted the recommended discipline. Filing a notice of appeal shall not stay the imposition of discipline.

13.5 APPEAL HEARING

Due process requires that a permanent, for cause employee receive a post-disciplinary evidentiary appeal hearing before a nonbiased hearing officer or body. The City Manager will designate the hearing officer. The City will follow applicable legal requirements when an appeal hearing is requested.

13.6 SCHEDULING THE HEARING

If the employee files a notice of appeal, an evidentiary hearing shall be arranged for by the Human Resources Division and in consultation with the City Attorney. Typically, the hearing officer shall be the Assistant City Manager or a non-affected Department Director. The hearing shall be scheduled on a mutually agreeable date , taking into account the availability of the parties and witnesses. The hearing will commence as expeditiously as it can be arranged, but no later than sixty (60) working days after receipt of the request for appeal.. The parties can mutually agree to waive this timeline.

13.6.1 Conduct of Hearing

The hearing officer shall, in the hearing officer’s good judgment, determine the procedures under which the hearing will be conducted. Such procedures shall provide “due process” and comply with the provisions of this Manual. Both the City and the

employee may call witnesses and present evidence that they deem necessary and appropriate. The hearing shall be closed to the public.

13.6.2 Failure of Employee to Appear at the Hearing

Failure of the employee to appear at the hearing shall be deemed a withdrawal of her/his appeal and a waiver of the right to appeal.

13.6.3 Representation

The employee may represent herself/himself at the hearing, or be represented by counsel or another representative of his/her choice.

13.6.4 Advisory Findings of the Hearing Officer

The findings of the hearing officer shall be rendered within twenty (20) working days of the hearing, or within a reasonable time thereafter, and shall be advisory only to the City Manager. Nothing in these procedures shall be construed as to bind the City or the City Manager to any findings of the hearing officer.

13.6.5 Decision by the City Manager

The City Manager may hold an additional meeting with the employee to discuss the advisory findings, or may proceed on the record from the hearing. The City Manager shall render a written decision within twenty (20) working days after receiving the advisory findings of the hearing officer. The City Manager's decision shall be final, conclusive, and binding on all parties. A copy of such decision shall be forwarded to the appellant.

13.6.6 No Retaliation

Retaliation or penalty against an employee requesting and participating in the appeal process will not be allowed nor will it be tolerated.

13.6.7 Reimbursement

If disciplinary action is subsequently revoked or modified by the City Manager, the employee is entitled to reimbursement for loss of pay, if applicable. Reimbursement is

limited to the period between the date of initial action and the date of final decision after appeal. No reimbursement will be made for any period during which the employee was not ready and able to perform the duties of her/his position

Section 14. Resignation, Layoff, or Separation from City Service

14.1 TYPES OF SEPARATION

All separations of employees from City employment are designated as one of the following types:

1. Probationary Release;
2. Release of Limited Term Part-Time and Limited Term Seasonal Employees;
3. Resignation;
4. Retirement;
5. Job Abandonment;
6. Layoff;
7. Non-Disciplinary Separation;
8. Disciplinary Separation.

Probationary Release, Release of Limited Part-Time and Limited Term Seasonal Employees; Job Abandonment; and Disciplinary Separation are addressed elsewhere in this Manual.

14.2 RESIGNATION FROM CITY SERVICE

Resignation is a voluntary separation from the City with either verbal or written notice on the part of the employee. Employees are expected to provide at least two weeks' notice \ of resignation, and provide the effective date of the resignation . Written resignations shall be promptly forwarded to the Human Resources Division. Written resignations shall become effective upon receipt by the City, without the necessity of any acceptance, unless the employee is notified otherwise. If an employee gives verbal notice of resignation, the supervisor or the City Manager will acknowledge and accept the resignation in writing. Employees who have filed a notice of resignation are expected to be physically present and actively at work up through the effective date of resignation.

Notice of resignation is final and irrevocable when given and may not be rescinded without the approval of the City Manager.

14.2.1 Failure to Notify

The failure to provide such reasonable notice shall be noted in the personnel file and may be cause for denying future employment by the City. The Department Director will confirm in writing any verbal resignation that the employee is not willing to confirm in writing.

14.2.2 Use of Accrued Leaves

No use of vacation, sick leave, administrative leave, compensatory time off, holidays, or any other paid time off in lieu of hours worked, may be used to extend an employee's resignation date beyond the employee's last day worked. The City Manager is authorized to waive this rule.

14.3 RETIREMENT FROM CITY SERVICE

Retirement from City service shall be subject to the terms and conditions of the City's contract with the California Public Employees' Retirement System (CalPERS), and consistent with state and federal law.

An employee planning to retire from the City shall provide a written notice to the Department Director, which will be forwarded to the Human Resources Division for processing. Such notice should be provided, whenever possible, at least 60 calendar days prior to the effective date of retirement. Such notice is final and irrevocable when given and may not be rescinded absent approval of the City Manager.

14.4 TERMINATION - DISCIPLINARY

An employee may be terminated based on disciplinary action pursuant to this Manual.

14.5 RELEASE OF PROBATIONARY AND LIMITED TERM PART-TIME AND LIMITED TERM SEASONAL EMPLOYEES

Probationary employees and Limited Term Part-Time and Limited Term Seasonal employees will be released pursuant to provisions of this Manual.

14.6 SEPARATION - NON-DISCIPLINARY

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Any for cause employee has the opportunity for a post-separation appeal as described the Disciplinary Procedures in this Manual.

14.7 LAYOFF - REDUCTION IN FORCE

An employee may be terminated via layoff by the City Manager, consistent with state and federal law, for any of the following reasons: a shortage of work; lack of funds; material change in duties or organization; in the interest of economy; to reduce the staff of any City function or the return of another City employee occupying the same position from a leave of absence.

The City Manager in consultation with the Department Director shall make reasonable efforts to give primary consideration to business necessity, not seniority, whenever reductions in force are necessary. However, Limited Term Part-Time, Limited Term Seasonal, probationary, and regular part-time employees shall be laid off before regular full-time employees. Employees shall normally be given at least thirty (30) calendar days' notice of a proposed reduction in force, except where necessary to protect the public and carry out the City's mission. The decision to lay off an employee(s) is not subject to any right of appeal or right to submit a grievance.

14.8 RETURN OF CITY PROPERTY

A separating employee shall return all City-issued property to the appropriate department. City-issued property may include, but is not limited to: cell phones, credit cards, equipment, gas cards, identification cards, keys, key fobs, passwords (computer, voicemail) and any other City-owned property. All city-owned property must be returned prior to departure from employment. Failure to return the City's property may delay payment of the employee's final paycheck.

A separating employee must also complete a Form 700 "Leaving Office" form within 30 days of separation.

Section 15. Workplace Safety and Workplace Violence Prevention Policies

15.1 WORKPLACE HEALTH AND SAFETY

It is the City's policy to promote safety on the job. The health and well-being of its employees is foremost among the City's priorities. The City strives to attain the highest possible level of safety and respect for persons in all activities and operations. Safety is a state of mind and requires constant vigilance and common sense. Safety is everyone's responsibility. For this reason, all employees are required to follow common sense safety practices and correct or report any unsafe condition to their supervisor or Department Director.

15.2 EMPLOYEE RESPONSIBILITIES

Each employee is expected to assist in maintaining safe working conditions. To this end, the City must rely upon employees to ensure that work areas are kept safe and free of hazardous conditions. Employees should be conscientious about workplace safety, including proper operating methods and known dangerous conditions or hazards. Employees must report any unsafe conditions or potential hazards to a supervisor or their Department Director immediately, even if the employee believes the problem has been corrected. If an employee suspects a concealed danger is present on City premises, in a product, facility, piece of equipment, process, or business practice for which the City is responsible, the employee must be immediately bring the matter to the attention of a supervisor or Department Director.

15.3 SUPERVISOR/MANAGER RESPONSIBILITIES

Supervisors must arrange for the correction of any unsafe condition or concealed danger immediately and should contact the Department Director as soon as possible after

notification of an unsafe condition or concealed danger. Supervisors must report all unsafe conditions or safety issues to the City Manager, even if they have been corrected.

15.4 RULES AND GUIDELINES

Periodically, the City may issue rules and guidelines governing workplace safety and health. All employees should familiarize themselves with these rules and guidelines since strict compliance will be expected. Failure to comply with the rules and guidelines regarding health and safety, or negligent work performance that endangers an employee's or another employee's health and safety will not be tolerated and will subject an employee to disciplinary action, up to and including termination.

15.5 MANDATORY REPORTING OF ACCIDENTS AND INJURIES

Any workplace injury, accident, or illness must be reported to a supervisor, Department Director or the City Manager as soon as possible, regardless of the severity of the injury or accident.

15.6 REPORTING REQUIREMENTS

If immediate medical attention is required, the supervisor will assist the employee(s) in obtaining medical care by referring the employee to the City's designated occupational facility, unless the employee has designated a personal doctor.

If the injury is not a medical emergency, the supervisor will have the employee call the RN First Call service for on-the-job injuries before seeking treatment. The telephone number is 1-877-740-5017. The supervisor shall also provide the employee with the State of California Worker's Compensation Form (DWC-1).

The supervisor must complete the Accident Investigation Report and the State of California's Employers Report of Occupational Injury or Illness (Form 5020).

The required accident reporting forms can be found in Appendix D.

15.6.1 Reporting of Job-Related Injury

An employee injured in the course of employment must report the accident **IMMEDIATELY** to her/his direct supervisor or to the City Manager. The supervisor is responsible for promptly submitting a statement signed by the employee and providing all details of the accident or injury using the City's authorized form, which is attached in Appendix F.

15.7 JOB-RELATED INDUSTRIAL INJURY OR DISABILITY (WORKERS' COMPENSATION)

City employees may be eligible to receive Workers' Compensation benefits pursuant to State law if the employee is injured or disabled in the course of employment. To be eligible for Workers' Compensation benefits, the injury must be a direct result of the job. Employees must report worker's compensation injuries immediately, as set forth above. (Leaves related to job-related injuries are addressed in the leaves section of this Manual.)

15.8 WORKPLACE VIOLENCE PREVENTION POLICY

The City is committed to a workplace free from violence and the threat of violence. Any violent or threatening conduct of any kind, whether it is directed against a coworker, manager or outside party, will not be tolerated. The prohibition against threats and acts of violence applies to all persons involved in City operations, including, but not limited to, City personnel, contract workers, temporary employees, and anyone else in the workplace. The "workplace" includes any location where City business is conducted, including vehicles and parking lots. Violations of this policy, by any individual are considered very serious and will result in disciplinary action up to and including termination. Such violations may also lead to criminal prosecution or other legal action, as appropriate.

This policy is intended to bring the City into compliance with existing legal provisions requiring employers to provide a safe workplace; it is not intended to create any obligations beyond those required by existing law.

15.9 PROHIBITED ACTS

Acts or threats of physical violence, including intimidation, violence, threats, harassment, and/or coercion, that involve or affect the City, or that occur on City property, or during the conduct of City business off of City property, will not be tolerated. Workplace violence is any intentional conduct that is sufficiently severe, offensive, or intimidating to cause an individual to reasonably fear for her/his personal safety or the safety of her/his family, friends, and/or property such that employment conditions are altered, hostile, abusive, or an intimidating work environment is created for one or several City employees. Workplace violence may involve any threats or acts of violence occurring on City premises, regardless of the relationship between the City and the parties involved in the incident. It also includes threats or acts of violence that affect the business interests of the City or that may lead to an incident of violence on City premises. The City has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

Threats or acts of violence occurring off of City premises that involve employees, agents, or individuals acting as a representative of the City, whether as victims of or active participants in the conduct, may also constitute workplace violence. Specific examples of prohibited conduct that may constitute threats or acts of violence under this policy taking into account the tone of voice, body language and other behavior of the employee when the threat was made, include, but are not limited to, the following:

1. Threats or acts of physical or aggressive contact directed toward another individual

2. Direct threats or acts of physical harm directed toward an individual or her/his family, friends, associates, or property.
3. The intentional destruction or threat of destruction of City property or another employee's property, or the property of a customer or citizen.
4. Surveillance, stalking, harassing or threatening phone calls.
5. Veiled threats of physical harm or similar intimidation
6. Striking, punching, slapping or assaulting another person.
7. Fighting or challenging another person to a fight.
8. Grabbing, pinching or touching another person in an unwanted way (whether sexually or otherwise).
9. Engaging in dangerous, threatening or unwanted horseplay
10. Possessing a weapon during work hours or at the worksite (as defined above), including parking lots or other exterior premises, unless the City issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.
11. Any conduct resulting in the conviction under any criminal code provision relating to violence or threats of violence that adversely affects the City's legitimate business interests

Workplace violence does not refer to occasional comments of a socially acceptable nature. These comments may include references to legitimate sporting activities, popular entertainment, or current events. Rather, it refers to behavior that is personally offensive, threatening, or intimidating.

15.10 ENFORCEMENT

15.10.1 Notification by Employees

No employee should have to tolerate violence or the threat of violence on the job. Anyone who is the victim of any violent, threatening or harassing conduct, or who observes such conduct taking place *(whether or not the perpetrator is a City employee),* shall immediately report the conduct to her/his supervisor, Department Director, or to the City Manager. All complaints will be handled confidentially and will be thoroughly investigated. The supervisor or Department Director will immediately report to the City Manager.

15.10.2 Investigation

The City Manager or designee, will document the incident, including the employee name(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information. The City Manager or designee will make the sole determination of whether, and to what extent, threats or acts of violence will be acted upon by the City. In making this determination, The City may undertake a case-by-case analysis and evaluation in order to ascertain whether there is a reasonable basis to believe that workplace violence, or the threat of violence, has occurred or might occur.

15.10.3 Steps to Provide Security

The City Manager will take additional steps to provide security such as:

1. Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
2. Asking any threatening or violent person to leave the site; or
3. Immediately contacting an appropriate law enforcement agency.

Under this policy, decisions may be needed to prevent a threat from being carried out, a violent act from occurring, or a life-threatening situation from developing. No existing policy or procedure of the City should be interpreted in a manner that prevents the making of these necessary decisions.

15.10.4 City Response to Violation of Workplace Violence Policy

Once a threat has been substantiated, it is the City's policy to put the threat-maker on notice that she/he will be held accountable for her/his actions. The Department Director will then implement a decisive and appropriate response. A judgment will be made by the City as to what actions are appropriate, including possible medical evaluation and/or disciplinary actions, up to and including termination. Where appropriate, the City may seek criminal prosecution or cooperate with law enforcement officials.

15.10.5 Prevention

Each Department Director has the authority to enforce this Policy by:

1. Training supervisors and subordinates about their responsibilities under this Policy;
2. Assuring that reports of workplace violence are accurately and timely documented and addressed;
3. Notifying the City Manager and/or law enforcement of any incidents;
4. Making all reasonable efforts to maintain a safe and secure workplace; and
5. Maintaining records and follow up actions as to reports of workplace violence.

Section 16. Harassment and Discrimination Prevention Policies

The City of Oakley strives to provide a professional work environment where all employees can work together comfortably and productively, free from harassment, discrimination, and retaliation on the basis of one's membership in a protected class. The City is committed to providing a workplace free of sexual harassment. While the legal standards and consequences of harassment, discrimination, and retaliation are still evolving, the City's policy has been and remains more all-encompassing than the law requires. The City's policy rests on the fundamental precept that each individual treat all others with respect, dignity, and professionalism. Deviation from that fundamental precept will not be tolerated. Whether or not the individual means to offend or believed her/his comments or conduct was welcome is not significant. The City's workplace is not limited to the City's facilities, but may also include client and vendor facilities, as well as anywhere a City business-related function is taking place.

The City is responsible for taking all reasonable steps to prevent harassment, discrimination and retaliation. It is also the policy of the City to provide a procedure for investigating alleged harassment, discrimination and/or retaliation in violation of this Policy. Any retaliation against a person for filing a complaint or participating in the complaint investigation or resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate disciplinary action.

Investigation guidelines for the informal and formal process for resolving sexual harassment/discrimination complaints are located in Appendix G of this Manual.

The good faith actions of supervisors intended to provide employee discipline, such as deficiency notices, performance evaluations, oral warnings, reprimands, and other supervisory actions intended to promote positive performance do not constitute harassment.

16.1 COVERED INDIVIDUALS AND SCOPE OF POLICY

This Policy protects employees regardless of rank or title, elected or appointed officials, applicants, volunteers, and interns (including unpaid interns). Supervisors, co-workers and third-parties are prohibited from engaging in harassment, retaliation, or any other behavior which violates this Policy. Employees have an obligation to comply with this Harassment and Discrimination policy. Failure to do so may result in disciplinary action up to and including termination.

This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including but not limited to selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

16.2 DEFINITIONS

16.2.1 Protected Classification

This Policy prohibits harassment and discrimination based on an individual's protected classification. "Protected classification" includes: race/color, national origin/ancestry, sex (including gender, gender identity, and gender expression), religious creed (including all aspects of religious belief, observance, and practice, including religious dress and grooming), age, mental or physical disability, veteran status, medical condition, marital status or status as a registered domestic partner, sexual orientation, citizenship status (including a driver's license issued to undocumented persons), pregnancy (including, medical conditions related to pregnancy or childbirth, and breastfeeding, or medical conditions related to breastfeeding), and any other consideration made unlawful by federal, state, or local law.

16.2.2 Discrimination

This Policy prohibits treating covered individuals differently because of the individual's protected classification, actual or perceived; because the individual associates

with a person who is a member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

Harassment Prohibited harassment includes, but is not limited to, unwelcome conduct undertaken because of a covered individual's actual or perceived protected classification, such as:

Verbal harassment - epithets, derogatory comments, or slurs.

Examples: *Speech such as name calling, belittling, epithts, derogatory comments or slurs, sexually explicit or degrading words to describe an individual, race, ethnicity or sexually-oriented jokes and stories, comments about an employee's anatomy and/or dress, including physical features, gender identification, sexually oriented noises or remarks, questions about a person's sexual practices, use of patronizing terms or remarks, verbal abuse, graphic verbal commentaries about the body.*

Physical harassment - assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual.

Examples: *Assault, touching, pinching, patting, grabbing, brushing against, or poking another employee's body, hazing, or initiation that involves a sexual component, requiring an employee to wear sexually suggestive clothing, or making explicit or mplied job threats or promises in return for submission to physical acts.*

Visual harassment - derogatory posters, cartoons, or drawings.

Examples: *Displaying derogatory pictures, writings, cartoons, emails, drawings, or objects related to a protected classificaitons, obscene letters or invitations, staring at an employee's anatomy, leering, sexually oriented gestures, mooning, unwanted love letters or notes.*

Sexual favors - unwanted sexual advances which condition of an employment benefit upon an exchange of sexual favors.

Examples: *Continued requests for dates, any threat of demotion, termination, etc. If requested, sexual favors are not given, making or threatening reprisals after a negative response to sexual advances, propositioning an individual.*

While it is impossible to define every action or all words that could be interpreted as harassment, the examples listed above, along with the state definition of harassment, are not meant to be a complete list of objectionable behavior nor do they always constitute harassment. Harassment on the basis of sex need not be motivated by sexual desire in order to constitute unlawful harassment.

16.2.3 Quid Pro Quo Harassment

Under state and federal law, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's appointment
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment

16.2.4 Retaliation

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant

or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

16.3 GUIDELINES FOR IDENTIFYING HARASSMENT

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

1. It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
2. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
3. Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
4. Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

16.4 COMPLAINT PROCEDURE

16.4.1 Report and Investigation of Complaint

If an individual believes that any City employee, vendor, client or other business contact has harassed her/him, then the individual should IMMEDIATELY report the incident to her/his supervisor or Department Director, orally or in writing. If the immediate supervisor or Department Director is involved in the reported conduct or, for some other reason, the individual feels uncomfortable about reporting to that supervisor or Department Director, the individual should then report directly to the City Manager. If the individual feels uncomfortable about reporting to the City Manager, then the individual should report directly to the Human Resources Division. If the individual feels uncomfortable about reporting to the Human Resources Division then the individual should report directly to City Attorney.

Any employee, who sees or learns of conduct that may constitute harassment under this policy, shall immediately advise her/his Department Director of the incident and actions taken. The Department Director shall immediately report the incident and actions taken to the City Manager.

Upon receiving notification of a harassment complaint, the City Manager will complete and/or delegate the following steps. If the City Manager is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

1. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
2. Review the factual information gathered through the investigation to determine

whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.

3. Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
4. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
5. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

16.4.2 Proactive Approach

The City takes a proactive approach to potential violations of this Policy and will conduct an investigation if its supervisory or management employees become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

16.4.3 No Retaliation

The City will not retaliate, nor will it tolerate retaliation, against individuals who complain in good faith about harassment in the workplace. The City will investigate any such report and will take whatever corrective action is deemed necessary, including disciplining and dismissing from employment any individual who is found to have violated these prohibitions against harassment and/or retaliation. All employees and supervisors have a duty to cooperate in the City's investigation of alleged harassment and/or alleged retaliation. Failure to cooperate or deliberately providing false information during an investigation shall be grounds for disciplinary action, including termination.

16.4.4 Option to Report to Outside Administrative Agencies

An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check posters that are located on City bulletin boards for office locations and telephone numbers.

16.4.5 Confidentiality

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

16.4.6 Responsibilities

Each non-manager or non-supervisor is responsible for:

1. Treating all individuals in the workplace or on worksites with respect and consideration.
2. Modeling behavior that conforms to this Policy.
3. Participating in periodic training.
4. Cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.

5. Taking no actions to influence any potential witness while the investigation is ongoing.
6. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or City Manager.

In addition to the responsibilities listed above, each manager and supervisor is responsible for:

1. Informing employees of this Policy.
2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
5. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
6. Assisting, advising, or consulting with employees and the City Manager regarding this Policy.
7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
8. Implementing appropriate disciplinary and remedial actions.

9. Reporting potential violations of this Policy of which he or she becomes aware to the City Manager, regardless of whether a complaint has been submitted.
10. Participating in periodic training and scheduling employees for training.

Section 17. Alcohol and Drug Policy

Alcohol and drug abuse ranks as one of the major health problems in the United States. Continuing research and practical experience have proven that even limited quantities of narcotics, abused prescription drugs or alcohol can impair one's reflexes and judgment. This impairment, even when not readily apparent, can have catastrophic results.

Each City employee has a responsibility to deliver services in a safe and conscientious manner. The City will not jeopardize the safety of other City employees, the public, and/or City operations due to an employee's use of alcohol or drugs. For these reasons, The City has adopted a policy that includes the provisions of the federal Drug-Free Workplace Act of 1998 and the California Drug-Free Workplace Act of 1990. The City's Drug-Free Workplace policy can be found in Appendix I of this manual.

The City requires its employees to report to work completely free from the influence of alcohol, drugs, or other controlled substances.

The City's drug free workplace policy is that it is unlawful to manufacture, distribute, dispense, possess, or use a controlled substance, and that such acts are prohibited in the workplace. If any violation of the policy occurs, the employee will be subject to disciplinary action up to and including termination, as provided for in this Manual.

17.1 .1 Prohibited Acts

Since the use of alcohol, illegal drugs, intoxicants, and controlled substances, on or off duty, impairs an employee's ability to work safely and efficiently, the City prohibits the use of these substances at any time to the extent that they affect, or have the potential to affect, the workplace. Accordingly, the City prohibits the following:

1. Possession, use, or being under the influence of alcohol or an illegal drug, intoxicant, or controlled substance during working hours, including breaks and lunchtime.

2. Operating a vehicle, either City-owned or employee-owned, during work hours or while on City business while under the influence of alcohol or an illegal drug, intoxicant, or controlled substance.
3. Distribution, sale, manufacture or purchase or the attempted distribution, sale, manufacture or purchase of an illegal drug, intoxicant, or controlled substance during working hours or while on premises owned or occupied by the City, including in City parking lots and in City-owned vehicles.
4. Misuse or abuse of prescription medication to the extent that it causes a negative impact on the employee's ability of the employee to safely perform her/his job.

17.1.2 Violations of Policy

Employees who violate this policy will be removed from the workplace immediately, and placed on paid administrative leave pending disciplinary procedures. The City may also bring the matter to the attention of appropriate law enforcement authorities. Any conviction for criminal conduct involving illegal drugs, intoxicants, or controlled substances, whether on or off duty, or any violation of this policy, including a positive drug-test result, will lead to disciplinary action, up to and including termination.

17.1.3 Notification of Impairment

Any employee who is using prescription or over-the-counter drugs that may impair her/his ability to safely perform their job or may affect the safety or well-being of others should immediately inform her/his Supervisor of his/her limitations on the ability to safely perform his/her job. The employee is not required to inform his/her Supervisor of his/her medical condition, the name or type of drug being taken or any other private, confidential medical information. The employee need only notify the Supervisor that he/she has limitations on his/her ability to safely perform his/her job duties.

The City will make a reasonable attempt to find a temporary, modified duty assignment for the employee, if needed, to insure that job safety will not be compromised. A physician's statement verifying the needed accommodation may be required and will be kept confidential The City will follow its Reasonable Accommodation Policy, located in this Manual, where applicable to address this issue for a qualified individual with a disability. Nothing contained in this policy is intended to interfere or violate an individual's rights under federal and state laws which protect the rights of disabled individuals and/or protect the confidentiality of medical information obtained by the City.

17.1.4 Reporting By Employees

It shall be the responsibility of each employee who observes, or has knowledge of, another employee who is in a condition that impairs the employee's ability to perform her/his job duties, or who presents a hazard to the safety and welfare of others, or is otherwise in violation of this policy, to promptly report their observation to their immediate supervisor.

17.1.5 Reasonable Accommodation

The City expects employees who believe that they may have an alcohol or drug problem to seek treatment; however, it is the responsibility of the employee to seek and accept assistance before drug and alcohol problems lead to disciplinary action, including termination. The City will follow its Reasonable Accommodation Policy, located in this Manual, for any employee whose condition constitutes a disability under the law.

The City will also attempt to provide a referral to an appropriate professional organization; however, the City's support for treatment and rehabilitation does not obligate the City to retain any person who violates the City's drug and alcohol abuse policy or other City rule, or whose job performance is impaired because of substance abuse.

Confidentiality of records and information will be maintained in accordance with all local, State, and federal laws.

17.2 ALCOHOL AND DRUG TESTING

The City shall conduct alcohol and drug tests in the following circumstances:

17.2.1 Drug and Alcohol Testing for Applicants for Employment

Those external applicants who apply for certain jobs where a need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but are not limited to:

1. Safety-sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, and enforcing drug laws;
2. Jobs that involve the direct influence over children.

Drug and alcohol tests will be required only after the City has made a conditional offer of employment to an applicant that is contingent upon passing a medical exam. Applicants who test positive for drugs will not be hired.

17.2.2 Reasonable Suspicion Testing of Current Employees

The City may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances.

1. “Reasonable suspicion” to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job,

a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, an accident involving agency property or equipment, or other evidence of recent drug or alcohol use.

2. Document and Analysis: In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the City Manager. Any reasonable suspicion testing must be pre-approved by the City Manager.
3. Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the City Manager has approved, the employee will be relieved from duty, transported to the testing facility and to his/her home after the test. The employee will be placed on sick or other paid leave until the test results are received.

17.2.3 Positive Test Result

Positive test results will be confirmed by a licensed laboratory. Any employee who tests positive for drugs or alcohol will be subject to discipline up to and including termination for violating this policy. Continued employment with the City following a positive drug/alcohol test by an employee is completely up to the discretion of the City Manager and will only be allowed if the employee is willing to undergo treatment and periodic testing upon return to work.

17.2.4 Testing Employees who have a Commercial Drivers License

Employees that are required to have a commercial driver's license as part of her/his essential duties shall participate in the City's drug testing program in accordance with Department of Transportation regulations.

17.3 INVESTIGATIONS, SEARCHES, NO EXPECTATION OF PRIVACY ON CITY PROPERTY

Where a manager or supervisor has reasonable suspicion that an employee has violated the drug abuse policy, the supervisor, or designee, may inspect all City property including, but not limited to vehicles, lockers, work areas, desks, computers and other City locations or property without prior notice, in order to ensure a drug free work environment. The employee is hereby notified that locked areas or containers belonging to the City do not prevent a search and understand that there is no expectation of privacy on City premises, City property, and equipment.

Section 18. City Records, Communication Systems, and Requests for Information

18.1 CITY RECORDS AND REQUESTS FOR INFORMATION

All official City records and files are considered the property of the City. Some records are considered confidential and will not be released. A request for information that is not part of an employee's routine job responsibilities or duties should be referred to the employee's supervisor or Department Director.

18.2 PUBLIC RECORDS ACT REQUESTS

It is City policy to comply with State laws regarding access to, and disclosure of, public records. All requests for documents under the California Public Records Act should be referred to the City Clerk's Office. Almost all City public records are now accessible on the City's website.

18.3 MEDIA REQUESTS

Employees receiving requests for information by the news media should refer the requests to the City Manager or his/her designee, specifically authorized by the City Manager to handle public information.

18.4 LEGAL SERVICE AND REQUESTS FOR INFORMATION

Employees shall not respond to any subpoenas, requests for deposition or other legal requests for information regarding official City business. All such requests must be reported immediately to the employee's Department Director, or to the City Manager, who will consult with the City Attorney or other City legal representatives. The City Clerk will coordinate all requests for public records and will consult with the City Manager and City Attorney, as needed.

18.5 OUTSIDE INQUIRIES CONCERNING EMPLOYEES

All inquiries concerning information about employees from outside sources should be directed to the City Manager, or the Human Resources Division. No employee is authorized to provide a job reference for a current or former employee.

18.6 PERSONNEL RECORDS

The Human Resources Division maintains personnel records for all employees. The Human Resources Division shall maintain the records and reports necessary for the proper administration of the personnel system.

18.6.1 Personnel Files

The Personnel file includes records and documents pertinent to each employee's employment status and history. Personnel files are the property of the City and confidential information in a personnel file will not be revealed to outside sources except as required by law or with the consent of the employee and the City Manager. Personnel files are kept for at least six years after separation of employment. The following information is a matter of public record and will be disclosed to anyone who requests it: employee's name, classification title and department, status, salary range, salary, benefits, date of hire and/or separation date from employment. An employee, or representative with written consent from the employee, may inspect the employee's personnel file during normal working hours. Upon request, an employee may receive a copy of any materials in her/his own personnel file.

18.6.2 Confidential Medical Records

The Human Resources Division shall maintain any medical records and reports for each employee in a separate locked file that will not be accessible to any other employee except on an as-needed basis. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for

City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

18.6.3 Employee Access to Personnel Files

A current employee may inspect his/her own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect his/her personnel records one time per year. A current or former employee and/or his/her representative, who wishes to review his/her personnel file should make a written request to the Human Resources Division. The inspection must occur in the presence of the City Manager or designee and: (1) at a location where the employee works and at a time other than the employee's work time; or (2) at another agreed upon location without loss of compensation to the employee.

A current or former employee is entitled to receive a copy of his/her personnel records within 30 days after the employer receives a written request. (A current or former employee who wishes to receive such a copy should contact the Human Resources Division in writing. The City may charge a fee for the actual cost of copying.)

Representative's Inspection: If the current or former employee wishes to have another person/representative inspect his/her personnel file, he or she must provide the person/representative with written authorization. The Human Resources Division will notify the employee and/or representative of the date, time and place of the inspection in writing.

No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

Prior to making a copy of personnel records or allowing inspection, the City may redact the names of nonsupervisory employees. Under no circumstances will the City provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination.

18.7 NOTIFICATION OF CHANGES BY EMPLOYEES

Employees must notify the Human Resources Division promptly of any change of name, address, phone number, number of dependents, or other applicable personal information.

18.8 CITY EQUIPMENT AND RESOURCES

18.8.1 Policy and Applicability

All files and records stored on City computers are the property of the City. City equipment and resources, including computers and telephones, are for City business, not for personal use, except for *de minimis* use as described below. As a result, City equipment and resources are non-public forums.

18.8.2 Agency Equipment or Resources

City equipment or resources is defined as any City-owned or supplied item or resource including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, City network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through City electronic resources or equipment.

18.8.3 De Minimis Use

De minimis (brief and infrequent) personal use of City equipment and resources is allowed during an employee's own time, including breaks and lunchtime. Any personal use beyond that which is deemed *de minimis* by the employee's Department Director shall be on employee's own time and ***only with prior approval*** of the employee's department director. Such use shall not interfere with or conflict with City operations or the work performance of any City employees. Such use shall not be abuseive, illegal, inappropriate, or prohibited by this Manual or the City-owned Electronic Media Acceptable Use Policy (see Appendix E).

Making personal copies or printouts at work is discouraged, but for *de minimis* use employees shall pay $.25 per page for any personal printouts or copies.

18.8.4 No Expectation of Privacy

As outlined in the City-owned Electronic Media Acceptable Use Policy (see Appendix E), electronic mail and voice mail messages are for City business and are considered City property. The City maintains the right to access computer files, e-mail, Internet usage, telephones and voice mail at any time without prior notice, and employees should not assume that such usage, including communications and content contained in or transmitted through City networks or electronic resources are either personal or private. The existence of passwords or delete functions does not restrict the City's access. Employees have no expectation of privacy their use of any equipment or resources.

18.8.5 Appropriate Use

Appropriate use of the City's electronic resources are set forth in City-owned Electronic Media Acceptable Use Policy (see Appendix E). However, the following guidelines for appropriate use of all City equipment must be followed.

1. Employees are expected to keep telephone and computer passwords confidential.

2. The City prohibits the display, transmission or downloading of sexually explicit images, messages, or cartoons, or any transmission or use of voice mail, email, or Internet communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, religion, color, creed, national origin, sex, sexual orientation, marital status, age, or the presence of any sensory, mental or physical disability. Voice mail, email, or Internet systems may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.
3. Employees, other than personnel designated by the City Manager, are not authorized to load any software programs onto City-owned computer equipment without express approval from Information Technology (IT) personnel. Should an employee load a program without first obtaining permission and damage and/or economic harm results, the employee is liable for the cost of repair and/or restoration of any damages to the computer system.

18.8.6 Employee Cell Phone Usage

Employees are encouraged to utilize their personal cell phones when making or receiving personal phone calls and no personal long-distance calls may be made from the City's telephone system. Personal phone calls should be on the employee's own time, or be of a *de minimis* nature, as described above.

When it is determined that an employee's responsibilities require the use of a cell phone and the City provides either a phone or a stipend to be used for the employee's business use, the employee must pay for any personal use that causes charges beyond what the service plan or stipend covers. It shall be the employees' responsibility to

review monthly bills to ensure such costs for personal calls are reimbursed to the City in a timely manner.

Employees misusing the City's computers, Internet, e-mail, telephones and voice mail will be subject to disciplinary action, up to and including termination.

18.8.7 Off Duty Use of Non-City Owned Technology Policy

While the City respects employee rights of free expression, employees are urged to use good judgment when accessing and using blogs, online journals, social networking sites, or other forms of Internet communications through non-city owned technology while off-duty. The Internet is a public place and your Internet activity is neither personal nor private. As such, all employees should be cognizant of how their use of the Internet may affect their personal reputation and, in turn, their commitment to public service. The City encourages employees who maintain profiles on social networking websites (e.g. Facebook, Twitter etc.) or other such Internet publications to take all steps necessary to restrict others from accessing your profile. Employees shall not post messages on social media which purport to be on behalf of the City or made in their official capacity of City employees, unless they have received written permission to do so from the City Manager. Employee usage of social media that has a nexus to the employee's City employment and which brings discredit upon the City may be subject to discipline pursuant to the Discipline Policy in this Manual. This provision is not intended to prohibit employees from engaging in concerted activity permitted by state or federal law. In all circumstances, employees are not permitted to engage in illegal activity, on or off-duty, which adversely affects the City

18.9 ELECTRONIC PUBLIC RECORDS

Email is a business tool that shall be used in a professional manner for business purposes only, except *de minimis* use as described above. The email system will be

used in accordance with generally accepted business practices and current law reflected in the California Public Records Act to provide an efficient and effective means of intra-City communications. When the City becomes the target of litigation, all records maintained by the City are subject to subpoena and review by the other party, including email. Therefore, email is neither personal nor private. Marking a message as "private" or "confidential" does not exempt information from being disclosed. As such, email addressed to, generated by, or received on City computers or servers is the property of the City. Further, employees must send all City communications that are sent via email to and from their official City email address. Employees are prohibited from using their private email address (such as Gmail, Yahoo, MSN/Hotmail, etc.) when communicating City business via email. Should an email related to City business be sent to an employee's personal email account, the email should immediately be forwarded to the employee's City email account and responded to accordingly.

As with voice mail, although employees and elected officials have passwords that restrict access to their computers, the City may access any files or email messages stored on or deleted from the computer system. The City reserves the right to access such information for any purpose at any time. The City's Email Retention Policy can be found in Appendix J of this Manual.

Section 19. Employee Conflict of Interest

19.1 PURPOSE

The purpose of this policy is to establish guidelines for ethical standards of conduct, which shall govern City employees in the performance of City business and the duties of their respective jobs. This policy is intended to provide positive direction to City employees in order to prevent potential conflicts of interest. This policy is not all encompassing in its definition of conflict of interest. The "prudent person" theory can and will be applied: action deemed inappropriate by a reasonable person, whether specifically cited in this policy or not, will be subject to inquiry and may be grounds for disciplinary action. This policy is in addition to the City's Conflict of Interest Code (Title 2, Chapter 9 of the Oakley Municipal Code) and Government Code Sections 87300 et seq.

19.2 CONFLICTS OF INTEREST AND GIFTS

No City employee shall engage in any act, which is in conflict, or creates an appearance of unfairness or conflict with the performance of his/her official duties. This includes, but is not limited to, any conflicts of interest as defined in Government Code section 1090 et seq. and the Political Reform Act, Government Code sections 87100 et seq. and Title 2, California Code of Regulations, sections 18700 et seq.

The City Manager or designee is permitted to accept a gift, gratuity, or favor on behalf of the City and may distribute such gift, gratuity, and favor as she/he deems appropriate to City employees and elected officials in accordance with Fair Political Practices Commission regulations (i.e., holiday gifts and goodies, sporting events tickets, cultural events tickets)

19.2.1 Conflicts of Interest Under Government Code Section 1090

City Councilmembers, employees, or City consultants shall not be financially interested in any contract made by the City. This includes the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids related to the contract. If a Councilmember or employee has such a financial interest, the City is barred from entering into the contract.

A Councilmember or employee is not deemed financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5. One such noninterest is when Councilmember's members spouse/registered domestic partner has been a City employee for at least one year prior to the Board member's election or appointment.

A Councilmember or employee shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract.

19.2.2 Conflicts of Interest Under the Political Reform Act (Government Code section 87100 et seq.)

All City officials and employees must comply with the Political Reform Act.

A Councilmember or certain designated employee shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the Councilmember or designated employee's "economic interests," unless the effect is indistinguishable from

the effect on the public generally or the Board member's or designated employee's participation is legally required.

A Councilmember or designated employee makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the City to any course of action, or enters into any contractual agreement on behalf of the City.

A Councilmember who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Council shall abstain from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A Councilmember with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue.

A “designated employee” is one whose position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

19.2.2 Gifts and Gratuities

Councilmembers and designated employees may accept gifts only under the conditions and limitations specified in Government Code section 89503. Examples of acceptable courtesies include a meal or social event; exchanges of floral offerings or gifts of food to commemorate events such as illness, death, birth, holidays, promotions; a sample promotional gift of nominal value (less than fifty dollars ($50).

Except for courtesies as provided above, no employee shall, directly or indirectly, give or receive, or agree to receive any compensation; gift, reward, commission, or gratuity from any source except the City for any matter directly connected with or related to his official services as such employee with this City.

19.2.3 Statement of Economic Interest

Designated employees must file a Statement of Economic Interest/Form 700 in accordance with particular disclosure categories. (Government Code §§ 87302, 87500.)

19.2.4 Incompatible Activities

No employee may engage in, accepts employment from, or renders services for private interest for any compensation or consideration having monetary value when such employment or service is incompatible with the employee's official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above. An employee should not make a unilateral decision, if there is any doubt about her/his private employment. He/she should consult with the City Manager.

19.3 USE OF PUBLIC PROPERTY

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for personal or private use, or as part of secondary employment. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

19.4 POLITICAL ACTIVITIES

No employee may use City time or property in any manner to promote any political issue or candidate, or to solicit funds for any political purpose or to influence the outcome of any election. Further, no City employee or official shall participate in political activities of any kind while in City uniform or other City-issued clothing.

No employee shall be eligible for appointment or election to any public office (including appointment to a Board, Commission or Committee in the City of Oakley or in a city or unincorporated community within 5 miles of Oakley) when the holding of

such office or position would be incompatible or would substantially interfere with the employee's official duties, at the discretion of the City Manager.

19.5 OUTSIDE BUSINESS OR EMPLOYMENT

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his/her City duties, functions, responsibilities, or that of the department in which he or she is employed at the City. All employees holding or considering second jobs must obtain advance approval from her/his Department Director and the City Manager no later than ten (10) working days prior to beginning the employment. Advance approval is required to ensure that the job will not create a conflict of interest or interfere with the proper performance of the any employees' duties. The City Manager will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the City.

The request for approval for outside employment is initiated by the employee submitting the Request for Outside Employment Form, attached in Appendix F. If the City Manger denies an employee's outside employment request, the employee may submit a written notice of appeal to the City Manager within ten (10) days after the date of the denial. The decision on appeal will be in writing, provided within ten (10) days after receipt of the appeal, and shall be final.

19.5.1 Annual Approval Required

An employee must submit a request for employment or outside business (Appendix F) on an annual basis.

19.5.2 Changes in Outside Employment Status

The employee must promptly report in writing to the City Manager any of the following changes that may occur during the year of authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.

19.5.3 Revocation/Suspension of Outside Employment Authorization

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this policy:

1. The employee's work performance declines; or
2. An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the City.

19.5.4 Violations Subject to Discipline

Unapproved outside employment is grounds for discipline, up to and including termination. Approved outside employment are also grounds for discipline up to termination if any of the following occur:

1. Outside employment involves the employee's use for private gain or advantage the City's owned/controlled facilities, equipment, information, records, supplies, and/or uniforms;
2. Outside employment involves the employee's use of work time compensated for by the City;
3. Outside employment involves the employee's receipt of money, or other consideration for performance of work which the employee would normally be required to perform in their regular course of work for the City;
4. Outside employment requires the employee to do work which may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by any other employee or officer of that same department;
5. Outside employment would require such demands on the employee's time that their ability to perform their City work is adversely impacted;
6. Any employee who engages in outside employment while on sick leave.

Section 20. Miscellaneous

20.1 POLICY REGARDING VEHICLE USE

20.1.1 Use of City Vehicles

The following requirements must be met prior to authorization for official City travel in a vehicle owned, leased, of hired by the City of Oakley:

1. Each employee or volunteer of the City of Oakley who in the course and scope of employment uses a vehicle owned, leased, or hired by the City of Oakley shall have in effect a current, valid California Driver License.
2. Each employee or volunteer shall provide his/her Department Director with a copy of their current, valid California Driver License.
3. Each Department Director shall keep a record and update it regularly to ensure that employees and volunteers who use vehicles owned, leased, or hired by the City in the course and scope of their employment maintain a current, valid California Driver License.
4. With permission from the City Manager, autos leased or hired for use by or on behalf of the City and used only for City business are provided coverage through the Municipal Pooling Authority, subject to the conditions and exclusions in the MPA Liability Memorandum of Coverage.
5. It is the responsibility of the employee or volunteer to immediately report any collision, theft, or damage to the Department Director and the City Manager's Office.

20.1.2 Use of Personal Vehicles

The following insurance coverage requirements must be met prior to authorization for official City travel in a personally owned vehicle:

1. Each employee or volunteer of the City of Oakley who in the course and scope of employment uses a personally owned vehicle for City business shall have in effect a personal automobile policy from a commercial insurance company with liability limits no less than currently required by the California Compulsory Financial Responsibility Law (Vehicle Code §§1656.2, as amended from time to time by the State Legislature): $15,000 per occurrence, $30,000 per accident, and $5,000 property damage coverage.
2. Each employee or volunteer who in the course and scope of employment uses a personally owned vehicle for City business shall provide his/her Department Director with a copy of the employee's or volunteer's current, valid California Driver License and Proof of Auto insurance card.
3. Each Department Director shall keep record and update it regularly to ensure that employees and volunteers who use personal vehicles in the course and scope of their employment maintain current, valid driver licenses and auto insurance.
4. Employees or volunteers providing proof of auto insurance coverage are required to immediately notify their Department Head in the event of cancellation, nonrenewal, or change of insurance carrier.
5. The City of Oakley will not be responsible for the replacement of repair of any personal vehicle damaged or destroyed during the course of use. Should the employee not wish to use their personal vehicle, upon request a City car can be made available.
6. Any automobile liability coverage provided by the Municipal Pooling Authority shall be in excess of the employee's or volunteer's personal auto policy coverage.

20.2 UNIFORMS AND SAFETY SHOES

When required to be worn by employees, uniforms shall be provided to the employee at the expense of the City of Oakley and shall be required to be worn during working hours. Work uniforms shall be appropriate for the typical function performed and consistent with good safety practices. The department/division heads shall determine the color, style and lettering on the uniform to be worn by staff, subject in each case to the approval of the City Manager.

Employees are to report to work in uniforms that are neat, clean, stain-free, and in good repair. The employee shall be responsible for properly laundering and mending their work uniforms at their expense. Where appropriate, *(or more specifically: Employees whose duties routinely require interface with the public and do not involve in physical labor)* uniform shirts will be pressed.

Prior to March 1st of each year, department/division heads requiring uniforms shall present uniform needs to the Human Resources Division. Upon approval of the City Manager, uniforms will be provided to employees. Throughout the year, uniform items will be provided upon initial hire and annually on the employee's anniversary date. In the event an employee's uniform is damaged or worn out, the employee shall turn in said work uniform in to his/her Department Head and shall be issued replacement work uniforms.

The City shall retain the right to establish minimum safety and quality standards for safety equipment, clothing, and steel-toed safety shoes to be used while performing assigned tasks. If an employee is at work without the required clothing or safety equipment, that employee will not be allowed to work until she/he is at the worksite with the required clothing and safety equipment.

Employees required to wear safety shoes/boots will be reimbursed for the cost of the footwear on an annual basis up to an amount approved on an annual basis by the

City Manager (in 2015 the amount is $215). Limited Term/ Seasonal employees that are required to wear safety shoes/boots will be reimbursed for 50% of the total cost of the safety shoe/boot which shall not exceed $107.50. Limited Term/Seasonal employees will become eligible for this reimbursement after the employee completes 160 days of employment. The employee shall make the selection of an appropriate type of footwear, subject to the advance approval of the department/division head and provide a formal receipt of purchase. Employees receiving reimbursement under this provision shall be required to wear the approved footwear at all times while on duty.

Section 21. Reasonable Accommodation and Interactive Process

Absent undue hardship or direct threats to the health and safety of employee(s), the City provides employment-related reasonable accommodations to:

1. Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
2. Employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider; and
3. Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
4. Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

21.1.1 Reasonable Medical Documentation of Disability

If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the City will: (1) explain the insufficiency; (2) allow the employee or applicant to supplement the documentation; and (3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

21.1.2 Medical Certification Indicating the Need for Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the City will provide the employee with notice of the need for a medical certification within two (2) business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

12.1.3 When to Initiate the Interactive Process

The City Manager, or designee, will initiate the interactive process when:

1. An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s);
2. The City otherwise becomes aware of the need for accommodation through a third party (e.g., doctor's note requesting accommodation) or by observation of the employee's work;
3. The City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted worker's compensation leave, FMLA/CFRA leave, or other rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation;
4. An employee disabled by pregnancy, childbirth, or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider;

5. An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave;
6. An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his/her safety at work;
7. An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
8. An employer is aware of the need for reasonable accommodation for an employee's or applicant's religious beliefs, observance or practice.

21.1.4 Interactive Communication

After the occurrence of any of the circumstances requiring initiation of the interactive process, the City Manager or designee will promptly arrange for an interactive process meeting. The interactive process meeting will consist of a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his/her designated representative (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The City Manager or designee will document these communications in writing.

21.1.5 Potential Accommodations for Applicants or Employees with Disabilities

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the individual to retain his/her current job. The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. The City will consider accommodations that the applicant or employee suggests, but has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to:

1. Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
2. Job restructuring;
3. Part-time or modified work schedules;
4. Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
5. Preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;
6. Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
7. Reassignment to a temporary position, if the individual agrees.

21.1.6 Potential Accommodations for Applicants or Employees with Disabilities

Depending on the facts of each case, the interactive process will attempt to identify and implement a reasonable accommodation that is consistent with the medical certification applicable to the applicant or employee. Whether an accommodation is reasonable is a case-by-case analysis that takes into account several factors, including, but not limited to: the employee's medical needs; the duration of the needed accommodation; and the employer's legally permissible past and current practices. The range of potential accommodations includes, but is not limited to:

1. Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
2. Change in or restructuring of work duties, such as modifying lifting requirements;
3. Providing more frequent breaks;
4. Providing seating;

5. Time off for medical appointments;
6. Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. (However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four month pregnancy disability leave entitlement.)

21.1.7 Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking

Depending on the facts of each individual case, the interactive process analysis will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, the City will consider the exigent circumstance or danger facing the employee. The City will consider the preferences of the employee to be accommodated, but has the right to select and implement any accommodation that it deems effective. The range of potential safety measure accommodations includes, but is not limited to:

1. Transfer, reassignment, modified schedule;
2. Change in work telephone number;
3. Change in location of work station;
4. Installation of locks;
5. Assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
6. The implementation of a safety procedure(s);
7. Adjustment to job structure, workplace facility, or work requirement; and
8. referral to a victim assistance organization.

21.1.8 Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. The City will consider the preference of the employee or applicant, but has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

1. Job restructuring or job reassignment (but not segregation from other employees or the public);
2. Modification of work practices, including dress or grooming standards;
3. Allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked in order to avoid a conflict with his/her religious observances;
4. Allowing alternatives to union membership or payment of union dues.

21.1.9 Determination

After the interactive process communications, the City Manager will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming him or herself or others; and if the accommodations would pose an undue hardship on City finances or operations. The City Manager will inform the applicant or employee of his/her determination in writing.

The City Manager will use his/her discretion based upon the particular facts of each case.

Appendices

Appendix A	Performance Evaluation Form
Appendix B	Travel Policy
Appendix C	Compensation Policy
Appendix D	Accident Reporting Forms
Appendix E	City-owned Electronic Media Acceptable Use Policy
Appendix F	Request for Outside Employment
Appendix G	Sexual Harassment Discrimination Complaints
Appendix H	Family Medical Leave Act/CRFA
Appendix I	Drug Free Workplace
Appendix J	Email Retention Policy

OAKLEY
CALIFORNIA

PERFORMANCE EVALUATION FORM

(TO BE COMPLETED BY THE SUPERVISOR)

Employee's Name:	
Title:	
Department:	
Supervisor's Name:	
Date of Hire:	
Last Appraisal:	

EVALUATION CRITERIA: Please evaluate the employee's performance objectively and honestly, and in accordance with the following performance standards:

5 = *Outstanding Performance (EXCELLENT)*
Consistently performs above the expectations and the employee's contribution to the City is unique and of unusually high quality. Employees at this performance level demonstrate job mastery and achieve the highest standard of performance.

4 = *Exceeds Performance Standards (ABOVE AVERAGE)*
Consistently meets and frequently exceeds expected levels of performance. Individuals rated at this level make contributions above what is deemed "satisfactory" performance.

3 = *Meets Performance Standards (AVERAGE)*
Employee meets the minimum expectations. Performance is acceptable, but does not demonstrate performance beyond "satisfactory." This rating represents adequate, but not the hoped for results.

2 = *Does Not Meet Performance Standards (BELOW AVERAGE)*
Generally does not meet expectations. Employee's performance needs improvement to achieve a level of competency expected.

1 = *Significant and Immediate Improvement is Needed (POOR)*
Generally fails to meet expectations. Employee needs immediate improvement to maintain employment.

N/A= Not Applicable
Performance in this area is unknown, unobserved, or does not apply to job duties. This person may need the opportunity to demonstrate ability.

SECTION I: With input from the employee's self evaluation, please describe up to six projects/tasks (new or ongoing), specific duties, or accomplishments for the employee over the past year, including a detailed description of the work performed, output, and skills the employee used to complete the work and a subsequent rating of 1 to 5 for each item. Please be sure to refer back to and include those set in SECTION 3 of last year's Performance Evaluation.

OAKLEY
CALIFORNIA

PERFORMANCE EVALUATION FORM

(TO BE COMPLETED BY THE SUPERVISOR)

Goal/Project/Assignment	WORK PERFORMED	SCORE 1-5
1.		
2.		
3.		
4.		
5.		
6.		
Comments:		

SECTION 2: Please synthesize performance feedback from others, if applicable, the self-appraisal, and your own insights to rate the employee on his/her skills over the past year in the following areas:

- Customer Service
- Professional Standards/Technical Knowledge
- Problem Solving
- Productivity/Quality of Work
- Teamwork/Communication
- Leadership / Development (for supervisors only)

Additional sheets may be attached to elaborate on specific performance objectives. Supervisors are required to provide comments for all performance objectives with a rating of 3 or less.

PEFORMANCE OBJECTIVES

1=Poor Performance - 5= Excellent Performance

A. CUSTOMER SERVICE	Rating 1-5
1. How well does the employee serve the public in a polite, friendly, efficient, responsive manner?	1 2 3 4 5
2. How well does employee recognize, respect, and satisfy, internal customer needs in a prompt manner (i.e, co-workers)?	1 2 3 4 5
3. How do you rate the employee's commitment to community input and a proactive approach to solving community issues?	1 2 3 4 5

COMMENTS:	
B. PROFESSIONAL STANDARDS/TECHNICAL KNOWLEDGE	**Rating 1-5**
1. Does the employee apply technical, professional and business knowledge for his/her job tasks?	1 2 3 4 5
2. Does the employee keep current in their profession/area of work?	1 2 3 4 5
3. Does the employee keep commitments and perform well under pressure/deadlines?	1 2 3 4 5
4. Rate the employee's attendance, punctuality, and use of time-off?	1 2 3 4 5
5. Rate the employee's commitment to honesty and integrity.	1 2 3 4 5
6. Rate the employee's understanding of fiscal constraints and commitment to fiscal responsibility of public funds.	1 2 3 4 5
7. Does the employee embrace unanticipated, new and different projects?	1 2 3 4 5
8. Does the employee actively pursue learning and self-development to enhance professional growth?	1 2 3 4 5
9. Does the employee project professionalism through attitude and attire?	1 2 3 4 5
COMMENTS:	
C. PROBLEM SOLVING	**Rating 1-5**
1. Is the employee a self-starter? Does the employee perform new/assigned tasks in a self-directed manner?	1 2 3 4 5
2. Does the employee use reasonable, sound judgment when making a decision?	1 2 3 4 5
3. Does the employee find resourceful, innovative, and creative ways to accomplish a task?	1 2 3 4 5

COMMENTS:	
D. PRODUCTIVITY / QUALITY OF WORK / COMMUNICATION	**Rating 1-5**
1. Does the employee manage work and resources efficiently?	1 2 3 4 5
2. Rate the employee's ability to plan, prepare and/or deliver oral presentations which are clear, concise and understandable.	1 2 3 4 5
3. Rate the employee's ability to plan and prepare written communications which are clear, concise and understandable.	1 2 3 4 5
4. Rate the employee's speed and technical quality of output, time, utilization, and results.	1 2 3 4 5
COMMENTS:	
E. TEAMWORK	**Rating 1-5**
1. Does the employee demonstrate a sound team orientation by working cooperatively with fellow employees?	1 2 3 4 5
2. Does the employee effectively address conflict and deal directly with conflict/problem situations in a timely and tactful manner?	1 2 3 4 5
3. Does the employee effectively share information with you and other Team members, as appropriate?	1 2 3 4 5
4. Does the employee assist and support co-workers? Or seek help from others when this is the most effective solution?	1 2 3 4 5
5. Does the employee listen objectively to others and express his/her own ideas clearly and honestly?	1 2 3 4 5
6. How do you rate the employee's commitment to a positive and encouraging work environment?	1 2 3 4 5

COMMENTS:	
F. LEADERSHIP/DEVELOPMENT (if a supervisor)	**Rating 1-5**
1. Does the employee create and communicate the City's mission and vision?	1 2 3 4 5
2. Does the employee motivate fellow employees by example, involvement and high customer service standards?	1 2 3 4 5
3. Does the employee keep supervised staff involved and informed of City information?	1 2 3 4 5
4. Is the employee accessible and responsive to needs of supervised staff?	1 2 3 4 5
5. Does the employee delegate effectively and when appropriate?	1 2 3 4 5
6. Does the employee provide coaching, mentoring, and resources needed to develop supervised staff?	1 2 3 4 5
7. Does the employee proactively address supervised staff issues/concerns?	1 2 3 4 5
8. Does the employee provide frequent, honest, and specific feedback to supervised staff?	1 2 3 4 5
COMMENTS:	

TOTAL POINTS POSSIBLE: **SCORE:** **AVERAGE:**

SECTION 3: Based upon the employee's strengths and development needs identified through the performance objectives, identify at least three major goals, projects, and/or assignments that employee will work on over the next year.

Identify the specific goal, identify steps to achieve this goal and anticipated date of completion (if applicable). ***Remember: goals should be specific, measurable, realistic and include a deadline.***

OAKLEY
CALIFORNIA

PERFORMANCE EVALUATION FORM

(TO BE COMPLETED BY THE SUPERVISOR)

Goal/Project/Assignment	Steps to Achieve Goal	Anticipated Completion Date
1.		
2.		
3.		
4.		
5.		

SECTION 4: Additional Comments:

SECTION 5: Signatures:

CITY MANAGER'S SIGNATURE **DATE**

DIVISION/DEPARTMENT HEAD SIGNATURE **DATE**

EMPLOYEE SIGNATURE **DATE**

~ PLEASE ATTACH THE SALARY/WAGE ADJUSTMENT FORM ~

OAKLEY
CALIFORNIA

SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

Employee Name:	
Title:	
Department:	
Supervisor Name:	
Date of Hire:	
Last Appraisal:	

EVALUATION CRITERIA: Please evaluate your performance objectively and honestly, and in accordance with the following performance standards:

5 = *Outstanding Performance (EXCELLENT)*
Consistently performs above the expectations and the employee's contribution to the City is unique and of unusually high quality. Employees at this performance level demonstrate job mastery and achieve the highest standard of performance.

4 = *Exceeds Performance Standards (ABOVE AVERAGE)*
Consistently meets and frequently exceeds expected levels of performance. Individuals rated at this level make contributions above what is deemed "satisfactory" performance.

3 = *Meets Performance Standards (AVERAGE)*
Employee meets the minimum expectations. Performance is acceptable, but does not demonstrate performance beyond "satisfactory." This rating represents adequate, but not the hoped for results.

2 = *Does Not Meet Performance Standards (BELOW AVERAGE)*
Generally does not meet expectations. Employee's performance needs improvement to achieve a level of competency expected.

1 = *Significant and Immediate Improvement is Needed (POOR)*
Generally fails to meet expectations. Employee needs immediate improvement to maintain employment.

N/A= Not Applicable
Performance in this area is unknown, unobserved, or does not apply to job duties. This person may need the opportunity to demonstrate ability.

☐ In checking this box, I am indicating that I have chosen not to complete the Self-Evaluation

Signature: _____ Date: _____

OAKLEY
CALIFORNIA

SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

SECTION I: Describe up to six projects/tasks (new or ongoing), specific duties/tasks, or accomplishments of yours over the past year. Please be sure to refer back to and include those set in SECTION 3 of last year's Performance Evaluation. Include a short, but detailed description of the work performed, output, and skills you used to complete the work. Please provide a subsequent rating of 1-5 for each item (see rating guide on page 1). Please keep in mind that your performance is also rated according to the 'performance objectives' listed in Section 2.

Goal/Project/Assignment	WORK PERFORMED	SCORE 1-5
1.		
2.		
3.		
4.		
5.		
6.		
Comments:		

SECTION 2: Please review your skills and performance relative to the following performance objectives in the areas of:

- Customer Service
- Professional Standards/Technical Knowledge
- Problem Solving
- Productivity/Quality of Work/Communication
- Teamwork
- Leadership / Development (for supervisors only)

To complete this section, use the scale to the right to indicate your level of performance over the past year for each objective. Refer to the guide on Page 1. Use the comment box to elaborate on specific performance objectives, or share examples. Feel free to attach additional pages as necessary.

PEFORMANCE OBJECTIVES

1=Poor Performance - 5= Excellent Performance

A. CUSTOMER SERVICE	Rating 1-5
1. How well do you serve the public in a polite, friendly, efficient, responsive manner?	1 2 3 4 5
2. How well do you recognize, respect, and satisfy, internal customer needs in a	1 2 3 4 5

SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

prompt manner (i.e, co-workers)?	
3. How do you rate your commitment to community input and a proactive approach to solving community issues?	1 2 3 4 5
COMMENTS:	

B. PROFESSIONAL STANDARDS/TECHNICAL KNOWLEDGE	**Rating 1-5**
1. How well do you understand and apply technical, professional, and business knowledge to your job tasks?	1 2 3 4 5
2. How well do you keep current in your profession/area of work?	1 2 3 4 5
3. How would you rate your ability to keep commitments and perform well under pressure/deadlines?	1 2 3 4 5
4. Rate your attendance, punctuality, and use of time-off.	1 2 3 4 5
5. Rate your attendance commitment to honesty and integrity.	1 2 3 4 5
6. Rate your understanding of fiscal constraints and commitment to fiscal responsibility of public funds.	1 2 3 4 5
7. How would you rate your embrace of unanticipated, new and different projects?	1 2 3 4 5
8. Rate your pursuit of learning and self-development opportunities that enhance your professional growth.	1 2 3 4 5
9. How well do you project professionalism through attitude and attire?	1 2 3 4 5
COMMENTS:	

C. PROBLEM SOLVING	**Rating 1-5**
1. Do you consider yourself a self-starter? Do you perform new/assigned tasks in a self-directed manner?	1 2 3 4 5

SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

2. How well do you use reasonable, sound judgment when making a decision?	1 2 3 4 5
3. How would you rate your ability to find resourceful, innovative, and creative ways to accomplish a task?	1 2 3 4 5
COMMENTS:	

D. PRODUCTIVITY / QUALITY OF WORK / COMMUNICATION	**Rating 1-5**
1. How well do you manage work and resources efficiently?	1 2 3 4 5
2. Rate your ability to plan, prepare and/or deliver oral presentations which are clear, concise and understandable.	1 2 3 4 5
3. Rate your ability to plan and prepare written communications which are clear, concise and understandable.	1 2 3 4 5
4. Rate the speed and technical quality of your outputs, time, utilization, and results.	1 2 3 4 5
COMMENTS:	

E. TEAMWORK	**Rating 1-5**
1. Do you demonstrate a sound team orientation by working cooperatively with fellow employees?	1 2 3 4 5
2. How well do you effectively address conflict and deal directly with conflict/problem situations in a timely and tactful manner?	1 2 3 4 5
3. How well do you effectively share information with co-workers, as appropriate?	1 2 3 4 5
4. How well do you assist and support co-workers? Or seek help from others when this is the most effective solution?	1 2 3 4 5
5. Rate your ability to listen objectively to others and express your own	1 2 3 4 5

ideas clearly and honestly.	
6. How do you rate your commitment to a positive and encouraging work environment?	1 2 3 4 5
COMMENTS:	

F. LEADERSHIP/DEVELOPMENT (supervisor only)	**Rating 1-5**
1. As a supervisor, do you create and communicate the City's mission and vision?	1 2 3 4 5
2. As a supervisor, do you motivate fellow employees by example, involvement and high customer service standards?	1 2 3 4 5
3. As a supervisor, do you keep supervised staff involved and informed of City information?	1 2 3 4 5
4. As a supervisor, are you accessible and responsive to needs of supervised staff?	1 2 3 4 5
5. As a supervisor, do you delegate effectively and when appropriate?	1 2 3 4 5
6. As a supervisor, do you provide coaching, mentoring, and resources needed to develop supervised staff?	1 2 3 4 5
7. As a supervisor, do you proactively address supervised staff issues/concerns?	1 2 3 4 5
8. As a supervisor, do you provide frequent, honest, and specific feedback to supervised staff?	1 2 3 4 5
COMMENTS:	

SECTION 3: Based on your strengths and development needs identified through the performance objectives, identify at least three major goals, projects, and/or assignments that you want to work on over the next year.

OAKLEY
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SELF-EVALUATION FORM

(TO BE COMPLETED BY EMPLOYEE)

Identify the specific goal, identify steps to achieve this goal and anticipated date of completion (if applicable). ***Remember: goals should be specific, measurable, realistic and include a deadline.***

Goal/Project/Assignment	Steps to Achieve Goal	Anticipated Completion Date
1.		
2.		
3.		
4.		
5.		

SECTION 4: Additional Comments:

SECTION 5:

_____ _____

EMPLOYEE SIGNATURE **DATE**

RESOLUTION NO. 65-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY

ESTABLISHING A POLICY REGARDING OFFICIAL TRAVEL AND OTHER BUSINESS AND REIMBURSEMENT OF EXPENSES ASSOCIATED THEREWITH

WHEREAS, members of the City's legislative bodies and city employees perform official duties that require travel; and

WHEREAS, the official duties that involve travel include trainings, conferences, meetings with legislators and regulators, and meetings with staff and officials of surrounding communities regarding matters of mutual importance; and

WHEREAS, the performance of such official duties facilitates the efficient and satisfactory completion of City business and promotes a good relationship between the City and surrounding communities, the state government, and the federal government; and

WHEREAS, members of legislative bodies and city employees incur expenses related to the performance of official duties, which may take place both within and outside of the City of Oakley; and

WHEREAS, the California Government Code permits the City to reimburse employees and members of the City Council for expenses incurred in the performance of official duties; and

WHEREAS, the City Council has adopted an ordinance authorizing reimbursement for the members of the Planning Commission and Youth Advisory Committee for expenses incurred in the performance of official duties; and

WHEREAS, Assembly Bill 1234 (2005) requires the City Council to, prior to providing reimbursement to members of City legislative bodes, adopt a policy regarding the reimbursement for expenses incurred by members of legislative bodies in the performance of official duties; and

WHEREAS, this Resolution is intended (a) to satisfy the pertinent requirements of AB 1234 relating to reimbursement of expenses of members of legislative bodies; (b) to set forth a reimbursement policy applicable to employees; and (c) to establish other requirements related to travel expenses paid by the City.

NOW, THEREFORE, The City Council of the City of Oakley does hereby RESOLVE as follows:

Purpose:. The purpose of this policy is to ensure that the reimbursement of members of legislative bodies and city employees for expenses incurred in the performance of official duties complies with the California Government Code, including the recently enacted Assembly Bill 1234, which adds Sections 53232.2 et seq. to the Government Code, to establish a reimbursement policy applicable to City officials and employees, and to establish other requirements related to travel expenses paid by the City.

1. ***Policy.*** Members of a legislative body and city employees may be reimbursed for reasonable expenses incurred in the performance of official duties only as provided in this Policy pursuant to the provisions of this policy.

2. ***Definitions.*** The following definition shall apply to this Policy:

   a.) "Legislative body" means the City Council, Planning Commission, Youth Advisory Committee, or any other advisory body formally appointed by the City Council.

3. ***Types of Occurrences that Qualify for Reimbursement***. Members of a legislative body and city employees may be reimbursed for reasonable expenses incurred in the performance of official duties pursuant to the provisions of this Policy, including: (a) attending conferences, (b) attending organized educational activities, (c) meeting with local, state, and federal legislators and officials regarding official City business, (d) meeting with staff and officials of surrounding communities regarding matters of mutual concern, (e) attending City events, (f) participating in regional, state, and national organizations whose activities affect the City's interests, and (g) implementing a City-approved strategy for attracting and retaining businesses to the City, which will typically involve at least one staff member.

4. ***Government Rates***. Airlines, hotels, and rental car companies often make special rates available to state, federal, and local governments. These rates are presumed to be the most economical and reasonable rates for the purposes of this Policy. Those booking travel should consult available resources, such as www.catravelsmart.com, to determine the applicable government rates.

5. ***Travel Authorization and Reconciliation:*** Members of the legislative body and all city employees must submit a travel authorization form at least 10 days prior to the proposed travel date(s). Within 10 working days of returning from travel a member of the legislative body and all city employees must complete a travel reconciliation form. If arrangements cannot be made due to lack of advance

warning or other extenuating circumstances as approved by the City Manager or his or her designee, the above timeframe may be reduced.

6. *Transportation.*

   a. **Cost Comparison to Determine Mode of Transportation.** When contemplating travel arrangements, members of a legislative body and city employees should choose the least expensive mode of travel. For example, in some cases, it may be less expensive for the city to reimburse members of a legislative body or an employee for mileage associated with vehicle transportation than to pay for air travel. Prior to making travel arrangements, the employee or member of the legislative body shall compare the cost of traveling by the various modes of travel available and determine the most cost-effective mode given the official or employee's scheduling needs. Members of legislative bodies and City employees shall also consider cost-saving strategies such as car-pooling in the cost comparison.

   b. **Air Travel.** When possible, members of a legislative body and city employees should arrange for air travel to be directly paid for by the City with a City credit card. The designated individual in each City Department responsible for making travel arrangements, pursuant to City of Oakley Administrative Policy, shall book the most economical and reasonable mode and class of transportation available that is consistent with the official or employee's scheduling needs.

      If advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, members of a legislative body and city employees may be reimbursed for the expense of a roundtrip airplane ticket, so long as the claimant obtained three quotations for airfare, including government and group rates when available, reasonable and practical, and the amount of reimbursement sought does not exceed the least expensive airfare that is consistent with the official or employee's scheduling needs.

   c. **Personal Vehicle Travel:** Members of a legislative body and city employees may be reimbursed expenses incurred in traveling by personal vehicle on official business at the Internal Revenue Service Mileage Rate as it may be amended from time to time. Members of a legislative body and city employees requesting such reimbursement shall file a Mileage Reimbursement Request form, which shall satisfy the documentation requirements of this Policy.

d. **Car Rental Reimbursement:** Prior to requesting a rental car, officials and employees traveling on business shall consider whether a rental car is the least expensive means of transportation at the destination. When possible, members of a legislative body and city employees should arrange for car rentals paid for in advance by City credit card and by the designated individual in each Department responsible for travel arrangements. The City will book the most economical and reasonable rental rate that is available.

If advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, members of a legislative body and city employees may be reimbursed for the expense of car rental, so long as claimant obtained three quotations for car rental rates, including government and group rates when available, and the amount of reimbursement sought does not exceed the least expensive car rental rate that is available.

7. *Meals*: Compensation for meals consumed by members of the legislative body and city employees in conjunction with travel on official business consistent with Section 3 of this policy will be based on "per diem" rates published annually by the U.S. General Services Administration (USGSA) for the location(s) of travel. When a member of the legislative body or city employee submits a travel authorization form identifying the location and purpose of travel, the "per diem" meal rate pursuant to the USGSA published rates will be determined and provided to the member of the legislative body or city employee traveling. If a member of the legislative body or city employee is concerned that the published USGSA "per diem" rate will not be sufficient, the City Manager may increase the "per diem" rate for a specific travel occurrence.

   If a meal is provided by a conference or organized educational activity, or otherwise included in the registration fee, members of legislative bodies and city employees may not be reimbursed for a meal purchased in lieu of, or in addition to, the provided meal. If a member of a legislative body or a city employee is not traveling for the entire day, the per diem allowance will be prorated for the meals actually required.

   a. **Reimbursement for Other Meals**. Where authorized by Section 4 of this Policy, members of a legislative body and city employees may be reimbursed for their meals associated with the performance of duties at rates not to exceed the amounts set forth in this Policy. Meals for spouses, members, and other third parties shall not be reimbursed.

8. ***Lodging***.

a. The City will pay for or reimburse for lodging expenses when travel on official city business reasonably requires an overnight stay.

b. When possible, members of a legislative body and city employees should arrange for lodging expenses to be paid by City credit card, pursuant to City of Oakley Administrative Policy relating to credit card usage. The designated individual in each Department responsible for making travel arrangements, shall book lodging at the most economical and reasonable rates for lodging that is in a location that is reasonable and convenient in relation to the official or employee's scheduling and official business needs. For lodging in connection with a conference or organized educational activity, such lodging costs shall generally not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of a legislative body or city employee at the time of booking.

c. If such advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as approved by the City Manager or his or her designee before the expenses are incurred, a member of the legislative body or city employee may be reimbursed for lodging expenses, so long as the amount of the reimbursement does not exceed the government or group rates offered by a provider of lodging in a location that is reasonable and convenient in relation to the official or employee's official business needs or the maximum group rate published by the event or activity sponsor, whichever is higher.

9. ***Miscellaneous Expense Reimbursement***. Members of a legislative body and city employees may be reimbursed for actual and necessary incidental expenses incurred in connection with a conference, organized educational activity, or other performance of official duties. Incidental expenses include reasonable gratuities for hotel and airline employees (but not for meals), parking fees, cab fares, public transportation costs, tolls, telephone calls relating to the performance of official duties, and other business-related, miscellaneous expenses.

10. ***Conference Registration Fee Reimbursement.*** When possible, members of a legislative body and city employees should arrange for conference and organized educational activity registration fees to be paid in advance of the conference by City credit card, pursuant to City of Oakley Administrative Policy relating to credit card usage. If such advance arrangements cannot be made due to lack of advance warning or other extenuating circumstances as determined by the City Manager or his or her designee, members of a legislative body and City employees may be reimbursed for the expense of a conference or organized educational activity registration fee.

11. ***Expenses to Accommodate Disabilities.*** This policy shall not be construed to limit the City's ability to reimburse members of a legislative body and city employees for necessary expenses in excess of that which is otherwise permitted under this policy where such additional expenses are necessary to accommodate for a disability.

12. ***Other Expenses.*** All other reasonable expenses incurred in the performance of official duties that are not described in this Reimbursement Policy shall not be reimbursed unless approved before the expense is incurred by the City Manager.

13. ***Prohibited Expense Reimbursements.*** Members of a City legislative body and City employees shall not be reimbursed for expenses such as alcoholic beverages, spouse or family meals, entertainment expenses such as movie rental fees, theater tickets or sporting event fees, and fines for parking citations.

14. ***Brief Report to Legislative Body.*** Members of City legislative bodies shall provide brief written reports on meetings attended at the expense of the City at the next regular meeting of the legislative body immediately following the event for which reimbursement is sought. If more than one member of a legislative body attends the event, a report from one of the members that mentions the other's presence is sufficient.

15. ***Effect of Violation.*** A violation of this Reimbursement Policy may result in the following penalties, including, but not limited to: 1) loss of reimbursement privileges; 2) restitution to the City; 3) civil penalties for the misuse of public resources pursuant to Section 424 of the California Penal Code; 4) prosecution for misuse of public resources pursuant to Section 424 of the California Penal Code; 5) for City employees, disciplinary action, up to and including termination.

    b. ***Development of and periodic revisions to City Credit Card Policy.*** The City Manager will develop an Administrative Policy on City Credit Card Usage and will periodically update the policy conform to the limits on expenditures for transportation, lodging, meals, and other expenses set forth in this Policy.

    c. ***Effective Date.*** This Resolution shall take effect immediately.

    d. ***Severability Clause.*** The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the ordinance or their applicability to other persons or circumstances.

PASSED, APPROVED, AND ADOPTED this 24th day of April, 2006, by the following vote:

AYES:	Connelley, Nix, Rios, Romick
NOES:	None
ABSENT:	Anderson
ABSTENTIONS:	None

APPROVED:

MAYOR

ATTEST:

CITY CLERK

OAKLEY
CALIFORNIA

COMPENSATION POLICY

A compensation policy states the City Council's policy regarding compensation of City employees and provides consistent guidelines in the setting of salary ranges and the movement of employees through the salary ranges.

COMPENSATION POLICY

Compensation for City employees is based upon a philosophy of recruiting a small, highly qualified staff, providing competitive compensation, and expecting a high level of work performance.

It is the intent of the City Council to establish a compensation policy, which will support and recognize innovation and exceptional performance. It is the City Council's policy that compensation is based on performance, therefore, individual compensation adjustments are not "automatic", step-oriented, or solely based on cost-of-living adjustments.

It is the City's goal to establish and maintain a compensation program reflective of its mission, vision, and values. The total compensation program offered includes wage/salary, incentive pay opportunities as applicable, and a wide range of benefits.

The City of Oakley Salary structure and ranges will be reviewed as necessary and will be based on the following criteria: (1) an evaluation of the City's ability to pay; (2) competitive market place survey data; (3) the relative value of each position; (4) individual performance; and (5) qualifications and experience.

The compensation program is designed to enable the City of Oakley to successfully attract, develop, retain, and reward employees for their knowledge and contributions.

The City also wishes to foster a team concept within the organization, recognizing the importance of a satisfied, productive, and cohesive workforce. In implementing this program, the following guidelines will be considered based upon the financial resources of the City.

1. Considerations in Establishing Compensation Package

A. Competitive Position – Establishment of Ranges

Employment classifications will be grouped into salary ranges. The salary ranges will include management and non-management employees. New or any modifications to salary ranges will be recommended by the City Manager and adopted by the City Council.

For each individual classification, the City will establish a salary range with a minimum and maximum salary. It is the City's objective to establish ranges that closely match the salary ranges of surveyed classifications at the mean (average) of the survey agencies. After reaching the maximum point, an employee has the opportunity to earn a lump sum merit award based on exceptional performance, but may not be considered for base salary increases unless his or her salary range is adjusted. Salary ranges for part-time employees will be set by the City Manager.

The City will analyze each individual classification as it best matches the classifications of the survey agencies. The salary ranges for classifications that are not closely matched will be set based on internal relationships or a relationship to a similarly surveyed classification.

B. Labor Market – Comparative Cities

The City has established the following comparative cities for salary setting purposes:

- Antioch
- Brentwood
- Hercules
- Pittsburg
- Benecia
- Pleasant Hill

C. Measurement of Competitive Position

In considering the City's competitive position, total cash compensation will be considered which includes base salary and any cash related add-ons to base salary. Benefits will be considered, but will not be a part of the direct compensation comparison.

D. Frequency of Salary Survey

At least every two years, the City's individual job classifications will be surveyed to assess the City's position relative to the comparative cities as described above. Benchmark classifications will be included in the survey along with other positions that may be common among the survey agencies. Salary ranges will be adjusted at the discretion of the City Council, if necessary to maintain the City's competitive position in the market, taking into consideration the City's financial situation.

2. Individual Employee Compensation

A. Employee Salary Adjustments

Individual compensation adjustments within the salary ranges will not be "automatic," step-oriented or based solely on cost-of-living adjustments, but will be based on 1) fiscal prudence, 2) objectives achieved, and 3) exceptional individual performance.

The City Manager sets the actual salaries for each employee to be hired within each City-Council approved salary range between the minimum point and the maximum point. On rare occasion, the City Manager may set a salary above the salary range maximum point. The City Manager has the ability to administratively move an individual within the salary range. (The City Council sets the actual salary of the City Manager). Periodically, the City Council will adopt revised salary ranges that take into consideration the competitive market place and the cost of living. When the City Council approves a new or adjusted salary range, the City Manager shall consider said adjustment as each affected employee is evaluated for a merit increase.

NOTE: The approved adjustment to a salary range does NOT automatically move the employee within the range, but grants the authority to the City Manager to consider such an increase based on merit, cost of living, and

competitiveness along with any other merit increase range approved by the City Council.

At the time employees are evaluated, the level of performance for each employee will be determined. The range for the percentage of any merit increase (x % - x %) will be determined by the City Council before July 1st of each year depending upon the City's competitive position in the market and taking into consideration the City's financial situation. Performance evaluations for all employees will then be conducted and any merit increase considered by the City Manager to be effective the first full pay period of August. (The City Manager will consider, when determining any merit increase, if an employee began employment near the first full pay period of August).

B. Recognition of On-going Innovation and Exceptional Performance (Annual Merit Award)

Employees who exhibit innovation and exceptional performance during the previous year may be eligible to receive a lump sum merit award as deemed appropriate by the City Manager. The award will not exceed 10%. Any award above this amount requires approval of the City Council.

3. Non-Salary Benefits

At least every two years, the City will review the benefits and related costs provided by the City's survey agencies, to assure the City remains competitive on the basis of total compensation and benefits. Any change in benefits will be approved by the City Council with consideration of the City's competitive position in the market and taking into consideration the City's financial situation.

Approved June 24, 2008

Employee's Name: **Incident Date:**

INSTRUCTIONS TO THE SUPERVISOR – INVESTIGATION PROCEDURE

- ⇨ **Complete this report with full detail. Fax a completed copy to MPA at (925) 946-4183.**
- ⇨ Return the original completed report to your Human Resources Department within 72 Hours of the day you first became aware of the injury or illness.
- ⇨ Conduct a walk through of the accident location as needed to gain an understanding of how the incident occurred.
- ⇨ Interview and get signed statements from the injured employee and witnesses at the scene, if appropriate. Use the attached EMPLOYEE/WITNESS ACCOUNT OF ACCIDENT form.
- ⇨ Take photographs or make a sketch of the accident scene as needed, and attach to report.
- ⇨ Ensure hazardous conditions are corrected immediately. Isolate and restrict access to accident-related equipment, areas, etc, as needed.
- ⇨ **Develop appropriate corrective measures to prevent this incident from recurring, and list on this report.**

SUPERVISOR TO COMPLETE:

1. **Employee's usual shift: to (use 24 hour format, i.e. 6:00pm = 18:00)**

2. **Time employee started work on day of injury:**

3. **Time of accident/injury:**

4. **Extended shift/overtime on day of injury?** ☐ Yes ☐ No

5. **ROOT CAUSE ANALYSIS: Which of the following may have caused or were underlying factors that resulted in the incident? (Check all that apply)**

PEOPLE Factors					
☐	Employee Training / Instruction	☐	Operating without authority	☐	Correct tool not used
☐	Distraction, inattention	☐	Operating at unsafe speeds	☐	Improper Motivation
☐	Fatigue / Condition of Individuals	☐	Incorrect lifting, carrying	☐	Bypassing safety devices
☐	PPE not utilized	☐	Taking unsafe position / posture	☐	Combative Person / Actions of Others
☐	Staffing shortage	☐	Tool used improperly	☐	Other (list)

EQUIPMENT, MATERIALS or ENVIRONMENT					
☐	Lighting too much / too little	☐	Proper tool not available	☐	HVAC / ventilation maintenance
☐	Guard / safety device missing	☐	Tools / equipment malfunction	☐	Motor Vehicle maintenance
☐	Unstable load/ Storage/ Congestion	☐	Inadequate work space	☐	Walking surface unsafe
☐	PPE unavailable	☐	Chemical Used (attach MSDS)	☐	Other (list)

PROCESSES & PROCEDURES					
☐	No warning system	☐	S.O.P. not followed	☐	Inadequate Traffic Control
☐	No warning provided / posted	☐	S.O.P. contributed	☐	Operational tactics
☐	Spills, debris, housekeeping inadequate	☐	No procedure in place	☐	Other (list)

6. Do you agree with the Triage Description and Employee/Witness statements? ☐ **Yes** ☐ **No**

⇨ **If not, please describe your understanding of the events that resulted in injury or occupational illness, including tasks assigned**.

7. Were other employees also injured? ☐ **Yes** ☐ **No**

⇨ **If YES, list names**:

Corrective Action

What action will be taken to prevent recurrences of this incident? (Check as many as necessary):

☐	Request ergonomic evaluation	☐	Install, replace, adjust guards	☐	Provide/monitor protective equip
☐	Train Staff	☐	Modify, replace tools, equipment	☐	Repair (explain below)
☐	Improve emergency system	☐	Provide inspections, observations	☐	Revise equipment, layout
☐	Improve housekeeping	☐	Personal Safety Coaching	☐	Review at roll call / staff mtg.
☐	Improve job orientation	☐	Develop, revise operating procedure	☐	**No action taken/Other (explain below)**

Follow Up on Corrective Action

1. **Specific Action taken:**

   a. **Work or Purchase Order to correct condition?** ☐ **Yes – Order #:** ☐ **No**

   b. **Operating procedure change?** ☐ **Yes** ☐ **No**

   ⇨ **If YES, description:**

2. **Other Comments – explain:**

3. **PHOTOGRAPHS OR SKETCH ATTACHED?** ☐ **Yes** ☐ **No**

4. **Employee/Witness statement(s) attached?** ☐ **Yes** ☐ **No**

5. **<u>No Action Taken</u> – explain:**

Supervisor's Name:

Supervisor's Signature: **Date:**

Management Review – I have reviewed this report and its findings.

Division / Department Head: **Date:**

<u>Fax a copy of the completed report to Municipal Pooling Authority 925-946-4183.</u>

EMPLOYEE/WITNESS ACCOUNT OF ACCIDENT

Note: PRINT this form, have completed and forward along with the Accident Investigation Report.

Use one form per person – CHECK below as noted:

☐ **Injured Employee** ☐ **Witness (City/Town Employee?** ☐ **Yes** ☐ **No**

Name: _____ **Department:** _____

Today's Date: _____ **Date/Time of Accident:** _____/_____

Location of Accident: _____

Accident Description (explain in detail what you were doing immediately prior to the accident and then how you believe the accident happened):

_____
Signature

Name(s) of Other Witness(s) to Accident:

1. _____

2. _____

3. _____

ATTACH TO THE ACCIDENT INVESTIGATION REPORT

Fax a copy of the completed report to Municipal Pooling Authority 925-946-4183.

Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility
Formulario de Reclamo de Compensación de Trabajadores (DWC 1) y Notificación de Posible Elegibilidad

If you are injured or become ill, either physically or mentally, because of your job, including injuries resulting from a workplace crime, you may be entitled to workers' compensation benefits. Attached is the form for filing a workers' compensation claim with your employer. **You should read all of the information below.** Keep this sheet and all other papers for your records. You may be eligible for some or all of the benefits listed depending on the nature of your claim. If required you will be notified by the claims administrator, who is responsible for handling your claim, about your eligibility for benefits.

To file a claim, complete the "Employee" section of the form, keep one copy and give the rest to your employer. Your employer will then complete the "Employer" section, give you a dated copy, keep one copy and send one to the claims administrator. Benefits can't start until the claims administrator knows of the injury, so complete the form as soon as possible.

Medical Care: Your claims administrator will pay all reasonable and necessary medical care for your work injury or illness. Medical benefits may include treatment by a doctor, hospital services, physical therapy, lab tests, x-rays, and medicines. Your claims administrator will pay the costs directly so you should never see a bill. There is a limit on some medical services.

The Primary Treating Physician (PTP) is the doctor with the overall responsibility for treatment of your injury or illness. Generally your employer selects the PTP you will see for the first 30 days, however, in specified conditions, you may be treated by your predesignated doctor or medical group. If a doctor says you still need treatment after 30 days, you may be able to switch to the doctor of your choice. Different rules apply if your employer is using a Health Care Organization (HCO) or a Medical Provider Network (MPN). A MPN is a selected network of health care providers to provide treatment to workers injured on the job. You should receive information from your employer if you are covered by an HCO or a MPN. Contact your employer for more information. If your employer has not put up a poster describing your rights to workers' compensation, you may choose your own doctor immediately.

Within one working day after you file a claim form, your employer shall authorize the provision of all treatment, consistent with the applicable treating guidelines, for the alleged injury and shall continue to be liable for up to $10,000 in treatment until the claim is accepted or rejected.

Disclosure of Medical Records: After you make a claim for workers' compensation benefits, your medical records will not have the same level of privacy that you usually expect. If you don't agree to voluntarily release medical records, a workers' compensation judge may decide what records will be released. If you request privacy, the judge may "seal" (keep private) certain medical records.

Payment for Temporary Disability (Lost Wages): If you can't work while you are recovering from a job injury or illness, for most injuries you will receive temporary disability payments for a limited period of time. These payments may change or stop when your doctor says you are able to return to work. These benefits are tax-free. Temporary disability payments are two-thirds of your average weekly pay, within minimums and maximums set by state law. Payments are not made for the first three days you are off the job unless you are hospitalized overnight or cannot work for more than 14 days.

Return to Work: To help you to return to work as soon as possible, you should actively communicate with your treating doctor, claims administrator, and employer about the kinds of work you can do while recovering. They may coordinate efforts to return you to modified duty or other work that is medically appropriate. This modified or other duty may

Si Ud. se lesiona o se enferma, ya sea físicamente o mentalmente, debido a su trabajo, incluyendo lesiones que resulten de un crimen en el lugar de trabajo, es posible que Ud. tenga derecho a beneficios de compensación de trabajadores. Se adjunta el formulario para presentar un reclamo de compensación de trabajadores con su empleador. **Ud. debe leer toda la información a continuación.** Guarde esta hoja y todos los demás documentos para sus archivos. Es posible que usted reúna los requisitos para todos los beneficios, o parte de éstos, que se enumeran, dependiendo de la índole de su reclamo. Si se requiere, el administrador de reclamos, quien es responsable por el manejo de su reclamo, le notificará sobre su elegibilidad para beneficios.

Para presentar un reclamo, llene la sección del formulario designada para el "Empleado," guarde una copia, y déle el resto a su empleador. Entonces, su empleador completará la sección designada para el "Empleador," le dará a Ud. una copia fechada, guardará una copia, y enviará una al administrador de reclamos. Los beneficios no pueden comenzar hasta, que el administrador de reclamos se entere de la lesión, así que complete el formulario lo antes posible.

Atención Médica: Su administrador de reclamos pagará toda la atención médica razonable y necesaria, para su lesión o enfermedad relacionada con el trabajo. Es posible que los beneficios médicos incluyan el tratamiento por parte de un médico, los servicios de hospital, la terapia física, los análisis de laboratorio y las medicinas. Su administrador de reclamos pagará directamente los costos, de manera que usted nunca verá un cobro. Hay un límite para ciertos servicios médicos.

El Médico Primario que le Atiende-*Primary Treating Physician PTP* es el médico con la responsabilidad total para tratar su lesión o enfermedad. Generalmente, su empleador selecciona al *PTP* que Ud. verá durante los primeros 30 días. Sin embargo, en condiciones específicas, es posible que usted pueda ser tratado por su médico o grupo médico previamente designado. Si el doctor dice que usted aún necesita tratamiento después de 30 días, es posible que Ud. pueda cambiar al médico de su preferencia. Hay reglas differentes que se aplican cuando su empleador usa una Organización de Cuidado Médico (HCO) o una Red de Proveedores Médicos (MPN). Una MPN es una red de proveedores de asistencia médica seleccionados para dar tratamiento a los trabajadores lesionados en el trabajo. Usted debe recibir información de su empleador si su tratamiento es cubierto por una HCO o una MPN. Hable con su empleador para más información. Si su empleador no ha colocado un cartel describiendo sus derechos para la compensación de trabajadores, Ud. puede seleccionar a su propio médico inmediatamente.

Dentro de un día después de que Ud. Presente un formulario de reclamo, su empleador autorizará todo tratamiento médico de acuerdo con las pautas de tratamiento aplicables a la presunta lesión y será responsable por $10,000 en tratamiento hasta que el reclamo sea aceptado o rechazado.

Divulgación de Expedientes Médicos: Después de que Ud. presente un reclamo para beneficios de compensación de trabajadores, sus expedientes médicos no tendrán el mismo nivel de privacidad que usted normalmente espera. Si Ud. no está de acuerdo en divulgar voluntariamente los expedientes médicos, un juez de compensación de trabajadores posiblemente decida qué expedientes se revelarán. Si Ud. solicita privacidad, es posible que el juez "selle" (mantenga privados) ciertos expedientes médicos.

Pago por Incapacidad Temporal (Sueldos Perdidos): Si Ud. no puede trabajar, mientras se está recuperando de una lesión o enfermedad relacionada con el trabajo, Ud. recibirá pagos por incapacidad temporal para la mayoría de las lesions por un period limitado. Es posible que estos pagos cambien o paren, cuando su médico diga que Ud. está en condiciones de regresar a trabajar. Estos beneficios son libres de impuestos. Los pagos

be temporary or may be extended depending on the nature of your injury or illness.

Payment for Permanent Disability: If a doctor says your injury or illness results in a permanent disability, you may receive additional payments. The amount will depend on the type of injury, your age, occupation, and date of injury.

Supplemental Job Displacement Benefit (SJDB): If you were injured after 1/1/04 and you have a permanent disability that prevents you from returning to work within 60 days after your temporary disability ends, and your employer does not offer modified or alternative work, you may qualify for a nontransferable voucher payable to a school for retraining and/or skill enhancement. If you qualify, the claims administrator will pay the costs up to the maximum set by state law based on your percentage of permanent disability.

Death Benefits: If the injury or illness causes death, payments may be made to relatives or household members who were financially dependent on the deceased worker.

It is illegal for your employer to punish or fire you for having a job injury or illness, for filing a claim, or testifying in another person's workers' compensation case (Labor Code 132a). If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state.

You have the right to disagree with decisions affecting your claim. If you have a disagreement, contact your claims administrator first to see if you can resolve it. If you are not receiving benefits, you may be able to get State Disability Insurance (SDI) benefits. Call State Employment Development Department at (800) 480-3287.

You can obtain free information from an information and assistance officer of the State Division of Workers' Compensation (DWC), or you can hear recorded information and a list of local offices by calling **(800) 736-7401**. You may also go to the DWC website at www.dwc.ca.gov.

You can consult with an attorney. Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at (415) 538-2120 or go to their web site at **www.californiaspecialist.org**.

por incapacidad temporal son dos tercios de su pago semanal promedio, con cantidades mínimas y máximas establecidas por las leyes estatales. Los pagos no se hacen durante los primeros tres días en que Ud. no trabaje, a menos que Ud. sea hospitalizado una noche o no pueda trabajar durante más de 14 días.

Regreso al Trabajo: Para ayudarle a regresar a trabajar lo antes posible, Ud. debe comunicarse de manera activa con el médico que le atienda, el administrador de reclamos y el empleador, con respecto a las clases de trabajo que Ud. puede hacer mientras se recupera. Es posible que ellos coordinen esfuerzos para regresarle a un trabajo modificado, o a otro trabajo, que sea apropiado desde el punto de vista médico. Este trabajo modificado u otro trabajo podría ser temporal o podría extenderse dependiendo de la índole de su lesión o enfermedad.

Pago por Incapacidad Permanente: Si el doctor dice que su lesión o enfermedad resulta en una incapacidad permanente, es posible que Ud. reciba pagos adicionales. La cantidad dependerá de la clase de lesión, su edad, su ocupación y la fecha de la lesión.

Beneficio Suplementario por Desplazamiento de Trabajo: Si Ud. Se lesionó después del 1/1/04 y tiene una incapacidad permanente que le impide regresar al trabajo dentro de 60 días después de que los pagos por incapacidad temporal terminen, y su empleador no ofrece un trabajo modificado o alternativo, es posible que usted reúna los requisitos para recibir un vale no-transferible pagadero a una escuela para recibir un nuevo entrenamiento y/o mejorar su habilidad. Si Ud. reúne los requisitios, el administrador de reclamos pagará los gastos hasta un máximo establecido por las leyes estatales basado en su porcentaje de incapacidad permanente.

Beneficios por Muerte: Si la lesión o enfermedad causa la muerte, es posible que los pagos se hagan a los parientes o a las personas que viven en el hogar y que dependían económicamente del trabajador difunto.

Es ilegal que su empleador le castigue o despida, por sufrir una lesión o enfermedad en el trabajo, por presentar un reclamo o por testificar en el caso de compensación de trabajadores de otra persona. (El Codigo Laboral sección 132a.) De ser probado, usted puede recibir pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios y gastos hasta los límites establecidos por el estado.

Ud. tiene derecho a no estar de acuerdo con las decisiones que afecten su reclamo. Si Ud. tiene un desacuerdo, primero comuníquese con su administrador de reclamos para ver si usted puede resolverlo. Si usted no está recibiendo beneficios, es posible que Ud. pueda obtener beneficios del Seguro Estatal de Incapacidad (SDI). Llame al Departamento Estatal del Desarrollo del Empleo (EDD) al (800) 480-3287.

Ud. puede obtener información gratis, de un oficial de información y asistencia, de la División Estatal de Compensación de Trabajadores *(Division of Workers' Compensation – DWC)* o puede escuchar información grabada, así como una lista de oficinas locales llamando al **(800) 736-7401**. Ud. también puede consultar con la pagína Web de la DWC en www.dwc.ca.gov**.**

Ud. puede consultar con un abogado. La mayoría de los abogados ofrecen una consulta gratis. Si Ud. decide contratar a un abogado, los honorarios serán tomados de algunos de sus beneficios. Para obtener nombres de abogados de compensación de trabajadores, llame a la Asociación Estatal de Abogados de California *(State Bar)* al (415) 538-2120, ó consulte con la pagína Web en **www.californiaspecialist.org**.

State of California
Department of Industrial Relations
DIVISION OF WORKERS' COMPENSATION

Estado de California
Departamento de Relaciones Industriales
DIVISION DE COMPENSACIÓN AL TRABAJADOR

WORKERS' COMPENSATION CLAIM FORM (DWC 1)

PETITION DEL EMPLEADO PARA DE COMPENSACIÓN DEL TRABAJADOR (DWC 1)

Employee: Complete the **"Employee"** section and give the form to your employer. Keep a copy and mark it **"Employee's Temporary Receipt"** until you receive the signed and dated copy from your employer. You may call the Division of Workers' Compensation and hear recorded information at **(800) 736-7401**. An explanation of workers' compensation benefits is included as the cover sheet of this form.

You should also have received a pamphlet from your employer describing workers' compensation benefits and the procedures to obtain them.

Empleado: *Complete la sección* ***"Empleado"*** *y entregue la forma a su empleador. Quédese con la copia designada* ***"Recibo Temporal del Empleado"*** *hasta que Ud. reciba la copia firmada y fechada de su empleador. Ud. puede llamar a la Division de Compensación al Trabajador al* ***(800) 736-7401*** *para oir información gravada. En la hoja cubierta de esta forma esta la explicatión de los beneficios de compensación al trabajador.*

Ud. también debería haber recibido de su empleador un folleto describiendo los benficios de compensación al trabajador lesionado y los procedimientos para obtenerlos.

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.

Toda aquella persona que a propósito haga o cause que se produzca cualquier declaración o representación material falsa o fraudulenta con el fin de obtener o negar beneficios o pagos de compensación a trabajadores lesionados es culpable de un crimen mayor "felonia".

Employee—complete this section and see note above ***Empleado—complete esta sección y note la notación arriba.***

1. Name. *Nombre.* _____ Today's Date. *Fecha de Hoy.* _____
2. Home Address. *Dirección Residencial.* _____
3. City. *Ciudad.* _____ State. *Estado.* _____ Zip. *Código Postal.* _____
4. Date of Injury. *Fecha de la lesión (accidente).* _____ Time of Injury. *Hora en que ocurrió.* _____a.m. _____p.m.
5. Address and description of where injury happened. *Dirección/lugar dónde occurió el accidente.* _____
   _____
6. Describe injury and part of body affected. *Describa la lesión y parte del cuerpo afectada.* _____
   _____
7. Social Security Number. *Número de Seguro Social del Empleado.* _____
8. Signature of employee. *Firma del empleado.* _____

Employer—complete this section and see note below. ***Empleador—complete esta sección y note la notación abajo.***

9. Name of employer. *Nombre del empleador.* _____
10. Address. *Dirección.* _____
11. Date employer first knew of injury. *Fecha en que el empleador supo por primera vez de la lesión o accidente.* _____
12. Date claim form was provided to employee. *Fecha en que se le entregó al empleado la petición.* _____
13. Date employer received claim form. *Fecha en que el empleado devolvió la petición al empleador.* _____
14. Name and address of insurance carrier or adjusting agency. *Nombre y dirección de la compañía de seguros o agencia adminstradora de seguros.*
    _____
15. Insurance Policy Number. *El número de la póliza de Seguro.* _____
16. Signature of employer representative. *Firma del representante del empleador.* _____
17. Title. *Título.* _____ 18. Telephone. *Teléfono.* _____

Employer: You are required to date this form and provide copies to your insurer or claims administrator and to the employee, dependent or representative who filed the claim within **one working day** of receipt of the form from the employee.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

Empleador: *Se requiere que Ud. feche esta forma y que provéa copias a su compañía de seguros, administrador de reclamos, o dependiente/representante de reclamos y al empleado que hayan presentado esta petición dentro del plazo de* ***un día hábil*** *desde el momento de haber sido recibida la forma del empleado.*

EL FIRMAR ESTA FORMA NO SIGNIFICA ADMISION DE RESPONSABILIDAD

❑ Employer copy/*Copia del Empleador* ❑ Employee copy/ *Copia del Empleado* ❑ Claims Administrator/*Administrador de Reclamos* ❑ Temporary Receipt/*Recibo del Empleado*

6/10 Rev.

State of California

EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS

Please complete in triplicate (type if possible) Mail two copies to:

OSHA CASE NO.

FATALITY ☐

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers compensation benefits or payments is guilty of a felony.

California law requires employers to report within **five days** of knowledge every occupational injury or illness which results in lost time beyond the date of the incident **OR** requires medical treatment beyond first aid. If an employee subsequently dies as a result of a previously reported injury or illness, the employer must file within **five days** of knowledge an amended report indicating death. In addition, every serious injury, illness, or death must be **reported immediately** by telephone or telegraph to the nearest office of the California Division of Occupational Safety and Health.

EMPLOYER

1. FIRM NAME
1a. Policy Number
2. MAILING ADDRESS: (Number, Street, City, Zip)
2a. Phone Number
3. LOCATION if different from Mailing Address (Number, Street, City and Zip)
3a. Location Code
4. NATURE OF BUSINESS; e.g.. Painting contractor, wholesale grocer, sawmill, hotel, etc.
5. State unemployment insurance acct.no
6. TYPE OF EMPLOYER: ☐ Private ☐ State ☐ County ☐ City ☐ School District ☐ Other Gov't, Specify: _____

INJURY OR ILLNESS

7. DATE OF INJURY / ONSET OF ILLNESS (mm/dd/yy)
8. TIME INJURY/ILLNESS OCCURRED _____ AM _____ PM
9. TIME EMPLOYEE BEGAN WORK _____ AM _____ PM
10. IF EMPLOYEE DIED, DATE OF DEATH (mm/dd/yy)
11. UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER DATE OF INJURY? ☐ Yes ☐ No
12. DATE LAST WORKED (mm/dd/yy)
13. DATE RETURNED TO WORK (mm/dd/yy)
14. IF STILL OFF WORK, CHECK THIS BOX: ☐
15. PAID FULL DAYS WAGES FOR DATE OF NJURY OR LAST DAY WORKED? ☐ Yes ☐ No
16. SALARY BEING CONTINUED? ☐ Yes ☐ No
17. DATE OF EMPLOYER'S KNOWLEDGE /NOTICE OF INJURY/ILLNESS (mm/dd/yy)
18. DATE EMPLOYEE WAS PROVIDED CLAIM FORM FORM (mm/dd/yy)
19. SPECIFIC INJURY/ILLNESS AND PART OF BODY AFFECTED, MEDICAL DIAGNOSIS if available, e.g.. Second degree burns on right arm, tendonitis on left elbow, lead poisoning
20. LOCATION WHERE EVENT OR EXPOSURE OCCURRED (Number, Street, City, Zip)
20a. COUNTY
21. ON EMPLOYER'S PREMISES? ☐ Yes ☐ No
22. DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED, e.g.. Shipping department, machine shop.
23. Other Workers injured or ill in this event? ☐ Yes ☐ No
24. EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYEE WAS USING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Acetylene, welding torch, farm tractor, scaffold
25. SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Welding seams of metal forms, loading boxes onto truck.
26. HOW INJURY/ILLNESS OCCURRED. DESCRIBE SEQUENCE OF EVENTS. SPECIFY OBJECT OR EXPOSURE WHICH DIRECTLY PRODUCED THE INJURYIILLNESS, e.g.. Worker stepped back to inspect work and slipped on scrap material. As he fell, he brushed against fresh weld, and burned right hand. USE SEPARATE SHEET IF NECESSARY
27. Name and address of physician (number, street, city, zip)
27a. Phone Number
28. Hospitalized as an inpatient overnight? ☐ No ☐ Yes If yes then, name and address of hospital (number, street, city, zip)
28a. Phone Number
29. Employee treated in emergency room? ☐ Yes ☐ No

ATTENTION This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. See CCR Title 8 14300.29 (b)(6)-(10) & 14300.35(b)(2)(E)2.

Note: Shaded boxes indicate confidential employee information as listed in CCR Title 8 14300.35(b)(2)(E)2*.

EMPLOYEE

30. EMPLOYEE NAME
31. SOCIAL SECURITY NUMBER
32. DATE OF BIRTH (mm/dd/yy)
33. HOME ADDRESS (Number, Street, City,Zip)
33a. PHONE NUMBER
34. SEX ☐ Male ☐ Female
35. OCCUPATION (Regular job title, NO initials, abbreviations or numbers)
36. DATE OF HIRE (mm/dd/yy)
37. EMPLOYEE USUALLY WORKS _____ hours per day, _____ days per week, _____ total weekly hours
37a. EMPLOYMENT STATUS ☐ regular, full-time ☐ part-time ☐ temporary ☐ seasonal
37b. UNDER WHAT CLASS CODE OF YOUR POLICY WHERE WAGES ASSIGNED
38. GROSS WAGES/SALARY $ _____ per _____
39. OTHER PAYMENTS NOT REPORTED AS WAGESISALARY (e.g. tips, meals, overtime, bonuses, etc.)? ☐ Yes ☐ No

Completed By (type or print)

Signature & Title

Date (mm/dd/yy)

Please do not use this column

CASE NUMBER

OWNERSHIP

INDUSTRY

OCCUPATION

SEX

AGE

DAILY HOURS

DAYS PER WEEK

WEEKLY HOURS

WEEKLY WAGE

COUNTY

NATURE OF INJURY

PART OF BODY

SOURCE

EVENT

SECONDARY SOURCE

EXTENT OF INJURY

• Confidential information may be disclosed only to the employee, former employee, or their personal representative (CCR Title 8 14300.35), to others for the purpose of processing a workers' compensation or other insurance claim; and under certain circumstances to a public health or law enforcement agency or to a consultant hired by the employer (CCR Title 8 14300.30). CCR Title 8 14300.40 requires provision upon request to certain sta federal workplace safety agencies.

FILING OF THIS FORM IS NOT AN ADMISSION OF LIABILITY

Appendix E. City-Owned Electronic Media Acceptable Use Policy

Computers, software, computer files, electronic handheld devices, telephone systems, Internet services and other technological resources furnished to employees by the City is intended for use by employees in connection with the performance of their job duties. All of the foregoing is the exclusive property of the City. The City has an interest in ensuring that City Technology is used in an appropriate, responsible, and productive manner. As a result, employees should not have the expectation of privacy in connection with their access or use of City Technology. To ensure compliance with this policy the City may monitor employee use of City Technology, including City owned computers used at an employee's home. Additionally, the City may monitor an employee's personal computers used during work hours or connected to the City's network on an ongoing or intermittent basis.

The following guidelines have been established to help ensure appropriate, responsible and productive use of City Technology, as well as employee owned computers or other electronic devices used during work hours or on City property (collectively "Electronic Media"):

- The use of Electronic Media must conform to the policies, rules and regulations already established by the City's employment handbook and related City policies
- Electronic Media shall not be used to compose, transmit, access, or receive content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any employee or other person.

Unacceptable content includes, but is not limited to sexual comments or, or any other comments or images that could reasonably offend someone on the basis or race, age, sex, religion, national origin, disability, sexual orientation, or any other characteristic protected by law.

- The use of Electronic Media to engage in gambling is strictly prohibited.
- Employees shall not use Electronic Media to engage in unauthorized solicitation, including but not limited to, the solicitation of personal business ventures.
- Electronic Media shall not be used in violation of copyright and trademark laws, including but not limited to, the unauthorized copying, pirating, or downloading of software or files.
- Confidential employee information shall be transmitted via Electronic Media without appropriate consent.

These guidelines are neither exclusive nor exhaustive. Other use of Electronic Media that threatens or impedes security, personal safety, employee welfare, the City's process or the City's operations is also prohibited.

Employees who observe or have knowledge of another's violation of this policy are responsible for reporting such facts to their immediate supervisor.

OFF DUTY USE OF NON-CITY OWNED TECHNOLOGY POLICY

While the City respects employee rights of free expression, employees are urged to use good judgment when accessing and using blogs, online journals, social networking sites or other forms of Internet communications through non-city owned technology while off-duty. The Internet is a public place and your Internet activity may be seen by coworkers and the public. As such, all employees should be cognizant of how their

use of the Internet may effect their professional reputation and, in turn your commitment to public service. Thus, the City encourages employees who maintain profiles on social networking websites ***(e.g., Facebook, Twitter, Linkedin, etc.)*** or other such Internet publications to take all steps necessary to restrict access to your profiles.

In all circumstances, employees are not permitted to engage in illegal activity, on or off duty, which adversely affects the City.

Appendix F. Request for Outside Employment

Employee Name: _____

Title: _____

Department: _____

Proposed Outside Employment: _____

Name of Company or Business: _____

Address: _____

Telephone Number(s): _____

Website Address: _____

Nature of Business: _____

Proposed Work Days: _____

Proposed Work Hours: _____

Responsibilities: _____

Workers Compensation and Liability Insurance Carrier(s): _____

Policy Number(s): _____

I understand and agree that the proposed outside employment does not and will not:

- Interfere with the efficient performance of my duties with the City and will not occur during regular or assigned work hours, unless I receive pre-approved annual or compensatory leave to cover the absence.
- Be with any business, organization or agency that is subject to the regulation of, or is doing business with the City, except as may be expressly permitted by State law.

- Require me to disclose or use information gained by my City position unless the information is available to the general public.
- Be with another government entity unless approved by the City Manager.
- Involve the performance of any work which should be performed as of my regular duties with the City or be for personal gain while on duty with the City.
- Be obtained through personal solicitation during my work hours with the City.
- Use the City name, logo or trademark or any portion thereof, in order to solicit customers.
- Reflect unfavorably to the City.
- Cause a conflict of interest under City Code or Policy and any State law

I will notify the City of changes in my outside employment or when my outside employment has discontinued. The City shall have the right to rescind the approval of this request for outside employment, at any time, upon written notice. If I violate any of the above provisions, including the City of Oakley's Personnel Manual regarding outside employment, I will be subject to disciplinary action, up to and including termination of employment.

I DECLARE THAT THE ABOVE STATED INFORMATION IS TRUE AND CORRECT.

Signed: **Date:**

Department Director Review: **Approved** **Disapproved**

Signed: Date:

City Manager Review: **Approved** **Disapproved**

Signed: Date:

Appendix G. Investigation Guidelines for Sexual Harassment and Discrimination Complaints

Investigation Procedure: Any investigation of sexual harassment or discrimination allegations shall be conducted in accordance with the City of Oakley's Sexual Harassment/ Discrimination Prevention Policy.

Treat All Complaints Seriously/Act Promptly: Even if a complaining employee insists that he/she wants nothing done about the complaint, the City has an obligation to promptly and thoroughly investigate any allegation of sexual harassment or discrimination. All necessary steps must be taken to ensure that if the conduct has occurred, it does not continue. For example: Separate the employees by changing shifts or assignments; order the accused to have no contact with the complaining party; and/or depending on the seriousness of the allegations, place the accused employee on paid administrative leave pending the outcome of the investigation.

Informal Process: In certain specific circumstances an Informal Process may be used to resolve the complaint, but only if it has been determined (in accordance with the City's Sexual Harassment/Discrimination Prevention Policy) that such a process will most likely eliminate the problem so that the conduct never occurs again. In such cases the Informal Process Guidelines should be used in conjunction with these Guidelines.

Neutral Investigator: All investigations need to be objective, fair and thorough. It is important that the individual chosen to do the investigation is unbiased when conducting the investigation.

Conduct of Investigator: All complaints of sexual harassment and discrimination will be treated seriously and promptly investigated. The investigator will assure the employee that the complaint is being taken very seriously.

Confidentiality Of Investigation: The complaining party should be told that the investigation will be handled as confidentially as possible. The complaining employee and all other individuals who are subsequently interviewed, including the accused employee, must be advised that they are not to discuss the matter with anyone else and that failure to maintain the confidentiality of the investigation may lead to disciplinary action. The complaining employee should also be advised that the accused party will be confronted and given an opportunity to respond, but will be warned that any acts of retaliation are strictly prohibited and may subject him/her to disciplinary action up to and including termination. The complaining employee should be instructed to immediately inform the investigator, his/her supervisor, or the Personnel Officer if any further acts of sexual harassment or discrimination continue.

Offer Employee Assistance: All persons who claim to be the subject of sexual harassment should be offered employee assistance counseling, regardless of whether the employee appears in need of counseling and regardless of any initial opinion(s) regarding the veracity of the allegations complained of by the employee.

Detailed Interview With Complainant: The first step in any investigation is an interview with the complaining employee. The complaining employee should be asked specific questions in order to obtain detailed information about the allegations. The employee should be asked to explain any vague or ambiguous statements. Very specific facts should be elicited and documented in writing by the investigator. The interview(s) should be documented in detail and/or tape-recorded.

Interview the Accused Employee: The investigator should interview the accused employee, all witnesses or names of individuals the accused person provides to disprove the allegation, and investigate and gather any additional evidence that the accused employee either raises or that comes to light as a result of the interview. All interviews should be documented in detail and/or tape-recorded.

Analysis of Investigation: In analyzing the evidence from the investigation, the investigator should keep in mind that the objective is to determine whether there has been a policy violation

When the Employee Denies the Allegations of Misconduct/Evidence of Misconduct is Inconclusive: If the accused employee denies the allegations of misconduct and there is no evidence to substantiate the complaint one way or the other, The City of Oakley should do the following:

Advise the accused employee that if the alleged conduct had occurred, it would be a violation of City policy and would subject him/her to serious discipline, up to and including termination.

Advise the accused employee that any retaliation against the complaining party is strictly prohibited and may result in disciplinary action, up to and including, termination.

Even if the charges cannot be sustained, the Department should take whatever action it can to reduce the chance of the alleged misconduct from occurring again (for example, changing shifts, assignments, supervisors, etc.)

Advise the complaining party that the Department was unable to conclusively determine that the allegations occurred, however, the Personnel Officer will keep a copy of the complaint and the disposition and management will be alert to the problem. The

complaining party should be told of any corrective action The City of Oakley will take to reduce the chance of the incident happening again. The employee should be told to immediately report any further incidents of sexual harassment or retaliation.

Advise both the complaining employee and the accused employee that the entire matter/investigation should be kept confidential and should not be discussed with other employees.

If Evidence of Harassment/Discrimination Is Found: If the accused employee admits to the misconduct, and/or if other evidence in the investigation reveals that the Sexual Harassment/ Discrimination Policy was violated, the City y should do the following:

If the accused employee admits to the misconduct, advise him or her that the conduct must stop immediately and take whatever corrective action is needed to ensure that it is discontinued.

Implement appropriate disciplinary action, taking into consideration that The City of Oakley's policy indicates that all forms of sexual harassment and prohibited discrimination are considered serious misconduct.

Inform the complaining employee of the results of the investigation and any corrective action. The employee should be informed that all steps are being taken to prevent any further incidences from occurring. However, any disciplinary action taken against the accused employee is confidential and cannot be revealed.

The complaining employee should be instructed to report any further incidences of sexual harassment, discrimination or retaliation immediately.

If the accused employee is not terminated, he/she needs to be informed that any further incidents or acts of retaliation will be grounds for termination

Documentation Of Sexual Harassment: Since personnel files can be purged, the Personnel Officer shall keep a separate file on all sexual harassment and discrimination complaints that are filed or raised by or against any individual. Such complaints would be available for purposes of corroboration or to find potential patterns of misconduct that would tend to verify the veracity of any future complaints.

Appendix H. Family Medical Leave Act/California Family Rights Act Forms

To be completed by employee requesting leave:

Employee Name Application Date	
Reason for leave:	
Birth/adoption of child Medical - immediate family Medical - self	
Expected date that leave begins:	
Probable duration of leave:	
Expected date that leave ends:	

Leave Will Be Intermittent:	Leave Will Be Continuous:
If requesting intermittent leave, please explain:	

During my leave, I can be reached at:

Address
City State Zip
Phone Number

I understand that any remaining sick and/or vacation leave will be used during the leave and that accrual of these leaves will stop during any unpaid portion of my absence.

I also understand that I am required to provide timely medical certification for my leave, and notify the City of Oakley and provide additional medical certification should it be necessary to extend the leave.

Please refer to the Family Leave Policy in the City of Oakley's Personnel Manual for more information.

Signed:	**Date:**
Human Resource Division Review:	
Signed:	**Date:**
Department Director Review:	
Signed:	**Date:**
City Manager Review:	
Signed:	**Date:**

Appendix I. Drug Free Workplace Policy

1. **Purpose:** The purpose of this policy is to furnish disciplinary and rehabilitative guidelines for handling first-time violators of the illegal drug prohibitions set forth in Section 2 of this policy.

2. **Coverage:** This policy covers only regular employees who are first-time violators of any one of the following prohibitions:

   a. Use, possession, offer for sale, or being under the influence of illegal drugs during working hours, including lunch and break periods.

   b. Use, possession, offer for sale, or being under the influence of illegal drugs on City of Oakley property at any time.

   For purposes of this policy, engaging in any of the activities above shall be considered as a violation of the City policy.

3. **Alternatives to Discharge:** The guidelines in the policy are alternatives to immediate discharge. The refusal of an employee covered by this policy to comply with the specified guidelines shall result in the immediate discharge of that employee.

4. **Rehabilitation:** An employee covered by this policy shall enroll in and complete an approved rehabilitation treatment program as determined by an outside treatment professional approved by the City. The employee shall bear the costs of the rehabilitation program and shall be entitled to utilize whatever available vacation, sick, and/or medical leave benefits necessary for program participation. An employee's refusal to enroll in and complete such rehabilitation program shall be grounds for discharge.

5. **After-care:** An employee covered by this policy shall enroll in and complete an approved after-care program as determined by an outside treatment professional approved by the City. The recommended after-care program must also be approved by the City. The employee shall bear the cost of the after-care program and shall be entitled to utilize whatever available vacation, sick, and/or medical

leave benefits are necessary for program participation. An employee's failure to complete the after-care program shall be grounds for discharge.

6. **Exemption from Rehabilitation and After-care:** At the discretion of the City, based upon the recommendation of an outside treatment professional, an employee covered by this policy may be exempt from the rehabilitation and after-care provisions of this policy. Such employee, however, may be required to enroll in a substance abuse education or similar program approved by the City.

7. **Outside Treatment Professionals:** The outside treatment professional referred to in Sections 4, 5, and 6 above shall be selected from an established list of treatment professionals maintained by the City.

Appendix H. City of Oakley Email Retention Policy

This policy governs retention of e-mail, or electronic communication, that is created, sent, received, forwarded, edited, stored, or otherwise used by means of City electronic information resources of any kind, including, but not limited to, computers, computer networks, software, telephones, voicemail, personal data assistants, and any other electronic data systems or equipment ("City E-mail"). This policy applies to City E-mail of City officials, officers, employees, volunteers and contractors. City E-mail may consist of correspondence and other documentation which may constitute City records subject to the requirements of the California Public Records Act ("CPRA"), the City's Records Retention Schedule and the laws and regulations governing it, and other laws and regulations that apply to public agency information.

City E-mail and City E-mail systems are intended to be a medium of communication. City E-mail and City E-mail systems are not intended to be and may not be used for the electronic storage or maintenance of permanent City records.

Persons subject to this policy are responsible for determining whether City E-mails created, received, or used by them should be retained as permanent City records. Typically, City E-mails that contain substantive information concerning City policies, decision-making, proceedings, projects, or contractors, or that may later be important or useful for carrying out City business should be retained as permanent City records in accordance with this policy. Such records must be retained in accordance with this policy and the City's Records Retention Schedule.

Persons subject to this policy are responsible for determining whether City E-mails that should be retained as permanent City records should be stored in hard copy or electronic form. Permanent City electronic records are subject to disclosure in electronic form in accordance with the CPRA. Typically, only City E-mails intended for later editing, incorporation in other documents or electronic transmission should be stored electronically. Such City E-Mails must be transferred to the permanent e-mail archive which will be downloaded to the Record's Management System and then deleted from the responsible party's e-mail. All other City E-mails that should be retained as permanent City records should be printed and filed in the appropriate City file and deleted. The City Clerk and City Attorney are available to assist persons subject to this policy in determining

which City E-mails should be retained as permanent City records and how, and to address other questions concerning the application of this policy.

Persons subject to this policy should generally determine whether City E-mails created, received or used by them should be retained as permanent City records within ten working days of creation, receipt or use of the City E-mail. Because City E-mails and e-mail systems may not be used for permanent storage of City records, City E-mails are generally deemed pursuant to this policy to constitute preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the City in the ordinary course of business. However, such e-mails are subject to disclosure to the public, prior to destruction because the public interest in withholding the e-mail does not clearly outweigh the public interest in disclosure, unless the e-mail is protected by at least one of the exemptions contained in the Public Records Act.

When the City receives a request for disclosure of City records that applies to City E-mail, the person responsible for the covered records must, using his/her best efforts and by any lawful means available, preserve any City E-mail covered by the request until it is determined whether the City E-mail is subject to retention and/or disclosure. The City Clerk and/or City Attorney must be contacted concerning any request for disclosure of City records that applies to City E-mail in the possession of persons subject to this policy.

Persons subject to this policy are responsible for managing City E-mail and City E-mail systems used by them in accordance with this policy. Persons subject to this policy should regularly review their mailboxes or folders that contain City E-mails and delete City E-mails that are not required to be kept by law or this policy, or that are unnecessary or inconvenient for the discharge of official City duties or the conduct of City business, or that are otherwise no longer needed in accordance with this policy.

Persons subject to this policy should bear in mind the following design features of the City electronic information systems that relate to City E-mails:

1. The systems administrator performs an electronic back up of the City E-mail system each evening. The back up is a “snap shot” of the data contained in the City E-mail server at the end of each business day. The back up is not a copy of all City E-mail activity that occurred on the City E-mail server that day.

2. The systems administrator maintains back ups for no longer than two weeks before they are overwritten. Back ups are not permanent City records. The sole purpose

of back ups is to provide a means of complete server recovery in case of a system failure.

3. The systems administrator has established a City E-mail management system that automatically removes City E-mails that are more than thirty days old and that are contained in Deleted Items or Sent Items folders.

OAKLEY

CALIFORNIA

MEMORANDUM OF UNDERSTANDING

between the City of Oakley and the Oakley Police Officers Association

August 13, 2019 to June 30, 2022

DEFINITIONS

Appointing Authority: the City Manager or his/her designee.

Association: the Oakley Police Officers Association

Immediate Family: an employee shall include his or her spouse and the following relatives: children of either spouse, step-children, parent of employee or spouse, brother or sister, half-brother or half-sister, either grandparent and grandchildren.

Newly-Hired Employee: a person who has not completed a probationary period in any position within the organization or a person who has previously completed a probationary period, but has had more than a three (3) month break in service from the City.

Probationary Employee: an employee working a test period during which he or she is required to demonstrate his or her fitness to perform the duties of the class of position to which he or she is appointed by actual performance of those duties.

Regular Full-Time Employee: a person employed by the City in a full-time capacity, who has successfully completed a probationary period, and has been retained according to the provisions of the City of Oakley Police MOU.

Regular Part-Time Employee: a person employed in a regularly budgeted class or position which a regular employee may be appointed, and whose normal work schedule is less than the standard hours of work, but at least twenty (20) hours per workweek.

OAKLEY POLICE OFFICERS ASSOCIATION
MEMORANDUM OF UNDERSTANDING

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This Memorandum of Understanding supersedes and replaces the previously approved Personnel Policies Manual adopted in August of 2015

Section 1. APPLICABILITY AND RECOGNITION

1.1 Applicable Employees and Association Recognition

The City recognizes the Oakley Police Officers' Association as the exclusive recognized bargaining representative, within the scope of representation as described in the Meyers-Milias-Brown Act, as amended, for City employees in the classifications of Police Officer and Police Sergeant. Lieutenants may become associate members of the Association; however, they are not represented herein).

1.2 City Recognition

The City Manager, or any person or organization duly authorized by the City Manager, is the representative of the City of Oakley, hereinafter referred to as the "City" in employer - employee relations.

1.3 Release Time

The City agrees to provide a reasonable amount of release time for designated officers and representatives of the POA to conduct, with the City Manager or his/her designee's approval, POA business and to engage in meet and confer sessions with official representatives of the City. The use of official time for this purpose shall be reasonable and shall not interfere with the performance of City services as determined by the City. Under no circumstances shall an employee receive overtime pay for time spent to attend meetings for the purpose outlined in this section. Employees are to track these hours using the designated payroll code. Not more than four employees may be excused for such purposes.

1.4 Association Dues Deduction

A member of this unit may, at any time execute a payroll deduction authorization form or forms ("Deduction Authorization Form") as furnished by the Association.

The Association will be the custodian of records for such Deduction Authorization Form and will provide the City with a certification that it has and will maintain a Deduction Authorization Form, signed by each individual from whose salary or wages the deduction is to be made ("Certification"). The Association shall not be required to provide the City a copy of the member's Deduction Authorization Form unless a dispute arises about the existence or terms of the Deduction Authorization Form. However, the Certification will contain sufficient information to allow the City to identify the appropriate level of deductions for each employee.

The City shall begin deductions in the amount prescribed by the Association in the first full payroll period after receipt of written Certification from the Association. The employer shall transmit such payments to the Association no later than thirty (30) days after the deduction from the member's earnings occurs.

Deductions may be revoked only pursuant to the terms of the Deduction Authorization Form. The City shall direct member requests to cancel or change deductions to the Association. The City shall rely on information provided by the Association in writing, regarding whether deductions for a member were properly canceled or changed, and the Association will indemnify the City for any claims made by the employee for changes made in reliance on the information. However, the parties agree that the City shall automatically cease deductions for any member who is no longer employed in a classification represented by the Association.

1.5 Association New Employee Orientation

New Employee Orientation: New employee orientation is defined as the onboarding process, whether in person, online or through other means, which the City provides information regarding employment status, rights, benefits, duties and responsibilities, or any other employment related matters.

The City shall provide written notification to the Association's designee, by email not less than (10) calendar days in advance of all new employee orientations except that a shorter notice may be provided in a specific instance where there is an urgent need critical to the employer's operations that was not reasonably foreseeable.

The Association shall be provided up to sixty (60) minutes to meet with the new employee during the orientation. The purpose of the meeting is for the Association to discuss the roles and activities of the exclusive representatives related to terms and conditions of employment. The Association reserves the right to address the new employees outside the presence of City employees.

Within 30 days of hire or by the first pay period of the month following the hire of the new employee, the City shall provide the Association designated representative with the name, job title, department, work location, work, home, and personal cellular telephone numbers, personal email addresses on file with the employer and home addresses. The City shall provide the Association this information for the bargaining group at least every 120 days, excepted as specified in AB119.

Section 2. NO DISCRIMINATION

Discrimination or harassment based on age, sex, religion, color, disability, race, national origin, ancestry, citizenship, marital status, veteran status, medical condition, or sexual orientation is prohibited.

The City shall not interfere with, intimidate, restrain, coerce or discriminate against employees because of the exercise of their rights under the Meyers Milias Brown Act.

Section 3. EMPLOYEE RIGHTS

3.1 Right to Representation

An employee, upon the employee's request, shall be entitled to have representation, at

employee's expense, by the designated law firm (currently the law firm of Rains, Lucia Stern) present during any meeting which is disciplinary or a meeting which the employee reasonably believes may result in disciplinary action.

3.2 Personnel Files

There shall be one (1) official personnel file maintained in Human Resources and one internal affairs file, maintained in the Administrative offices of the Police Department. An employee shall be permitted to review his/her personnel/Internal Affairs file provided the employee makes a request twenty-four (24) hours prior to the time the employee wishes to review the file. A representative of Human Resources shall be present during the review of the personnel file. An employee's representative, with written permission from the employee and twenty-four (24) hours' notice to the City, shall also be permitted to review the employee's personnel file. The City Manager, Chief of Police, or Administrative Lieutenant will be present should an employee request to review his/her Internal Affairs file An employee shall be entitled to receive copies of any material in his/her personnel file or any material which will be submitted to the personnel file.

3.3 Notice

The employee shall be provided copies of all notices related to discipline which results in a loss of pay. At the request of the employee, a copy will also be provided to the law firm of Rains, Lucia Stern. The request must be in writing and addressed to Human Resources.

Section 4. CITY RIGHTS

It is understood and agreed that the City retains all of its powers and authority to manage municipal services and the work force performing those services.

It is agreed that the following rights shall remain solely a function of management except as may be limited by this agreement and/or by applicable state and federal law:

1. Determine and modify the organization of City government and its constituent work units.
2. Determine the nature, standards, levels, and mode of delivery of services to be offered to the public.
3. Determine the methods, means, and the number and kinds of personnel by which services are to be provided.
4. Determine whether goods or services shall be made or provided by the City, or shall be purchased, or contracted for.
5. Direct employees, including scheduling and assigning work, work hours, and overtime.
6. Establish employee performance standards and to require compliance therewith.

7. Discharge, suspend, demote, reduce in pay, reprimand, and withhold salary increases and benefits, or otherwise discipline employees, subject to the requirements of applicable law.
8. Relieve employees from duty because of lack of work or lack of funds or for other legitimate reasons.
9. Implement rules, regulations, and directives consistent with law and the specific provisions of this MOU.
10. Take all necessary actions to protect the public and carry out its mission in emergencies.

To the extent that management's exercise of these rights enumerated above impacts the employees' terms and conditions of employment, the City is not relieved of its obligation to meet and confer on these impacts as required by law.

Section 5. PROBATIONARY PERIOD

5.1 Probationary Period

All appointments, promotional appointments and reappointments shall be tentative and subject to a probationary period dated from the time of appointment to a regular full-time or regular part-time position. The probationary period shall be for a one (1) year period of actual service. The City Manager, upon written request of the Chief of Police, may grant an extension of the probationary period up to a maximum of six (6) months beyond the end of such probationary period, for a maximum total probation of eighteen (18) months.

An employee remains on probation until such time as the City takes formal, written action to remove the probationary employee from probationary status. This is done by the employee's supervisor completing a written performance evaluation at the approximate date of the probationary employee completing one (1) year in the probationary position. This performance evaluation must be signed by the Chief of Police and forwarded to the City Manager for final review and approval.

5.2 Dismissal of Newly-Hired Employees

During the probationary period, a newly hired employee may be suspended, demoted or dismissed at any time by the appointing authority without the right of appeal. A probationary employee is an "at-will" employee. Notification of dismissal in writing shall be served on the newly- hired employee and a copy filed with Human Resources.

5.3 Demotion of Promoted Employees

An employee who is promoted to a new position in a higher classification may be demoted to his/her previous position at any time during the one (1) year probationary period without recourse to right of appeal. The employee shall be returned to the position which he/she held prior to the promotion and shall be placed at the salary level held prior to the promotion.

Section 6. COMPENSATION

6.1 **Merit System**

In order to properly compensate an employee, adjustments in salary shall be based on a merit system as outlined in the City's Compensation Policy. Adjustments shall not be automatic, but shall depend upon results of the annual performance evaluation. All merit adjustments are recommended by the Police Chief and approved by the City Manager.

6.2 **Salary and Wage Plan**

The City Manager and his/her designee(s) shall administer the Compensation Policy for employees.

2. All initial employment shall be at a salary level which is within the salary range for the classification for which the employee is hired. No employee shall be hired at or promoted to a level below the salary range minimum without mutual agreement between the City and the employee.

3. New or any modifications to salary ranges will be recommended by the City Manager and adopted by the City Council. It is the City's objective to establish ranges that closely use the salary ranges of surveyed classifications at the mean (average) of the survey agencies plus 13% for the top end of the range. After reaching the maximum point, an employee has the opportunity to earn a lump sum merit award based on outstanding performance, but may not be considered for base salary increases unless his or her salary range is adjusted.

4. The City desires to set salary ranges that are competitive and comparable to relevant cities near Oakley. The comparative cities currently utilized by the City are:

- Antioch
- Brentwood
- Martinez
- Pittsburg
- Pleasant Hill
- San Ramon
- Tracy

City and Association agree to review and confer on a recommendation to the City Council for modification to the list of comparative cities. Said recommendation shall be presented to the City Council for consideration prior to January 30, 2017.

5. At least every two years, the salary ranges for the City's job classifications will be surveyed to assess the City's position relative to the comparative cities as described above. Benchmark classifications will be included in the survey along with other positions that may be common among the survey agencies. Salary ranges will be adjusted at the discretion of the City Council, if necessary to maintain the City's competitive position in the market, taking into consideration the City's financial situation.

6. If an employee subject to this MOU has served in a job classification for at least five (5) consecutive years, his or her salary shall be at least at the middle of the City Council approved salary range for that job classification. An employee reclassified or promoted shall be place at least at the middle of the salary range for the *previous* classification they held, if he or she has served at least five (5) consecutive years with the City. (An employee is not eligible to receive an adjustment of salary to at the least the middle of the new classification until such time as the employee has served at least five (5) consecutive years in the *new* classification). Adjustments to salary pursuant to this subsection shall be made during the first full pay period following the date the eligible employee completes five (5) consecutive years of service.

6.3 **Salary Adjustments**

1. Individual compensation adjustments within the salary ranges will not be "automatic," step-oriented or based solely on cost-of-living adjustments, but will be based on 1) fiscal prudence, 2) objectives achieved, and 3) exceptional individual performance.

2. Adjustments in salary shall be based upon employee performance as determined by the performance evaluation. It is the duty of the supervisor and Police Chief to give a fair and unbiased evaluation based on job performance of the employee. Adjustments in salary shall be determined as pursuant to the Compensation Policy, approved by the City Manager and within the merit increase range approved by the City Council.

3. At the time employees are evaluated, the level of performance for each employee will be determined. The range for the percentage of any merit increase (x % - x %) will be determined by the City Council before July 1st of each year depending upon the City's competitive position in the market and taking into consideration the City's financial situation. Performance evaluations for all employees will then be

conducted and any merit increase considered by the City Manager to be effective the first full pay period of August. (The City Manager will consider, when determining any merit increase, if an employee began employment near the first full pay period of August).

After reaching the maximum point of the salary range, an employee has the opportunity to earn a lump sum merit award based on outstanding performance, but may not be considered for base salary increases unless his or her salary range is adjusted.

6.4 Salary Following Promotion

1. A promoted employee will be placed in the appropriate classification salary range and such employee shall be placed in the new salary range at least five percent (5%) above the promoted employee's previous salary level, unless that amount exceeds the maximum salary of the new classification's range.

2. An Officer promoted to Sergeant or Lieutenant may be eligible for a five percent (5%) increase in pay following six (6) months of successful service in the promoted position.

3. Future salary increases will be considered prior to July 1st and effective the first full pay period of August, pursuant to the Compensation Policy.

6.5 Salary Following Demotion

1. In the case of the demotion of an employee, such employee shall be moved to five percent (5%) below the employee's salary prior to the demotion or the top of the new range, whichever is less.

2. The annual performance review schedule shall be maintained and there shall be no additional probationary period.

6.6 Salary on Reclassification of Positions

If an employee is reclassified, the employee shall be placed in the salary range of the new classification at the same amount as the employee's salary prior to the reclassification plus a five percent (5%) increase in salary. There shall be no additional probationary period.

6.7 Salary for Work Performed in a Higher Classification

1. On occasion an employee may be required to perform duties of another classification with a higher salary range because of a temporary vacancy in that position. In such cases, the employee's salary may be adjusted to compensate for the higher level of duties.

2. In order to receive adjusted compensation for working in a higher classification the employee must be assigned, assume and perform substantially all the duties and responsibilities of the position, and perform them for at least one week (five consecutive working days, without regard to the calendar week).

3. Adjusted compensation for working in a higher classification shall consist of a flat five percent (5%) increase above the employee's current salary, or the lowest salary within the higher salary range, whichever is greater, but not to exceed the maximum of the range established for the higher classification.

4. Each case will be evaluated on an individual basis and recommendation for compensation for work in a higher classification will be made by the Police Chief and approved by the City Manager. Such approval should be made in advance whenever possible.

6.8 Designation of Beneficiary

When termination is caused by the death of the employee, pay for unused vacation shall be paid to the beneficiary the employee has designated. Such designation shall be in writing, signed by the employee and filed with Human Resources. If the employee is married and designates a beneficiary other than the spouse for more than fifty percent (50%) of the benefits payable, the signature of the spouse also shall be required on the designation. In the event an employee has not designated a beneficiary, the payment shall be made to the estate of the employee.

6.9 Differential and Longevity Incentive Pay

a. POST Certifications

All sworn personnel with an Intermediate POST Certification shall receive a two and one-half percent (2.5%) augmentation to base salary. All sworn personnel with an Advanced POST certification or Bachelor's Degree shall receive a five percent (5%) augmentation to base salary. These augmentations are not compounding. The maximum benefit is five percent (5%).

All sworn personnel with a Master's Degree shall receive a two and a half percent (2.5%) augmentation to base salary. This benefit is compounding with the preceding paragraph, with the maximum benefit being seven and a half (7.5%) of base salary.

Such augmentations will take place with first complete pay period following documentation being received by Human Resources of these certifications.

b. Field Training Officer (FTO) Duty

Any officer assigned as an FTO shall receive five percent (5%) augmentation to

base salary for actual time served as an FTO. ("Time served" is defined as the time training an officer in this capacity).

c. Motorcycle Officer Duty

Any officer assigned to motorcycle duty shall receive a five percent (5%) augmentation to base salary for time served as a motorcycle officer.

d. Graveyard Shift

Any officer assigned to the Graveyard Shift shall receive a 5% augmentation to base salary in the first full pay period following being assigned to Graveyard.

e. Detective Duty

Any officer formally assigned as a Detective shall receive a 5% augmentation to base salary in the first full pay period following being assigned as a Detective.

f. Bilingual Pay

Any officer deemed full professionally proficient in the Spanish language will receive a one and on-half (1.5%) augmentation to base salary as Bilingual Pay.

g. Longevity Incentive Pay for former Contra Costa Sheriff's Office Personnel

All sworn officers that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall be eligible for Longevity Incentive Pay, which shall be a two and one-half percent (2.5%) augmentation to base salary at the completion of year 5 and two and one-half percent (2.5%) for every five (5) years of service thereafter until twenty five (25) total years have been served. The augmentation shall take commence the first full pay period following Human Resources being notified and confirming the years served. Time already served with the Contra Costa Sheriff's Office will count towards this calculation.

h. Sworn officers not serving with the City as of April 15, 2015, will be eligible for Longevity Incentive Pay at a rate of two and one-half percent (2.5%) augmentation to base pay at the completion of five (5) consecutive years of service as a City employee, and two and one-half percent (2.5%) for every five (5) years of service thereafter until twenty five (25) total years have been served. The augmentation shall take commence the first full pay period following Human Resources being notified by the officer and Human Resources confirming the years served.

i. School Resource Officer

Any officer assigned as a School Resource Officer shall receive a five percent (5%) augmentation to base salary for time served as a School Resource Officer.

j. Problem Oriented Policing (POP) Officer

Any officer assigned as a POP Officer shall receive a five percent (5%) augmentation to base salary for time served as a POP Officer.

k. Canine Officer

Any officer assigned as a Canine Officer shall receive a five percent (5%) augmentation to base salary for time served as a Canine Officer.

l. Specialty Position Rotation

All officers assigned to positions receiving differential pay are subject to rotation in and out of these positions and a corresponding withdrawal of the specialty pay at the discretion of the Police Chief.

Section 7. HOURS OF WORK AND OVERTIME COMPENSATION

7.1 Hours Worked

Police Services has a variety of different work shifts to meet the needs of the City and the Department. The work hours cover a period of seven (7) days a week and twenty-four (24) hours a day.

The regular work hours for unit employees shall be four (4) shifts of ten (10.0) work hours in a seven (7) day work period. Additionally, regular work hours may be considered (3) shifts of thirteen hours and twenty minutes (13.3) in a seven (7) day period.

Alternative schedules may be used to accommodate the needs of the Department.

7.2 Work Week

The workweek for employees, consistent with the 7(k) exemption of the Fair Labor Standards Act, is one hundred seventy-one (171) hours per 28-day period. The workweek is not necessarily the same as the calendar week. The workweek for all sworn police officers, begins at 12:00 a.m. Sunday and ends at 11:59 p.m. Saturday.

7.3 Overtime Policy

It is the policy of the City to avoid the necessity for overtime work. When overtime work is necessary, such overtime shall be authorized by the Police Chief or his/her designated representative, but shall be kept at a minimum.

Overtime work for employees, except as otherwise provided, shall be defined as any time worked beyond ten (10) hours or thirteen hours and twenty minutes (13.3), depending on shift assignment, in a twenty four (24) hour period, or over forty (40) hours during the calendar week, or over 171 hours in any work week (the FLSA 28-day period). Vacation and Sick Leave as well as compensatory time used count as hours worked for the purposes of overtime calculations.

7.4 Overtime Compensation and Computation Policy

All overtime pay is compensated for at the rate of one and one-half (1-1/2) times the employee's base rate of pay, not including any differentials or shift pays. Any special

differentials which are applicable during overtime hours worked will be computed on the employee's base rate of pay (not on the overtime rate of pay).

Employees may choose to be compensated for overtime work through compensatory time-off (comp time) at the rate of one and one- half (1.5) hours comp time per overtime hour worked instead of receiving cash payment. The decision to receive overtime pay or compensatory time credit shall be made at the end of the pay period in which the overtime is worked. There is no provision for converting compensatory time to overtime pay except at termination. Compensatory time may be accrued up to a maximum of eighty (80) hours per employee.

Overtime compensation earned via business travel time must be allotted to the member's compensatory time bank unless said bank is already at the maximum of eighty (80) hours.

If an employee has any unused accrued comp time at termination, the employee will be paid for such unused comp time at his/her regular rate of compensation at termination.

In case of less than one-hundred seventy-one (171) hours worked in a workweek, due to vacation, holidays, sick leave, or other paid or unpaid leave, employees who work approved additional hours shall be paid overtime compensation for those hours paid in excess of ten (10) hours per workday; or thirteen hours and twenty minutes (13.3), if assigned to an alternative schedule.

7.5 Overtime - Conditions of Civil Disaster or Local Peril

In case of civil disaster, state of extreme emergency or local peril, the procedure for payment of overtime may be suspended temporarily by the City Manager for the period of the emergency. During such period, the City Manager shall determine the compensation procedure. However, such procedure shall not change the rate of overtime compensation.

7.6 Pay Periods

Payday shall be every other Friday (bi-weekly) for the two (2) calendar week period ending on Sunday of the preceding week.

7.7 Court Appearance Compensation

If a Police Services employee appears on a court subpoena during his/her off-duty time, he/she will be compensated. Employees shall be compensated for off-duty court appearances on work days as follows:

- An employee shall be compensated with a three (3) hour overtime minimum or actual time in court, whichever is greater, for any court appearance that

starts more than one-half (.50) hour before an employee's shift or more than one-half hour after the conclusion of an employee's shift.

- For court appearances which begin during an employee's shift or within a half- hour of the start or conclusion of an employee's shift, the employee shall be compensated for the actual time worked.

- An employee shall be entitled to not more than two (2), three (3) hour minimum each day.

Employees shall be compensated for court appearances on scheduled days off as follows:

- An employee shall be compensated with a four (4) hour minimum or actual time in court, whichever is greater.

- An employee shall be entitled to not more than two (2), four (4) hour minimums per day.

- An employee shall be entitled to only one(1) four (4) hour minimum per court session, e.g. one in the morning, one in the afternoon, or one in the evening (after 6:00 p.m.)

7.8 Shift Trades

1. Employees may trade one or more work shift(s) with each other, subject to the following conditions:
   a. Shift trades shall be made only with the prior approval of the Police Chief or his/her designee.
   b. Requests and approvals shall be documented by email
   c. Both employees involved in the shift trade document the trade on the applicable timesheets
   d. Employees trading shifts shall be qualified to work for each other.

2. An employee not able to fulfill a shift trade agreement shall either:
   a. Secure another employee to work the shift, subject to the provisions of this section; or
   b. Notify the Police Chief that the shift will be vacant due to the in ability of the employee to fulfill the shift trade and the Department will deduct the appropriate number of Vacation Leave hours from the employee's Vacation Leave accruals (from the employee not able to fulfill a shift trade agreement) and fill the vacant

shift with an employee selected by the Department. If the Department must fill the vacant shift with an employee on overtime status, Vacation Leave at the rate of the time and one-half will be deducted from the employee's Vacation Leave accruals (from the employee not able to fulfill a shift trade agreement).

3. The Police Chief reserves the right to cancel any and all shift trades if he/she deems AND to restrict the number of shift trades if it is deemed to be in the best interests of the Department.

7.9 Shift Bidding

1. Shift bidding is a process which allows employees to choose a shift and days off based on seniority. Specialized units including, but not limited to Investigations, K9 and Traffic Officers are not subject to shift bidding and are assigned based on the needs of the Department. Shift and day off selection within a specialized unit will be based on time in unit rather than Department seniority.

2. Shift bidding shall take place every six (6) months and shall be completed within seven (7) calendar days after bidding begins, and thirty (30 days before the start of the new shift. The start of the new shift shall be the second Monday of January and July.

3. Prior to the beginning of the bidding process, a new shift sign up folder will be created and maintained in the Sergeants' office until the close of the bidding process. An employee, or his/her designee, may bid for a shift by writing his/her name next to their top three shift choices. At the close of the bidding process, the scheduling sergeant (as designated by the Police Chief) will assign employees to shifts based on their choices and seniority. The results of the completed shift bid and new shift assignments will be posted in the Sergeants' office.

4. There shall be a thirty (30) day grace period starting from the first day of each new shift. The grace period allows for an employee to fill an unexpected vacancy which arises after the start of a new shift. The desired shift must have been one of the officer's initial three (3) choices. Any vacancy that arises after the thirty (30) day grace period may be filled based on the needs of the department and only with approval of the Chief or his/her designee.

5. In rare circumstances, and only in consultation with the Association Board and the City Manager, the Police Chief reserves the right, for cause, to adjust the shift bidding results when deemed in the best interest of the department. Notification of any changes in shifts shall be provided to the affected employees in writing and with at least fifteen (15) days' notice.

Section 8. STANDBY AND CALLBACK PAY

8.1 Standby Status and Standby Pay

When it is necessary to require an employee to leave word where he/she can be reached for emergency call out or other services during a specified period of time, other than scheduled hours of work, such employee shall be considered on standby status. (This provision does not apply to court ordered standby status issued by the District Attorney's Office or Judge.)

The following provisions apply to standby status:

Compensation:

1. Any employee formally placed on stand-by status in writing shall be paid two-hundred and fifty dollars ($250) per week (7 days). A partial week on stand-by status shall be prorated.

2. If an employee is called out for an emergency while on standby status, he/she will be compensated for a minimum of two (2) hours work at one and one-half (1.5) times the regular hourly pay rate. Any time worked in addition to the two-hour minimum will be compensated at one and one-half (1.5) times the normal hourly rate for each additional hour or fraction thereof. Work time shall commence from the time the employee is called to work until the time the employee returns home.

3. Employees called back to work after midnight may elect to arrive at work that same day an amount of time past the normal starting time equivalent to the time worked past midnight. If an employee elects to exercise this privilege, he/she must notify the supervisor in advance of the normally scheduled workday or within one-half hour (30 minutes) of normal start time. If it is deemed to be detrimental to the operation of the City to grant this time off, the supervisor may deny the request. Employees who use this option will be paid the regular hourly rate for hours actually worked that day.

4. The employee shall not use alcohol or prescription medication which may impair job performance during the entire period he/she is on stand-by status.

8.2 Call Out Procedure

Employees may be called out during other than normal work hours to perform necessary work. In the event that an employee is called back to work before or after normal working hours, he/she will be compensated for a minimum of two (2) hours work at one and one-half (1.5) times his/her normal rate of pay. Any time worked in addition to the minimum two (2) hours will be compensated at one and one-half (1.5) times the normal hourly rate of pay for each additional hour or

fraction thereof. In the event an employee is called in to work and the time worked runs into the employees regular work shift, the employee will be compensated at his/her regular rate of pay once the regular work shift begins. Work time shall commence from the time the employee is called to work.

Section 9. HOLIDAYS

9.1 Holidays

The following holidays are recognized as regular holidays for pay purposes. Regular full-time employees who work a minimum of forty (40) hours per week on a continuous basis are entitled to receive eight (8) hours of holiday pay at a rate of one and one half (1.5) times their normal hourly rate.

The City will observe the following holidays:

- December 31st - New Year's Eve Day
- January 1st - New Year's Day
- Third Monday in January - Martin Luther King Jr. Day
- Third Monday in February - President's Day
- Last Monday in May - Memorial Day
- July 4th - Independence Day
- First Monday in September - Labor Day
- November 11th - Veteran's Day
- Fourth Thursday in November - Thanksgiving Day
- Fourth Friday in November - Day After Thanksgiving
- December 24th - Christmas Eve Day
- December 25th - Christmas Day
- Employee's Birthday

An employee who wishes to be excused from work in observance of a religious holiday (not listed as a "Regular Holiday for Pay Purposes") shall request approval of such absence from the Police Chief. If approved, such time off shall be charged against the employee's accumulated compensatory time, discretionary holidays, or vacation leave.

9.2 Holiday Pay Eligibility

If a holiday falls on an employee regular work day or scheduled day off the employee will receive eight (8) hours of holiday pay. If a holiday falls on an employee regularly scheduled work day and the employee calls in sick on that day, the employee will not receive holiday pay.

If a holiday falls on an employee's regular work day, and the employee is on a scheduled vacation, the employee will receive eight (8) hours of holiday pay;

however, the vacation hours taken that day will be deducted from his/her vacation accrual.

Section 10. VACATION

10.1 Eligibility

There is no waiting period before an employee can request to take accrued vacation time; however, vacation hours cannot be used in the pay period within which they are earned. An employee may not accrue vacation while on any unpaid leave of absence or while on Family Medical Leave.

10.2 Initial Accruals

The City Manager, upon recommendation of the Police Chief, may grant up to additional vacation leave and sick leave at the time of initial appointment to new employees who enter City employment with prior local government experience as necessary to recruit and retain employees.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive an initial accrual of forty (40) hours of vacation and forty (40) hours of sick leave on the date of hire.

10.3 ~ Subsection not used ~

10.4 Illness during Vacation

Vacation leave may be changed to sick leave IF an employee submits a doctor's certificate/note satisfactory at the discretion of Human Resources that the employee was ill and unable to work during the employee's scheduled vacation.

10.5 Vacation Accrual

The City recognizes its employees' loyalty and longevity of service by granting an increase in vacation hours at milestone anniversary dates. Regular full-time employees shall be entitled to accrue paid vacation for active completed service according to the following schedule:

YEARS OF SERVICE	VACATION HOURS ACCRUED PER YEAR
Year 0-3	80 hours per year
Year 4-7	120 hours per year
Year 8+	160 hours per year

The increase in rate of vacation accrual is effective on the next pay period following the anniversary of the employee's hire date. For example, if an employee completes three full years of service on July 1st and the next full pay period begins on July 5th,

the employee will begin accruing the 120 hours per year on July 5th. Vacation accruals are calculated on a bi-weekly basis with the City's pay period schedule and are reflected on the employee's paycheck.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive credit for years served with the Contra Costa Sheriff's Office to determine rate of vacation accrual.

10.6 Vacation Accumulation

The City provides vacation leave to encourage employees to take time away from work on a regular basis. For this reason, employees may earn and accumulate vacation leave up to a maximum of two and one-half (2.5) times the amount of the accrual of the employee

Each regular full time and probationary employee shall accrue vacation at the following rate for continuous service performed as follows:

Year 0-3	200 hours maximum
Year 4-7	300 hours maximum
Year 8+	400 hours maximum

10.7 Use of Vacation

Vacation shall be requested via email as far in advance as possible with the employee's supervisor or Police Chief. An employee shall submit an email request to the Police Chief and approval of the Police Chief or designee is required prior to taking vacation time off. The Police Chief or designee shall respond to the employee via email within seven (7) calendar days after submission of the request. Vacation leave shall not be used beyond the time accrued. The time at which an employee may use her/his accrued vacation leave and the amount taken at any one time shall be determined by the Police Chief, or the Police Chief's designated representative, with particular regard for the needs of the Department.

10.8 Vacation at Separation

A regular full-time or regular part-time or new hire probationary employee whose employment with the City terminates shall be paid for that part of his/her vacation accumulation that remains unused at the time of separation. Payment for unused vacation shall be made at the rate of pay in effect for the employee at the time of separation.

10.9 Vacation sell back

1. Employees are eligible to exchange up to forty (40) hours of accrued vacation for

a lump sum payment at the employee's current base salary rate up to two times each fiscal year as follows:

a. The lump sum payments will occur in conjunction with the last pay period for March and for October of each year.
b. Although there is no qualifying period to be eligible to exchange vacation for pay in March, the employee must have successfully completed her/his probationary period to be eligible.
c. The employee desiring to exchange vacation leave has taken at least two weeks (the equivalent of ten (10) 8-hour working days) off from work during the previous twelve (12) months. This could be in the form of vacation, compensatory time off, or management leave. Use of sick leave or leave without pay does not satisfy this program requirement.
d. The employee, after the requested exchange of vacation leave, will still have at least one-hundred and twenty (120) hours of vacation leave remaining.

2. In the event that an employee, eligible for vacation accrual, experiences a financial hardship due to circumstances beyond their control, they may submit a request to the Human Resources to receive cash payment of accrued vacation at any time during the year. Hardship Request forms are available in the Human Resources. Examples of qualifying hardship requests include: unexpected legal expenses, unbudgeted medical expenses not covered by other means, or situations that cannot be planned or anticipated.

In order to keep hardship requests and the circumstances surrounding such a request as confidential as possible, all hardship requests will be reviewed within the following manner:

a. The employee submits a completed Hardship Request form to Human Resources.
b. The Human Resources office will obtain an updated copy of the employee's absence schedule from payroll to verify the number of vacation hours available. The employee must still have at least one-hundred and twenty (120) hours of vacation leave remaining to be eligible for a Hardship Request.
c. If clarification is necessary, Human Resources will contact the requesting employee to obtain additional information.
d. A request that meets the qualifications described above will be reviewed by Human Resources and then presented to the City Manager with a recommendation for denial or final approval.
e. The employee will receive a response regarding the status of their request within five (5) working days from the date it is received by Human Resources.
f. The approved request will be delivered to payroll. A check will be prepared within three (3) business days.

Section 11. SICK LEAVE

11.1 Statement of Policy

Paid sick leave is an employee benefit of time off granted to an employee in cases of personal illness or accident, medical or dental treatment, or as described in this Manual. It is not an "entitlement" benefit such as vacation. The employee shall make notification by contacting the on-duty Supervisor as soon as possible after determining leave will be taken and prior to the time set for reporting to work on the first day of such leave and as often thereafter as directed by his/her Supervisor or the Police Chief Notifications shall be made by telephone to the Supervisor. If the Supervisor is out of the office, the employee shall notify Dispatch of the sick call and provide a telephone number where the employee can be contacted. Dispatch will notify the on-duty Supervisor of the call.

With advance written notice from the Police Chief: an employee may be required to provide a written statement from the attending health care practitioner or dentist that the employee is or was incapacitated and unable to perform his/her duties. The written notice shall state the reason that the employee is required to provide such a statement. The Police Chief also may require a health care practitioner or dentist's statement that the employee is capable of and released to return to all his/her duties.

Any employee who is absent from work due to sick leave shall not engage in any activity or work which would inhibit his/her ability to return to work at the earliest possible time.

11.2 Accrual

Regular full-time employees earn 3.69 hours per pay period. Sick leave is earned during any paid leave of absence, but is not earned during any unpaid leave of absence, or during Family Medical Leave. Employees that are off of work due to illness or injury shall not accrue sick leave once they begin to received disability benefits or are no longer receiving wages through payroll, beginning with the first full pay period that they are off payroll, unless required by law.

11.3 Accumulation

An employee may accrue seven hundred and twenty (720) hours of sick leave. Once the accrual maximum is reached, the employee can earn no other paid sick leave until the accrual balance is reduced.

11.4 Use

Sick leave may be used by the employee for purposes as described in this MOU. As

stated herein, a written health care practitioner's statement may be required before approval of sick leave pay. In the event of continued, regular absence requested as sick leave, an employee may be further counseled by the Police Chief and required to see the City's physician at no cost to the employee. Pay for approved sick leave shall be authorized until the employee's accumulated total sick leave hours have been exhausted and at such time the employee shall receive no further pay for sick leave.

An employee shall be granted time off chargeable to sick leave for a visit to a health care practitioner or dentist.

An employee shall have his/her accumulated sick leave balance reduced by an amount equal to the number of sick leave hours for which pay is received.

Sick leave will not be granted for any of the following causes:

1. Disability arising from any sickness or injury purposely self-inflicted or caused by employee's own willful misconduct.

2. Disability arising from any sickness and injury related to employment other than with the City of Oakley.

Abuse of sick leave, i.e., used for unauthorized purposes, may result in disciplinary action.

11.5 Depletion of Sick Leave

In the event of an employee's continued illness after depletion of his/her sick leave, such absence may, with the approval of the Police Chief, be charged to vacation time accrued. Upon depletion of leave benefits, a medical leave without pay may be granted with approval of the City Manager.

11.6 Leave Chargeable to Sick Leave

An employee may be granted time off with pay for the following:

1. Absence due to the illness or injury of a member of the employee's immediate family, defined as employee's spouse, child, domestic partner, or parent.

2. Absence beyond three (3) days, or five (5) days if outside the state, due to the death of a member of the employee's immediate family.

3. Birth of child to employee's spouse- while spouse is hospitalized.

Such time off shall be considered as sick leave and shall be charged against the accumulated sick leave of the employee.

11.7 Abuse of Sick Leave

The City of Oakley provides a generous amount of sick leave hours and encourages employees to use these hours wisely and maintain a comfortable number of hours available for unforeseen situations. The City considers the abuse of sick leave as a serious offense and evidence substantiating use of sick leave for willful injury, gross negligence, intemperance, or any instances of misrepresentation will result in disciplinary action, up to and including termination from employment.

Other examples of abuse of sick leave include the following:

- Failure to notify supervisor of medical absence
- Failure to provide physician's verification when required
- Fraudulent physician verification
- Use of sick leave for that which it was not intended or provided
- Continued pattern of maintaining zero or near zero leave balances or seeking approval of leave without pay because sick leave accrual has been exhausted
- Pattern of abuse, for example, the routine use before, and/or after holidays; before, and/or after weekends or regular days off; after pay days; of any one specific day; following overtime worked; frequent use of half days; and/or any routine use of any combination of the above.

The City maintains minimum staffing levels and excessive absenteeism creates a negative impact on the workplace by disrupting work schedules, increasing overtime costs, leaving projects incomplete, decreasing organizational efficiency, moving additional work upon others, and creating an overall negative morale within the organization.

11.8 Sick Leave Conversion at retirement or resignation

Sick leave is forfeited and not cashed out upon separation from employment, unless an employee has completed five (5) years or more with the City at the date of separation and then fifty percent (50%) of the value of accrued sick leave will be paid to the employee at separation. If an employee is retiring at separation, the cash payment for sick leave may be disbursed to the retiring employee through a lump sum cash payment that is deposited into the employee's deferred compensation account (as allowed under terms and conditions of the plan and Internal Revenue Service regulations); used as a payment to CalPERS to buy service time, if eligible; placed in a retiree health savings account; or, a combination of these options at the election of the employee.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive credit for years served with the Contra Costa Sheriff's Office to determine eligibility for sick leave conversion.

11.9 SICK LEAVE DONATION FOR CATASTROPHIC CIRCUMSTANCES

An employee may be eligible to receive donations of up to four-hundred eighty (480) hours of paid sick leave to be included in the employee's sick leave balance, if exhausted, with the City Manager's written approval and only if she/he has suffered a catastrophic illness or injury which prevents the employee from being able to work, and only if the employee is in good standing. A catastrophic illness or injury is a medically-certified illness, injury impairment, or physical condition that prevents an eligible employee from returning to work for a period of sixty (60) or more calendar days.

1. *Rules of Sick Leave Donation Program*
   a. An employee is not eligible to receive sick leave donations if she/he is currently receiving workers' compensation, short-term or long-term disability benefits.
   b. No sick leave or other leave accruals are accrued by an employee using donated sick leave; however, other benefits, such as insurance and participation in the CalPERS retirement defined benefit plan, will be provided to employee while utilizing donated sick leave.
   c. Donated leave shall be considered sick leave, but shall never be converted into a cash benefit.

2. An Employee may donate sick leave if the donating employee:
   a. Voluntarily elects to donate sick leave and does so with the understanding that donated leave will only be returned if not used by the affected employee within ninety (90) days of the donation;
   b. Donates a minimum of eight hours;
   c. Retains a combined leave balance (vacation and sick) of at least one-hundred sixty (160) hours;
   d. Donates time in one (1) hour increments. For every one (1) hour of sick leave time donated by the donor, the recipient will be credited with one (1) hour of sick leave. The pay levels of the two employees shall not affect the transaction;
   e. No sick leave or other leave accruals are accrued by an employee using donated sick leave; however, other benefits, such as insurance and retirement, will be provided to employee while utilizing donated sick leave;
   f. Donated leave shall be considered sick leave, but shall never be converted into a cash benefit.

3. Donations are Voluntary and the City Manager shall respect an employee's right to privacy, however, she/he may, with the permission of the employee who is in need of leave, inform employees of their co-worker's critical need for sick leave hours. The City Manager or any other employee shall not directly solicit leave donations from employees. The donation of leave shall occur on a strictly voluntary basis.

11.10 On-the-Job Injury

An employee injured in the course of employment must report the accident to his/her supervisor. The supervisor is responsible for submitting a statement signed by the employee and giving all details within twenty-four (24) hours of the accident.

When an employee is off work as the result of a valid on-the-job injury or illness sustained in the service of the City, the City shall continue his/her pay in the amount of his/her monthly rate for up to but no longer than one (1) year of compensated time off as dictated by California Government Code Section 4850. Such pay shall be considered as on-the-job injury leave and shall not be charged as sick leave.

During the time that an employee is off work as the result of a valid on-the job injury, the employee will retain his/her Department seniority.

11.11 Off-the-Job injury

Any injury/illness occurring other than in the service of the City may be compensated for through the provisions of the long-term disability insurance plan provided by the City.

Section 12. OTHER LEAVES OF ABSENCE

12.1 Personal Leave of Absence without Pay

Upon recommendation of the Police Chief, the City Manager may grant an employee a leave of absence without pay in cases of emergency or where such absence would not be contrary to the best interests of the City. No such leave shall be granted except upon written request, and the approval must be in writing. Requests should be made as far in advance as practical. Such leave shall not exceed three (3) calendar months duration. Loss of service credit will occur for the duration of the leave; no benefit credit will be accrued toward vacation or sick leave. Employee insurance benefits will remain in effect. Performance review will be deferred if necessary or may be rescheduled upon return to work.

12.2 Family Care and Medical Leave

Employees are entitled to a total of twelve (12) workweeks of leave during any twelve (12) month period. The twelve (12) month period for calculating leave entitlement will be a "rolling period" measured backward from the date leave is taken and continuing with each additional leave day taken. Thus, whenever an employee requests leave, the City will look back over the previous twelve (12) month period to determine how much leave has been used to determine how much leave an employee is entitled to.

Leave is only permitted for the following reasons:

1. The birth of a child or to care for a newborn of an employee;

2. The placement of a child with an employee in connection with the adoption or foster care of a child;

3. Leave to care for a child, parent or spouse who has a serious health condition; or

4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

An employee is eligible for leave if the employee has been employed for at least twelve (12) months and has worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the leave.

An employee's entitlement to leave for the birth of a child or placement of an adopted or foster care child expires twelve (12) months after the birth or placement.

Leave under this section is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. Employees on leave may make appropriate contributions to continue other benefits. Employee contribution rates are subject to any changes in rates that occur while the employee is on leave. If an employee fails to return to work for a period of at least thirty (30) days, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover the cost of premiums through deduction from any sums due the employee (e.g., unpaid wages, vacation pay, etc.).

If an employee requests leave for any reason permitted under this section, he/she must exhaust all accrued leave (except sick leave) in connection with the leave. The exhaustion of accrued leave will run concurrently with the leave under this section.

If an employee requests leave for his/her own serious health condition, in addition to exhausting accrued leave, the employee also must exhaust accrued sick leave.

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of his/her position.

The City reserves the right to require a medical opinion from a second health care provider chosen by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee. The opinion of the third provider will be binding.

The cost of the second and third opinion shall be borne by the City.

If an employee requests leave intermittently (a few days or hours at a time) or requests a reduced work schedule to care for an immediate family member with a serious health condition or the employee's own medical condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave.

Although the City recognizes that emergencies arise, which may cause employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that he/she will need leave in the future but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If the City determines that the employee knew about the requested leave in advance of the request or that the employee's notice is inadequate, the City may delay the granting of the leave until, in the City's discretion, it can cover the position adequately with a substitute.

As a condition of restoration of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of restoration.

12.3 Pregnancy Disability Leave of Absence

Pregnancy Disability leave of absence, paid or unpaid, shall be granted to an employee with a health care practitioner's statement regarding disability due to pregnancy for a period not to exceed four (4) calendar months, provided the practitioner's statement complies with applicable State and Federal law. Employees shall be entitled to use any accrued vacation, compensatory time off, or sick leave during this period of time. Upon the request of the employee and the recommendation of the Department Head, the City Manager may approve an extension of pregnancy disability leave of absence.

While on paid pregnancy disability leave of absence, employees will continue to accrue vacation, sick leave or PERS service credit and be covered by all insurance plans to the same extent that coverage is provided to employees while on the job.

In the event any insurance plans which the employee is provided require contributions on part of the employee and such employee contribution rates increase for employees who are on the job, such increases shall apply to the employee who is on leave. Scheduled performance reviews may be deferred if necessary and scheduled upon return to work.

While on unpaid pregnancy disability leave of absence, employees will not be eligible to accrue vacation, sick leave or PERS service credit. Employee insurance benefits will remain in effect to the same extent coverage is provided to employees while on the job. In the event any insurance plans which the employee is provided require contributions on the part of the employee and such employee contribution rates increase for employees who are on the job, such increases shall apply to the employee who is on leave. Scheduled performance reviews may be deferred if necessary and scheduled upon return to work.

12.4 Bereavement Leave

Employees shall be granted up to three (3) working days leave with pay by the Police Chief in the event of death in the immediate family of the employee if death occurred within the State and up to five (5) days if death is outside of the State. ("Immediate family" is defined in "Definitions" section of this MOU)

Additional time off in excess of three (3) or five (5) days may be taken by an employee with prior approval of his/her Police Chief and the City Manager. Such additional time off is to be charged in the following order:

a. Accumulated sick leave
b. Accumulated vacation leave
c. Accumulated compensatory time
d. Leave of absence without pay.

12.5 Military Leave of Absence

Military leave shall be granted in accordance with the provisions of State Law. All employees entitled to military leave shall give the appointing authority an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

Whenever possible, the employee involved shall notify his/her department of such leave requested at least ten (10) working days in advance of the beginning date of such leave.

Upon termination of military leave, the employee, in accordance with applicable law, may return to his/her classification without loss of seniority or other benefits.

12.6 Military Reserve Training

Employees attending the two (2) week Summer Camp Sessions held by branches of the military are paid the difference between their regular City base salary and military pay received. Employees should notify their Police Chief as soon as their dates of training are known and submit a copy of their military orders. These sessions do not constitute breaks in employment, and benefits accrue as usual.

12.7 Subpoena

Employees, who are subpoenaed to appear as witnesses on behalf of the Federal Government or any of its agencies, the State of California or any of its agencies, or the City of Oakley or any of its agencies, shall be granted a leave of absence, upon presentation of the subpoena to the Police Chief. Said employees shall receive full pay for such appearances, provided the employee remits to the City all fees as soon as received by the employee for such appearances.

For appearances in Contra Costa County as a result of a subpoena from the District Attorney, Public Defender, Department of Motor Vehicles or any other Government Agency, compensation shall be as indicated in Section 7 of this MOU.

Compensation or expenditures of the employee, for mileage or subsistence allowances, shall not be considered as a fee and shall be retained by the employee.

12.8 Jury Duty

Employees required to report for jury duty shall be granted leave for such purpose, upon presentation of jury notice to the Police Chief. Said employees shall receive full pay for the time served on a jury, provided the employee remits to the City all fees as soon as received by the employee for such duties. Compensation for mileage or subsistence allowances shall not be considered as a fee and shall be retained by the employee.

12.9 Medical Leave/Work Related

All employees are covered by Workers' Compensation as required by law. Employees shall be provided leave consistent with these laws.

12.10 Medical Leave/Non-Work Related

An employee who is disabled due to a non-work related injury or illness shall be granted an unpaid leave of absence for the period of the disability provided the practitioner's statement complies with applicable State and Federal law; however, the period shall not exceed three (3) months, inclusive of the time provided under the "Family Care and Medical Leave" provisions (Section 12.2).

12.11 Return from Leave

Upon expiration of leave, an employee is entitled to be restored to the position

of employment held when the leave commenced, or to an equivalent position.

12.12 Unauthorized Leave of Absence

Unauthorized leave of absence shall be considered as days, or portion of days, not worked in which the employee was scheduled to work. Unauthorized leave will be deducted from the employee's pay in an amount equivalent to the time absent. An unauthorized leave of absence will result in disciplinary action. Unauthorized leave of absence for more than three (3) days shall be cause for automatic termination of employment with no right of appeal.

Section 13. LAYOFFS

13.1 City Council Action

The City Council shall determine which position(s) shall be eliminated within the organization. Human Resources shall determine and notify the employee(s) to be laid off as a result of the eliminated position(s).

13.2 Order of Layoffs

To determine which employee is to be laid off as a result of an eliminated position, Human Resources shall use the following procedure:

1. Prepare a list of every employee in the affected classification. (A classification is defined as a position or group of positions sufficiently similar in duties and responsibilities in which the same title, qualifications, test of fitness and salary range can be applied.)

2. Determine which employee(s) within the classification will be laid off. If there is only one (1) employee in the classification, that employee shall be given a layoff notice.

If there are two (2) or more employees within the same classification, Human Resources shall apply the following order in determining which employee shall be laid off:

First, temporary employees in the classification shall be laid off. The City Manager shall determine which temporary employee(s) shall be laid off.

Second, if there are no temporary employees in the classification, layoff will be determined by seniority in City service.

3. Seniority shall be defined as follows:

As determined by official City payroll records, all service in the employ of the City shall be counted toward the establishment of an employee's City seniority service ranking including temporary, regular part-time, probationary and regular full time, as well as obligatory leaves for military service while an employee of the City. Loss

of service credit will occur for the period of a leave of absence without pay. Less than full time service will be consolidated in equivalencies of full-time service for the purpose of establishing City seniority service ranking.

Note: All new employees that were serving in the City of Oakley with the Contra Costa Sheriff's Office as of April 15, 2015 shall receive credit for years served with the Contra Costa Sheriff's Office to determine seniority.

13.3 Displacement Rights

An employee designated to be laid off shall receive written correspondence with at least a minimum thirty-day layoff notification and displacement rights.

13.4 Notification of Displacement

An employee scheduled to be laid off must request displacement in writing to Human Resources within seven (7) working days of receipt of notice of layoff. An employee displacing to a lower or related classification shall be placed at the salary tier representing the least loss of pay. In no case shall the salary be increased above the amount received in the classification from which the employee was laid off.

Employees assuming a lower or related classification shall serve a probationary period in the new classification unless they previously have completed a probationary period in the classification.

13.5 Reemployment

The names of employees laid off or displaced shall be entered on a reemployment list in the inverse order specified in Section 13.2 of this Section. As reemployment opportunities become available in the classification from which the employee was laid off: the employees on the list, commencing with the highest score, shall be offered return to those positions. Reemployment lists shall remain in effect for two (2) years.

Laid-off or displaced employees will be notified of reemployment opportunities by certified mail at the last official known address of the laid-off or displaced employee. It shall be the responsibility of the laid-off or displaced employee to inform the City in writing of any changes in his/her address.

The laid-off or displaced employee must notify Human Resources of his/her acceptance within three (3) work days of receipt of the mailing as reflected on the postal service certified return receipt. The employee shall be notified of such time limit in the written reemployment offer. Failure to contact the designated City official within such period shall be deemed as rejection of the vacant position and will remove the employee from the reemployment list.

Section 14. EMPLOYEE BENEFITS

14.1 Retirement Plan

Employees shall participate in the California Public Employees Retirement System (PERS) 2.7% at 57 plan pursuant to the terms and conditions of the California Public Employees' Pension Reform Act of 2013 (PEPRA). The plan includes the 4th Level 1959 Survivor's Benefit and a 3% C.O.L.A.

The City does not participate in the Social Security Plan with the exception of the mandatory Medicare (FICA) deduction.

14.2 Disability Insurance

During the term of this agreement, the employee shall pay the cost of long term disability insurance. The cost for this insurance shall be paid monthly through the employee's monthly association dues.

14.3 Health/Life Insurance Program

The City shall provide a health, dental, vision, and life insurance plan for employees and their dependents consistent with benefits currently in effect with other City employees. Currently, the monthly allotment for health insurance is $1,535 per month.

The City medical contribution rate shall remain at $1,535 through calendar year 2019. Effective December 2019, the City will share in the cost of premium increases.

The City's contribution will be based upon the expected increase for the Kaiser HMO A Platinum plan and the average family premium of POA members enrolled in the Kaiser HMO A Platinum plan (not on any one individual's family premium).

The City will calculate the average premium, as determined by the premiums of POA members enrolled in the Kaiser HMO A Platinum plan, to establish the base used to apply the anticipated increase for the following calendar year. For example: If the average premium was $1,800 and the increase was 10.2%, the expected premium cost increase to be split would be $184 per month. Thus, the City would contribute 75% of $184, or $138 more per month towards the premiums of POA members whose premium costs exceed the stipend of $1,535.

When received (usually late October), the City will report the new average premium rate increase in the Kaiser Platinum Family tier to determine the annual premium increase. The City and Association will then share that annual cost increase 75% City and 25% Association to determine the new City contribution rate.

Employees shall cover any premium amount in excess of the new City contribution rate.

Cash in lieu cap remains at $1,235 or $400, depending on date of hire.

Acknowledging the need to further evaluate the fiscal impact of this new provision, the cost-sharing shall sunset at the conclusion of this contract period, unless otherwise mutually-agreed upon in writing.

Officers employed by the City prior to September 30, 2016 who have alternate health coverage, can waive group insurance coverage by completing the Waiver Form and providing evidence of the coverage, certifying that adequate health care benefits are being provided by another group insurance source, the City will provide "cash in lieu" to the employee equivalent to the health benefit amount set by the City Council, not to exceed $1,235. An employee whose group coverage costs less than $1,235 per month may receive the difference between the cost of coverage and the $1,235 as "cash in lieu." Any employee hired after October 1, 2016, who waives coverage as described herein or has a group coverage cost that is less than the $1,235, the City will provide a benefit payment of an amount not to exceed $400 per month to deferred compensation in the name and for the benefit of the employee.

Dental and vision coverage for employee and dependents is currently paid for by the City. Also, at City expense a life insurance policy of $50,000 is provided to the employee.

14.4 COBRA - Continuation of Health Coverage

As required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) the City's health insurance plans provide for continuation of group health coverage to employees and eligible family members, upon a qualifying event, at the employee or family member's expense according to the provisions set forth in COBRA.

14.5 Deferred Compensation

Employees may participate in the deferred compensation plan in accordance with the guidelines of that plan as long as such a plan is offered to any employees through the City.

14.7 Mileage Reimbursement/Allowance

Whenever an employee is required to use a private vehicle in the conduct of City business, such employee is entitled to reimbursement for actual mileage. Mileage is reimbursed at the rates prescribed by the IRS. Also, in the event of an accident while using a private vehicle on City business, the employee's

insurance will be primary; however, the City will cover the employee's deductible cost.

14.9 Retiree Medical

Employees will participate in the Peace Officers Research Association of California (PORAC) Medical Trust. The City will pay four hundred and fifty dollars ($450) per month into the PORAC Medical Trust on behalf of the employee from the date of hire until the employee's separation date. The $450 dollar amount will be reviewed annually for increases to reflect increases in salary. After retirement, employees will receive benefits from the Trust based on the years of service and credits accrued once the minimum age and years of the Trust's participation requirements have been met. Contributions will be made for all employees in the Oakley Police Officers Association and employees may not individually elect against participation in the PORAC Medical Trust Plan.

14.10 Legal Defense Representation

The employee shall pay the cost of the membership subscription to the Legal Defense fund through monthly association dues.

Section 15. UNIFORMS, BOOTS & SAFETY EQUIPMENT

The City shall pay the full cost of employee uniforms and safety equipment. In the event these uniforms are damaged in the course of work or are worn out as a result of normal wear, the uniforms shall be replaced at no cost to the employee. On a trial basis, the City will also cover the cost of laundering/dry cleaning the uniforms at a designated location.

Each employee shall receive a boot allowance of two hundred dollars ($200) per calendar year. Boots shall be purchased from vendors and with specifications approved by the Police Chief, and worn as directed. Uniformed employees required to ride a motorcycle as part of their duties will be issued one pair of motorcycle boots every two years, paid for by the City.

Section 16. DISCIPLINARY PROCEEDINGS

16.1 Causes for Disciplinary Action

Employees may be disciplined for just cause including, but not limited to the following:

a. Fraud of any kind, including in securing appointment or making a false statement on an application for employment
b. Incompetence, inefficiency, carelessness, inattention, or neglect of duty
c. Insubordination\willful disobedience
d. Less than satisfactory performance
e. Dishonesty or immorality

f. Being under the influence of alcohol or medications while on duty
g. Illegal possession, use, or addiction to the use of narcotics or controlled substances
h. Unauthorized leave of absence
i. Abuse of sick leave
j. Tardiness
k. Failure to immediately report a an accident involving damage to City vehicles and/or equipment
l. Conviction of a felony or conviction of a misdemeanor involving moral turpitude
m. Discourteous treatment of the public or other employees
n. Prohibited political activity in violation of the California Government Code.
o. Abuse or misuse, or appropriation for personal use, of City property
p. Violation of any of the provisions of the Personnel Rules and Regulations, Departmental Rules and Regulations, and/or any provision of this MOU.
q. Any willful act of conduct undertaken in bad faith, either during or outside of duty hours, which is of such a nature that it causes discredit to the agency, the employee's department or division.
r. Outside employment not specifically authorized by the Police Chief and City Manager
s. Any other conduct equal to the reasons enumerated about as determined by the Chief of Police

16.2 Types of Disciplinary Action

Types of disciplinary action, which may be taken, in order of severity, are: dismissal, disciplinary demotion, disciplinary suspension, written reprimand, oral warning, or an appropriate combination of these disciplinary actions. The aforementioned types of disciplinary action are defined as follows:

a. **Dismissal**

The discharge of an employee from City service.

b. **Disciplinary Demotion**

A permanent change in classification of an employee to a position of lower responsibility and pay for unsatisfactory performance or disciplinary reasons.

c. **Disciplinary Suspension**

The temporary suspension of an employee from City service, without compensation, for a period not to exceed thirty (30) calendar days in any one (1) calendar year.

d. **Written Reprimand**

Notification in writing to the employee that there is a cause for dissatisfaction with the employee's services and that further disciplinary measures may be taken if the cause is not corrected.

e. **Oral Warning**

Verbal notification to employee that performance did not meet expectations.

16.3 Persons by Whom Disciplinary Action May Be Taken

The City Manager, Police Chief or his/her designee may take disciplinary action against an employee under his/her control for cause. The employee shall be informed of the disciplinary action to be taken within two weeks after the completion of the City's investigation.

16.4 Disciplinary Action Procedure

All disciplinary actions taken against a sworn police employee will be pursuant to and in compliance with the Peace Officer's Bill of Rights as specified in the Government Code.

I. Pre-Disciplinary Action Procedure

disciplinary action, which would result in loss of employee salary, shall conform to the following procedural safeguards prior to imposition of disciplinary action:

a. *Notice*

Written notice of the proposed disciplinary action shall be served upon the employee;

b. *Reasons*

Reasons shall be cited for the proposed disciplinary action;

c. *Charge and Material*

A copy of the charges and access to material upon which the action is based shall be included;

d. *Employee Response*

The employee shall have the right to respond, either orally or in writing, to the authority initially imposing the disciplinary action.

The above stated notice and charges shall be served upon the employee either personally or by certified mail. The charges shall be detailed so as to give the employee fair opportunity to review and respond to the charges.

Upon receipt of the notice and charges, the employee shall have not less than three (3) working days within which to respond in writing or to request an informal non-evidentiary hearing before the person by whom disciplinary action

was taken and /or the Police Chief. The purpose of this hearing is to allow the employee's representative and/or the employee to make any representations believed relevant to the case. The hearing shall be held as expeditiously as possible but not more than three (3) working days after the request for hearing unless there is an agreement to extend by both parties. The hearing shall be subject to taping or transcription.

An employee may be relieved from duty and placed on paid leave pending the final decision of the proposed action if such leave is necessary to protect the public service or public interest.

II. Final Disciplinary Action Procedure

Disciplinary action causing loss of employee salary and any other form of discipline shall be imposed in accordance with the following procedure: A written notice shall be served on the employee and filed with the City Manager with a copy to Human Resources as soon as reasonably possible, but not later than five (5) working days after the date discipline is imposed. The notice shall be served on the employee either personally or by certified mail and shall include:

a. A statement of the nature of the disciplinary action;
b. The effective date of the action;
c. A statement of the cause for the discipline and citing the rule(s) violated; and
d. Said notice may include conditions or future actions to be taken.

16.5 Right of Appeal - Procedure

An employee shall have the right of appeal from any disciplinary action taken under this article. Such appeal must be filed in writing with the Police Chief with a copy to Human Resources within ten (10) calendar days after receipt of written notice of such disciplinary action. The appeal must state specifically the issue(s) in controversy and the facts upon which the issue(s) is based. The Police Chief will respond within ten (10) days of receipt of the appeal. If the employee is not satisfied with the Police Chief's review, the employee may appeal to the City Manager.

Such appeal must be filed in writing with the City Manager with a copy to Human Resources and the Police Chief within ten (10) calendar days of receipt of the Police Chief's response. In the case of suspensions of three (3) days or more, the City Manager may conduct, upon the employee's request, an independent review of the discipline imposed for the purpose of affirming, modifying or reversing the discipline. The City Manager will respond within ten (10) calendar days of receipt of the appeal.

If the employee is not satisfied with the City Manager's review, the employee may appeal the matter to final appeal hearing officer whom shall be selected by the City Manager with input from the employee. The final appeal hearing officer shall be independent, have had no role in the matter and shall have had previous experience serving in such a capacity. The appeal shall be made in writing to Human Resources within ten (10) calendar days of receipt of the City Manager's decision.

The fees and expenses of the final appeal hearing officer shall be shared equally by employee and the City. Each party, however, shall bear the cost of its own presentation.

The final appeal officer shall conduct a hearing and identify the facts in the case and shall make a final decision on the matter within thirty (30) days of the hearing. The decision of the final appeal officer shall be binding upon both parties.

16.6 Waivers/Withdrawal of Appeal

Notwithstanding any provisions in this article, any time limit or stage of procedure herein provided may be waived upon consent of both parties involved.

At any time after an appeal has been filed, an employee shall have the right to withdraw his/her appeal by written notification to the City Manager.

Failure of the employee to file an appeal within the period specified constitutes a waiver of appeal.

Failure of the employee to appear at the hearing shall be deemed a withdrawal of his or her appeal and the action of the Police Chief shall be final.

16.7 Effect of Certain Disciplinary Action Interpretive Suspension

An employee suspended from the City service shall forfeit all rights, privileges and salary, except that the employee shall not forfeit his/her health plan, pension, long-term disability, nor life insurance while on suspension.

Discharge

An employee who has been discharged from City service shall be paid salary accumulated to the effective date of termination, and any accrued compensatory time or vacation leave.

Demotion

An employee who has been demoted shall be reduced from a position in one classification to a position in a lower classification having lesser duties and responsibilities and a lower maximum rate of pay for disciplinary purposes.

Official Reprimand

An employee who has been issued an official reprimand shall be given a written

notice, and a copy shall be placed in the employee's personnel file. The employee shall sign an acknowledgment that he/she has received a copy of the written notice.

16.8 Informal Corrective Counseling

1. Purpose

The effective and efficient operation of the Oakley Police Department requires employees to conform to Oakley Police Department standards. The Chief of Police believes that positive correction is often more effective than punishment. Therefore, an informal system of training and counseling has been established to assist employees in improving behavior and performance without the negative effects of lasting disciplinary measures.

The corrective counseling system is designed to give the employee an opportunity to correct behavior by clearly identifying the problem and defining a course of action to correct the problem. This informal written counseling session will remain in the officer's personnel file for the duration of the annual evaluation period. Employees may be placed into the corrective counseling system by a supervisor of the rank of sergeant or above.

2. Interview

The initial step for placement into the corrective counseling system is a meeting between a supervisor and the employee. Prior to the meeting the supervisor should review available information and conduct any necessary investigation. This meeting allows the employee an opportunity to present an explanation of the incident or behavior and provides the supervisor an opportunity to remind the employee of any rules, policies or procedures that were violated.

At the conclusion of the interview, the supervisor may indicate the need for corrective action, additional training, or increased supervision or the supervisor may require further investigation into the behavior.

If at any time during this process the supervisor should determine that informal corrective counseling is not appropriate and disciplinary action may be recommended the supervisor should discontinue the informal corrective counseling procedure and request further investigation be conducted by an internal affairs investigation through the chain of command.

3. Corrective Action

Each incident requires timely corrective action which directly addresses the employee's behavior problem. Appropriate corrective action can be as simple as the counseling which is provided during the meeting with an employee. Other circumstances may require more stringent monitoring of employee behavior, a

more structured work environment, increased supervision, specific training, counseling programs, and medical or psychological evaluation and intervention.

4. Documentation

The supervisor will prepare an informal corrective counseling memorandum to be forwarded through the chain of command and placed into the officer's personnel file, for six (6) months. This memorandum will be addressed to the employee and it will document the issues discussed during the interview and will clearly describe the course of action to be taken to correct the unacceptable behavior.

The employee will have the opportunity to read and sign the memorandum prior to its placement into the officer's personnel file. The signing of the document by the employee is not an admission of culpability. If the employee refuses to sign the memorandum, the supervisor will note the refusal on the memo. The employee will not be ordered to sign the memo. The employee will be given the original memorandum, and a copy will be forwarded through the officer's chain of command.

The officer may prepare a separate memorandum setting forth that officer's position on the situation. This written memo shall be submitted no later than thirty (30) days after the interview and forwarded through the same chain of command as the informal corrective counseling memorandum. The officer's memo shall remain with the informal corrective counseling memo in the officer's personnel file, until they are both purged at the time of the officer's annual evaluation.

The informal corrective counseling system is designed improve an officer's behavior and performance and is not disciplinary. Placement into the informal corrective counseling system is not subject to the grievance procedure.

Section 17. GRIEVANCE PROCEDURE

17.1 Definition

A grievance is a complaint or problem, which arises from the application and/or interpretation of this Memorandum of Understanding.

17.2 Procedural Steps

Any grievance arising from the application and/or interpretation of the provisions of this MOU, wherever possible, should be considered within the Department. Use of this procedure shall not reflect unfavorably on the employee, the supervisor (s), the Police Chief or the general management of the City. Retaliatory or discriminatory action against an employee for using this procedure or discrimination in the application of a rule or policy shall be a violation of City policy.

1. Purpose of Rules

a. To promote full communication between the City and its employees by providing a reasonable method of resolving disputes regarding the provisions of this MOU, wages, hours and other terms and conditions of employment between the City and the employee.

b. To assure the employee of a prompt and fair discussion of the issue involved.

c. To provide that complaints shall be settled as near as possible to the point of origin.

d. To encourage the prompt resolution of problems and complaints of any employee.

e. To enable employees to make their complaints known by an orderly process.

f. To provide that complaints shall be heard and settled informally.

2. Submission of a Complaint, Grievance or Problem

In the informal complaint procedure, the complainant may present his/her complaint or problem verbally or in writing. If presented verbally, the complainant may, at any stage of the process or review, submit his/her complaint or problem in writing. The City Manager, the Police Chief or the supervisor may, at any stage of the process or review, request that the complaint or problem be put in writing and submitted.

3. Discussion of Complaint, Grievance or Problem

Any complaint or problem arising out of employment should, wherever possible, be considered within the Department. When a complaint or problem arises, it shall be brought to the attention of the immediate supervisor by the employee involved as soon as possible. Should the employee fail to bring his complaint or problem to the attention of the supervisor within three (3) working days of the date of the action or incident causing his complaint, it shall be considered as a waiver by the employee of his right to submit the complaint.

The supervisor must take action on the complaint and notify the complainant of his action or decision within three (3) working days from the date the complaint was submitted.

If the matter is one which can be adjusted by the immediate supervisor to the satisfaction of the employee, this shall terminate the complaint.

If the matter cannot be adjusted or settled by the immediate supervisor within three (3) working days from the date of submission, or if the complainant is still dissatisfied after the decision of the immediate supervisor, he/she may submit his/her complaint to the Police Chie£ The complaint must be submitted to the Police Chief within three (3) working days from the date of the supervisor's decision or the complaint shall be terminated.

The Police Chief shall confer with the complainant, the supervisor and such other persons as may be necessary to gather all the facts and to find a solution. He/she must take action and notify the complainant of his/her action or decision within five (5) working days from the date the complaint was submitted.

4. City Manager Review of Complaint, Grievance or Problem

If the complainant is not satisfied after informal discussions and the Police Chief's decision, he/she may, within ten (10) calendar days of the date of the Police Chief's decision, request in writing a meeting with the City Manager. Failure of the complainant to make such a request within the ten (I0) day period shall terminate the complaint.

Upon receiving the written request, the City Manager shall within seven (7) calendar days, discuss the complaint or problem with the complainant, his/her representative, if any, and all principals involved for the purpose of resolving the complaint or problem.

The City Manager may make or cause to be made any inquiry, investigation or compilation of facts he deems necessary to assist him/her in reaching a decision. The City Manager shall render a decision in writing to the complainant with a copy to the Police Chief within fourteen (14) calendar days of the date the complainant's written request was received. The decision of the City Manager shall be final.

Section 18. SAFETY

18.1 Safety Committee Appointment

The Police Department may appoint one (1) employee representative to the City Safety Committee.

18.2 Injury and Illness Prevention Program

The City will provide a comprehensive Injury and Illness Prevention Program (IIPP) which is designed to prevent workplace accidents, injuries and illnesses.

Section 19. Promotional Guidelines for Sergeants

1. Human Resources will provide notification to the Association of the promotional opportunity at least thirty (30) days in advance of the closing date for the filing of an application.

2. A promotional memo will be prepared outlining the application process, basic job duties and testing process.

3. To be eligible for a promotion, an employee must have five (5) years prior law enforcement experience, or three (3) years served at Oakley PD, or prior experience

as a sergeant or above.

4. All applicants must have completed their probation period prior to submitting an application.

5. Applicants who complete the testing process and meet the requirements listed above will be placed on an eligibility list. The top five (5) candidates will be placed on the eligibility list in alphabetical order, and must have received a cumulative score of seventy percent (70%) or higher in the promotional process to be placed on the list.

6. The Police Chief will not be given the numerical scores of each of the top five (5) eligible candidates and shall have the right to select from any of the top five (5) eligible candidates on the list or from any of the eligible candidates on an eligibility list containing less than five (5) candidates.

7. The list will remain in effect for a period of nine (9) months.

8. If the eligibility list is exhausted prior to the nine (9) month period, a new promotional list will be prepared based on the guidelines outlined above.

Section 20. CITY'S EXISTING PERSONNEL POLICIES MANUAL

Reference and guidance for action on any other matters of policy not included in this MOU for the Police Department, can be found in the City's existing Personnel Policies Manual.

Section 21. SEPARABILITY AND SAVINGS

If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be inoperative but all other provisions shall not be affected thereby and shall continue in full force and effect.

Section 22. DURATION OF THE AGREEMENT

This MOU shall continue in full force and effect from August 13, 2019 to and including June 30, 2022. City and Association agree that any provision of this MOU may be modified during this time frame, but only by mutual, written agreement.

Approved by the City Council: 08/13/2019

CITY OF OAKLEY, CA

Bryan H. Montgomery, City Manager

OAKLEY POLICE OFFICERS ASSOCIATION

Kevin Morris, President

ATTEST:



Libby Vreonis, City Clerk

APPROVED AS TO FORM:



Derek Cole, City Attorney

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: February 22, 2022

TO: Joshua McMurray, City Manager *Approved and Forwarded to the City Council*

FROM: Tim Przybyla, Finance Director

SUBJECT: **Resolution Approving City of Oakley Fiscal Year 2021/2022 Mid-Year Budget Review and Adopting its Recommendations for Revising the Fiscal Year 2020/2021 Operating and Capital Budgets and Increasing the General Fund Reserve Policy from 20% to 30%**

Background and Analysis

City Policy requires the City Manager to make a mid-year budget report to the City Council in February of each year. The process provides an opportunity to review the status of the Budget at mid-year and to make adjustments to the City's planned operations and budget. This year's report is attached and includes a State of the Budget summary and summary of recommendations, detailed assessments of both operating and capital budgets, and a schedule showing the recommended mid-year budget adjustments for each fund.

Fiscal Impact

For a detailed listing of all staff recommended changes and fiscal impacts to the budget, refer to the Mid-Year Budget Review and other attachments to this report.

Staff Recommendation

Staff recommends the City Council adopt the resolution, approving the City of Oakley Fiscal Year 2021/2022 Mid-Year Budget Review and adopting its recommendations for revising the Fiscal Year 2020/2021 Operating and Capital Budgets and increasing the General Fund Reserve Policy from 20% to 30%.

Attachments

1. Mid-Year Budget Review
2. Fund Summaries (All Funds)
3. Resolution
4. Budget Transfer Form
5. General Fund Reserve Policy

OAKLEY
CALIFORNIA

Mid-Year Budget Review
Fiscal Year 2021/2022

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Presented to the City Council on February 22, 2022

State of the Budget

The Mid-Year Budget Review begins with the good news that at the six-month mark (December 31, 2021) General Fund revenues are above 50% and expenditures are below 50% of the annual budget. Property Tax revenues reflect the increase in property values that the market has been experiencing, and new housing development continues to be strong. Combined, these two occurrences are having a huge impact on our major General Fund revenue sources. The number of single-family dwelling (SFD) building permits being issued this fiscal year (FY 21-22) continues at a steady pace. Although not on pace for another 640 SFD permits like in FY 20-21, this current FY has already seen 177 SFD building permits issued through January 2022 with potential for another 200+ to be issued by the end of June 2022. In addition, two multi-family apartment projects are on the horizon. One is nearing completion (Twin Oaks Senior Mixed-Use Residence) where 129 senior apartments will be age- and income- restricted for residents of 62 years and older. The other is just starting construction (February 2022) on Elm Lane, where a total of 170 units will be constructed, 16 of which will be deed restricted and made affordable to low-income families. The local economy has continued to be relatively stable with employment and business activity showing some signs of growth over the recent challenging years. The Contra Costa Logistics Center continues to develop with the most recent tenants of the first three buildings consisting of Amazon, Pac Pride Distribution, Inc., and Paramount Global, Inc. Pet Food Express is also expected to occupy a portion of Building #2 at 4100 Wilbur Avenue. The development as a whole is expected to bring jobs and increased revenues to the City, as well as spark development and investment on nearby properties along Main Street and Bridgehead Road.

The COVID-19 Pandemic did lead to very conservative estimates for Sales Tax revenues with the original Budget. Sales Tax revenues continue to rebound in most major sales tax groups. Slight reductions in food-drugs and building-construction revenues are offset by growth in all other sectors, especially service stations and restaurants. While countywide pool revenues from online sales were reduced due to a statewide shift in distributions from a large retailer, overall growth in online sales (of which the City receives a share) have more than outpaced those reductions.

This report contains proposals to: increase recurring and one-time revenue estimates, increase a number of expenditure budgets, increase some appropriations within capital projects, adjust the ARPA Fund budget according

to direction given recently by the City Council, and increase the General Fund Reserve by 50% (from a 20% Reserve to a 30% Reserve). The City's practice of budgeting conservatively and living within our means remains effective at ensuring that we maintain good fiscal health, and the recommended changes in this Mid-Year Budget Review remain true to these practices. However, staff is now suggesting that the City recognize that, in spite of being in the midst of a pandemic, we are in a position with more money at our discretion than ever before, we are currently riding a wave of housing growth, we are past-due for an economic downturn, and the decisions that we make at this time and during our preparation of the Fiscal Year 2022/2023 Budget will have a significant impact on the future of the City of Oakley. It is important for us to maintain expectations, use one-time revenues (such as the $10.17 million of ARPA funds) and surplus Fund Balance for one-time projects, and set aside higher reserves to help soften the blow when we do face a downturn in the housing market and the economy.

The General Fund

In accordance with the City's Financial Policies, the original current year budget was conservative when adopted. This was particularly true as we were facing the many uncertainties created by the COVID-19 Pandemic. The Policies also call for one-time, non-operating expenditures to be funded from one-time revenues or the Undesignated Fund Balance. The current year budget was adopted with approximately $5,714,000 appropriated for transfers out of the General Fund, with $3,050,000 considered one-time (compared to $600,000 in the prior fiscal year) and $2,660,000 considered recurring uses. These transfers were budgeted for in recognition that higher than anticipated balances in the Undesignated Fund Balance were available to be expended on one-time uses and they included $4 million for street maintenance and rehabilitation. The City has been very busy making major street improvements during the current fiscal year, and we anticipate even more street improvements in Fiscal Year 2022/2023.

The General Fund Summary of Mid-Year Budget Adjustments (on page 5 of this report) includes increasing revenue projections for Property Tax (by $400,000), Property Tax in Lieu of VLF (by $170,000), Property Transfer Tax (by $200,000), Sales Tax (by $800,000), Franchise Taxes (by $316,000), Interfund Charges (by $404,040), and Other Revenue (by $177,698, including $119,698 from the Sale of Property, which is non-recurring). The recommended increase of $404,040 to Interfund Charges is net of a $241,000 decrease to Interfund Charges – Engineering and includes a $645,040 increase to Interfund Charges – Police. The impact of the proposed revenue adjustments is an overall net increase in estimated General Fund revenue of $2,467,738.

Staff has also identified the need for increased appropriations to complete certain projects and finish the fiscal year without exceeding authorized expenditures. Included in the proposed Mid-Year Review expenditure budget amendments are increases of: $50,000 in Repairs and Maintenance for City Hall and the Public Works Operations Building (PWOB), $150,000 in Contracted Services for Building Maintenance custodial services, $50,000 in Salaries for two new officers to be added to the Police Department toward the end of this fiscal year, $333,000 to Public Works Maintenance for a backhoe, a compact track loader and other equipment to help improve operations, $9,600 for the purchase and installation of City Council Chamber safety divider panels, $46,000 in Operating Transfers Out to Fund 201 for roof repairs to the Skipolini's and Mr. Pickles' roofs ($23,000 each), $150,000 in Operating Transfers Out to Fund 201 for EV Charging Units for the Downtown Parking Lot Project, and $350,000 in Operating Transfers Out to Fund 201 for capital improvements related to an exchange of property related to the Downtown Parking Lot Project.

The total recommended increase in General Fund expenditures is $1,138,600 which is approximately 4.1% of the General Fund operating budget.

The summary of the Mid-Year Review, on the following page, summarizes the estimated General Fund revenue and expenditures for Fiscal Year 2021/2022 along with the proposed adjustments and comparative information to three prior fiscal years.

General Fund Summary

Category	Actuals FY 2018/2019	Actuals FY 2019/2020	Actuals FY 2020/2021	Budget FY 2021/2022	Mid-Year Actuals FY 2021/2022	Estimated Year End FY 2021/2022	Mid-Year Budget Adjustment FY 2021/2022
Revenue							
Property Tax	$ 6,914,809	$ 7,459,885	$ 8,049,872	$ 7,890,000	$ 4,806,116	8,660,000	$ 770,000
Sales Tax	2,040,960	2,183,052	2,485,023	2,000,000	1,028,776	2,800,000	800,000
Franchise Taxes	1,773,997	1,893,514	2,043,872	1,752,000	461,466	2,068,000	316,000
Business License	159,586	148,066	190,154	155,000	90,699	155,000	-
Transient Occupancy Tax	269,504	233,458	240,477	230,000	107,452	230,000	-
Total Taxes	$ 11,158,857	$ 11,917,975	$ 13,009,398	$ 12,027,000	$ 6,494,509	$ 13,913,000	$ 1,886,000
Interfund Charges	7,884,541	8,530,263	8,350,135	8,612,410	4,888,041	9,016,450	404,040
Developer Fees	1,136,120	1,530,826	3,209,937	2,194,700	1,168,380	2,194,700	-
Intergovernmental Revenue	134,949	196,314	231,002	255,600	98,229	255,600	-
Intergovernmental-CARES		-	524,272	-	-	-	-
Other Revenue	1,188,980	1,538,468	2,342,082	1,671,400	1,167,876	1,849,098	177,698
Other Financing Sources	442,862	515,606	175,557	150,000	43,869	150,000	-
Total Revenue	$ 21,946,310	$ 24,229,451	$ 27,842,383	$ 24,911,110	$ 13,860,904	$ 27,378,848	$ 2,467,738
Expenditures							
Animal Control	$ 251,726	$ 266,521	$ 273,295	$ 288,310	$ 216,233	$ 288,310	
City Council	66,165	63,167	62,620	172,429	59,082	182,029	9,600
City Clerk	352,239	345,831	375,251	380,207	197,087	380,207	
City Attorney	331,730	293,448	314,944	486,533	144,598	486,533	
City Manager	538,414	585,531	585,769	497,214	273,683	497,214	
Community Outreach	122,630	123,538	155,044	168,624	100,967	168,624	
Finance	722,616	832,204	807,783	901,722	429,984	901,722	
Human Resources	229,900	276,394	386,264	520,751	339,382	580,751	60,000
Building Maintenance	77,994	105,777	111,207	121,119	101,199	271,119	150,000
Information Technology	300,699	293,120	297,023	340,615	177,346	340,615	
Non Departmental	(281,951)	816,980	568,754	2,180	313,019	52,180	50,000
Economic Development	269,248	259,040	186,705	195,549	99,007	195,549	
Building & Code Enforcement	1,026,473	1,052,987	1,125,697	1,432,876	675,134	1,432,876	
Police	9,782,881	9,796,066	9,751,044	11,463,709	5,177,906	11,513,709	50,000
Planning	478,739	638,980	686,134	1,019,534	228,084	1,019,534	
Public Works	2,836,525	2,520,069	2,721,893	3,442,750	1,588,005	3,775,750	333,000
Recreation	692,661	659,390	590,125	825,104	372,455	825,104	
Transfers Out	3,594,073	3,356,000	2,609,222	5,714,000	2,855,000	6,260,000	546,000
Total Expenditures	$ 21,392,761	$ 22,285,043	$ 21,608,774	$ 27,973,226	$ 13,348,171	$ 29,171,826	$ 1,198,600
Net Revenue (Expenditure)	$ 553,549	$ 1,944,408	$ 6,233,609	$ (3,062,116)	$ 512,733	$ (1,792,978)	$ 1,269,138

Overall, the proposed General Fund operating budget remains balanced without relying on one-time revenues. This reflects the Council's continuing commitment

to operating conservatively. The budget does continue to include a lesser portion of the planned use of Fund Balance that was budgeted at the beginning of the year. As a result of proposed increases to revenues and lesser increases to expenditures, the revised budget estimate for the current fiscal year shows an overall net use of fund balance totaling $1,792,978 rather than the $3,062,116 amount that is reflected in the current Budget. This includes the $833,000 of proposed expenditures that are considered one-time in nature, comprised of $500,000 of Transfers to General Capital Projects related to the Downtown Parking Lot Project and $333,000 for the purchase of new equipment to improve operations for Public Works.

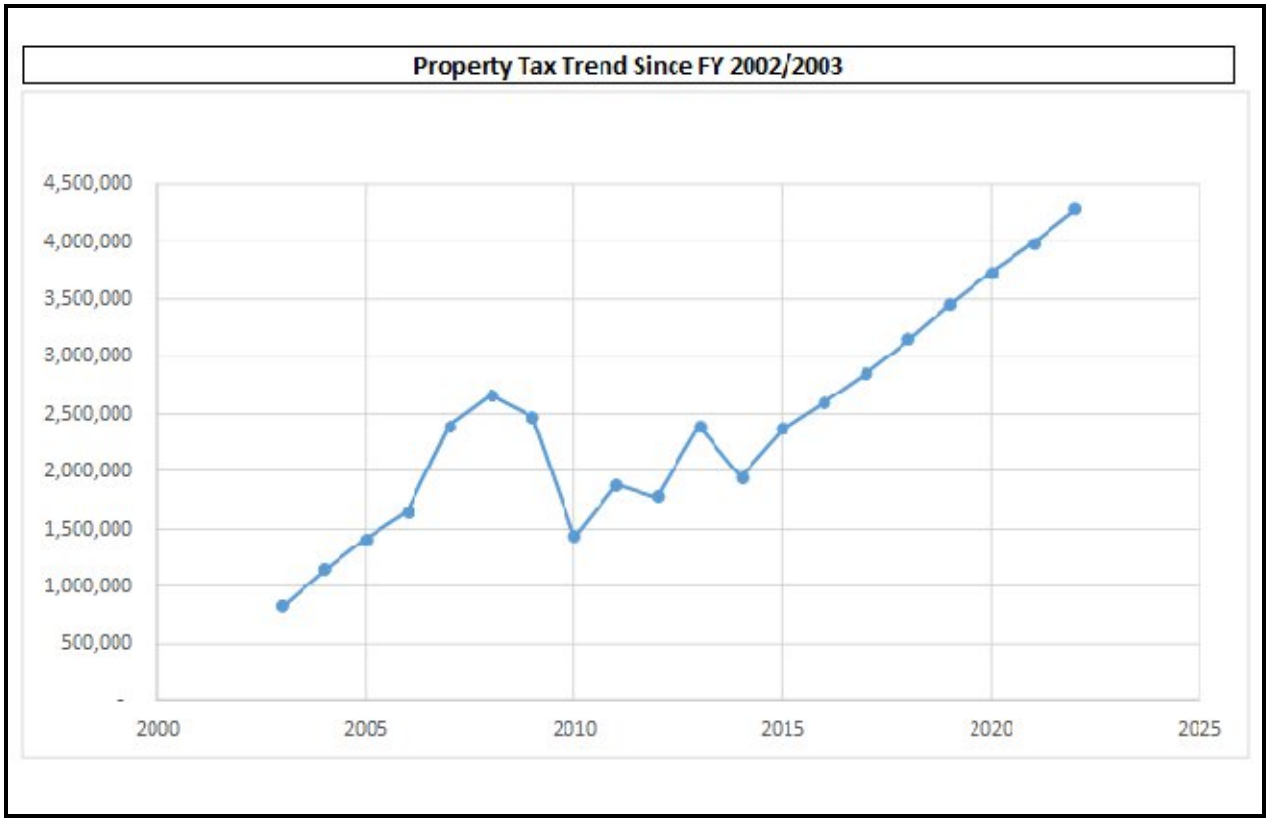
General Fund Reserve Policy

With the better-than-expected revenue mentioned above and a higher than estimated Fund Balance at the end of Fiscal Year 2020/2021, staff is recommending an increase of the General Fund Reserve Policy from the current policy amount of 20% of operational expenditures to 30% of operational expenditures. In the audited financial statement figures for Fiscal Year 2020/2021, it was reported that the General Fund had an ending Unassigned Fund Balance of roughly $12.8 million, rather than the roughly $8.3 million that was estimated at the time the Fiscal Year 2021/2022 Budget was prepared. Of that $12.8 million, about $12.6 million is in Fund 100, which is our focus for General Fund purposes. The auditors group approximately $200,000 from other funds into the General Fund, for reporting purposes. So, we will use the $12.6 million figure for these discussions.

With an Unassigned Fund Balance of $12.6 million and a $1,792,978 spend-down projected in the current fiscal year, that leaves a projected Unassigned Fund Balance of $10.8 million. The current 20% General Fund Reserve Policy requires roughly $4.5 million to be maintained in Unassigned Fund Balance, which leaves an estimated $6.3 million beyond the 20% Reserve amount in the General Fund as of June 30, 2022. Staff believes that it would be prudent to increase the Reserve Policy by 50% (by roughly $2.3 million) while these funds are available for such a designation. Increasing the Reserve from 20% to 30%, which is roughly from $4.5 million to $6.8 million, would still leave $4 million in Unassigned Fund Balance (beyond the 30% Reserve) that could be utilized for one-time expenditures and projects. That does not include the roughly $5 million of ARPA money (which is not in the General Fund) for which plans have yet to be made, nor does it include the estimated $12 million that the City of Oakley is anticipating from the sale of property for housing development in Fiscal Year 2022/2023. In short, the City Council will have approximately $21 million to use on one-time projects or to put

in reserves for other purposes, even after setting aside the additional $2.3 million in General Fund Reserves.

Staff's recommendation to increase the Reserve Policy to 30% is not presented without reason or justification, or just because we have the funds available to do so at this time. As mentioned above, revenues related to property values and housing development are major sources of General Fund revenues and we are riding their wave at this time. Property Taxes, Property Tax In-Lieu of VLF and Property Transfer Tax combined are now projected to be $8,663,546, with the proposed Mid-Year Budget adjustments. That amounts to 32% of the projected General Fund Budget revenues. If property values were to drop by 42% as they did in Oakley in Fiscal Year 2008/2009, that would represent a one-year loss of over $3.6 million in these Property Taxes alone, leaving roughly $3.2 million in Reserves to cover some of the further losses in Developer Fees and in Interfund Charges related to development. As can be seen in the chart below, it took about 7 years to return to the 2008 level of Property Tax revenue after the drop in Fiscal Year 2009/2010. Staff believes increasing the Reserve Policy to 30% is warranted and prudent at this time. Doing so would give the City time to maintain a better level of services to the community while making the necessary adjustments to match ongoing costs with recurring revenues.



Other Funds

Attached at the end of this report is a spreadsheet summarizing the beginning and projected year-end fund balances by fund, the existing budgets, year-to-date actual revenues and expenditures (through mid-year), and the adjustment amounts recommended in each fund. The analysis shows that by keeping operations lean, the City's funds remain generally healthy and the prudent budgeting and active management of operations are successfully meeting the goal of living within our means.

As a reminder, the City appropriates unassigned fund balances into its special purpose funds. So, the table generally shows a net use in each of these funds. In cases where fund balances are available, you will note that actual expenditures year-to-date in the special purpose funds are significantly less than the expenditures budgeted, and that is generally to be expected.

No Proposed Appropriations of Fund Balance

In several funds, the actual beginning-of-the-year Fund Balance was different than estimated during the budget development process, with the General Fund being the prime example. As part of this Mid-Year Budget Review, the attached Fund Summaries Table has been updated to show the actual beginning fund balances. There are a few appropriations adjustments proposed to true up the appropriation of unassigned amounts in the City's Special Revenue and Capital Projects Funds, consistent with the City's policies, where needed. These adjustments can be either additions or reductions. The $500,000 of Transfers to General Capital Projects related to the Downtown Parking Lot Project and the $333,000 for the purchase of new equipment are new projects that are being introduced since the 2021/2022 Budget was adopted. However, those projects will be covered with current year revenues as mentioned above, rather than appropriating funds from the General Fund's Fund Balance.

As has been the case for several years, a couple of the Park Lighting and Landscaping Funds are not yet capable of sustaining current levels of service in the long run; nonetheless, for these Funds, the use of existing Fund Balance and, in a couple of cases, utilizing an interfund loan pursuant to current policy, remains the most reasonable option.

Discussion of Capital Budgets

The Capital Improvement Program (CIP) remains very active this fiscal year, and a substantial amount of available capital projects funds on hand from recent years are being put to work.

As is typical, some of the projects were originated in prior years while others will continue into future fiscal years. The budget policies allow unspent budgeted capital amounts to be rolled forward to the next fiscal year to simplify the accounting process.

Summary of Staff Recommendations

The General Fund:

Staff recommends the Council authorize the appropriation adjustments necessary at a line-item level to adjust General Fund budgeted revenues by a net increase of $2,467,738, as follow:

- Increase Property Tax revenue by $400,000
- Increase Property Tax in Lieu of VLF by $170,000
- Increase Property Transfer Tax revenue by $200,000
- Increase Sales Tax by $800,000
- Increase Franchise Tax – PG&E by $90,000
- Increase Franchise Tax – Garbage by $226,000
- Increase Damaged Property Repair Recovery revenue by $40,000
- Increase General Plan Impact Fee revenue by $18,000
- Increase Sale of Property by $119,698
- Increase Interfund Charges – Police by $645,040
- Decrease Interfund Charges – Engineering by $241,000

The impact of these proposed revenue adjustments is an overall net increase in estimated General Fund revenue of $2,467,738.

Staff also recommends increasing General Fund expenditure appropriations by $1,198,600. The changes include:

- A $50,000 increase in Repairs and Maintenance for City Hall and the Public Works Operations Building (PWOB)
- A $150,000 increase in Contracted Services for Building Maintenance Custodial Services

- A $50,000 increase in Salaries for two new officers to be added to the Police Department, toward the end of this fiscal year
- An increase of $333,000 to Public Works Maintenance for a backhoe, a compact track loader and other equipment to help improve operations
- An increase of $9,600 for the purchase and installation of City Council Chamber safety dividers
- An increase of $46,000 to Operating Transfers Out to Fund 201 for roof repairs to the Skipolini's and Mr. Pickles' roofs ($23,000 each)
- An increase of $150,000 in Operating Transfers Out to Fund 201 for EV Charging Units for the Downtown Parking Lot Project
- An increase of $350,000 Operating Transfers Out to Fund 201 for capital improvements related to an exchange of property related to the Downtown Parking Lot Project
- An increase of $60,000 in Contracted Services for Compensation Study

Finally, staff is recommending changing the General Fund Reserve Policy from 20% to 30% of budgeted General Fund operational expenditures.

<u>All Other Funds:</u>
Staff recommends the Council authorize adjustments necessary at a line-item level to adjust budgeted revenues by a net increase of $1,606,729, as follow:

- American Recovery Plan Act (ARPA) – Reduce revenue by $2,911,405, from the budgeted $8 million to the $5,089,025 received in the first tranche
- General Capital Projects – Increase revenues by $546,000 for the Transfers to Fund 201 from the General Fund for the projects listed above
- Bella Estates Landscaping CFD – Increase revenue estimates by $746
- Police P-6 Assessment District – Increase revenue projections by $757,500

Staff also recommends increasing expenditure appropriations by $1,115,000. There are sufficient funds in all funds below to cover the increase in expenditures.

- American Recovery Plan Act (ARPA) – Reduce expenditures by $3,169,098, from nearly $8 million to the $4,830,000 approved by Council

- General Capital Projects – Increase expenditures by $546,000 for the Transfers to Fund 201 from the General Fund for the projects listed above
- Traffic Impact Fee – Increase expenditures by $100,000 for new backup battery unit to be added to CIP# 262 – Traffic Signal Modernization Project
- Traffic Impact Fee – Increase expenditures by $60,000 for CIP# 273 – Laurel Road Extension (Teton Road to Sellers Ave.) Project - Design
- Downtown Revitalization – Increase expenditures by $2,000 for CAM Repairs and Maintenance of Guanatos Building
- Emerson Ranch Storm Water CFD – Increase expenditures by $40,000 for increased gas and electricity costs
- Gilbert Park Stormwater CFD – Increase expenditures by $40,000 for gas and electricity costs and by $2,000 for water costs
- Police P-6 Assessment District – Increase expenditures by $645,040

Looking Forward

Staff will consider the impact of the most current projections for FY 2021/2022 and the likely trends in the coming years when we update the 10-Year Plan during the Fiscal Year 2022/2023 Budget preparation process. As always, the projections in the near term are more meaningful, but extending the analysis out ten years will allow evaluation of the long-term effects of decisions being made today.

While Fiscal Year 2021/2022 budget performance looks very positive, much of the additional revenue that the City is receiving is one-time revenue that should not be relied up for ongoing operations in the future. During the upcoming budget preparation process, staff will also consider General Fund allocations to further augment roadway maintenance, not only to ensure funds are available to maintain the new roads added to the City's responsibilities from past development, but also to maintain Main Street, which prior to the recession was maintained by the State. Significantly higher allocations to Roadway Maintenance will also be necessary to ensure fiscally prudent roadway maintenance activities and that such activities can continue through any future economic downturn. Of course, Cypress Avenue is at the top of our list of concerns for much-needed street improvements.

The Mid-Year Review confirms that if we remain disciplined, as the Council has directed and as incorporated into the City's Financial Polices, the City's operations are and can remain balanced over time. The projections presented here show increased revenue estimates and lesser increases to expenditures,

leaving the General Fund with sufficient current year revenues for even more one-time expenditures than those that were included in the adopted Fiscal Year 2021/2022 Budget. Because the City remains subject to significant external factors in managing costs, we continue to recommend proceeding carefully with any changes expected to increase recurring costs without new recurring revenues. Adopting a new 30% General Fund Reserve Policy is a prudent measure to help ensure continued stability in the City's operations and fiscal condition.

Staff Recommended Budget and Reserve Policy Adjustments

The attached Fund Summary provides estimated year end fund balance for every fund. The Mid-Year Adjustment column summarizes the detail provided above and are staff's proposed changes to the FY 2021/22 Budget.

The attached Budget Transfer/Revision Request Form provides line-item detail for all staff proposed changes.

The attached Reserve Policy reflects the change from 20% to 30% of General Fund operating expenditures (which excludes Operating Transfers Out).

Fund Summary
Mid-Year Budget Review
Fiscal Year 2021/22

Fund		Accounts	Current Adjusted Budget	Actual YTD	FYE Projection	Mid-Year Budget Adjustment
100	General Fund	Available Fund Balance 06/30/21			12,628,181	
		Revenues	24,911,110	14,531,435	27,378,848	2,467,738
		Expenditures	28,036,922	13,996,187	29,235,522	1,198,600
		Revenues over (under) Expenditures	(3,125,812)	535,248	(1,856,674)	1,269,138
		Est Fund Balance 06/30/22			10,771,507	
110	Cypress Grove (CFD #1)	Available Fund Balance 06/30/21			2,465,806	
		Revenues	375,273	205,436	375,273	0
		Expenditures	1,403,002	78,986	1,403,002	0
		Revenues over (under) Expenditures	(1,027,729)	126,450	(1,027,729)	0
		Est Fund Balance 06/30/22			1,438,078	
115	Oakley Creekside Park Restoration	Available Fund Balance 06/30/21			0	
		Revenues	436,465	0	436,465	0
		Expenditures	436,465	75,098	436,465	0
		Revenues over (under) Expenditures	0	(75,098)	0	0
		Est Fund Balance 06/30/22			0	
120	American Rescue Plan Act	Available Fund Balance 06/30/21			0	
		Revenues	8,000,000	5,089,025	5,088,595	(2,911,405)
		Expenditures	7,999,098	19,797	4,830,000	(3,169,098)
		Revenues over (under) Expenditures	902	5,069,228	258,595	257,693
		Est Fund Balance 06/30/22			258,595	
125	You, Me, We = Oakley	Available Fund Balance 06/30/21			0	
		Revenues	130,000	60,659	130,000	0
		Expenditures	129,951	32,441	129,951	0
		Revenues over (under) Expenditures	49	28,218	49	0
		Est Fund Balance 06/30/22			49	
132	Parks Landscaping Assessment - (LLAD Zone 1)	Available Fund Balance 06/30/21			3,591,885	
		Revenues	1,737,788	1,055,375	1,737,788	0
		Expenditures	1,939,789	756,870	1,939,789	0
		Revenues over (under) Expenditures	(202,001)	298,505	(202,001)	0
		Est Fund Balance 06/30/22			3,389,884	
133	Lighting Assessment Dist - (LLAD Zone 2)	Available Fund Balance 06/30/21			201,558	
		Revenues	472,988	271,472	472,988	0
		Expenditures	531,243	244,554	531,243	0
		Revenues over (under) Expenditures	(58,255)	26,918	(58,255)	0
		Est Fund Balance 06/30/22			143,303	
134	CC Logistic Center	Available Fund Balance 06/30/21			0	
		Revenues	35,000		35,000	0
		Expenditures	33,904	3,500	33,904	0
		Revenues over (under) Expenditures	1,096	(3,500)	1,096	0
		Est Fund Balance 06/30/22			1,096	
138	Downtown Revitalization	Available Fund Balance 06/30/21			16,339	
		Revenues	313,600	147,163	313,600	0
		Expenditures	274,933	94,643	276,933	2,000
		Revenues over (under) Expenditures	38,667	52,519	36,667	(2,000)
		Est Fund Balance 06/30/22			53,006	
140	Gas Tax	Available Fund Balance 06/30/21			528,636	
		Revenues	1,072,615	540,040	1,072,615	0
		Expenditures	1,365,545	464,562	1,365,545	0
		Revenues over (under) Expenditures	(292,930)	75,478	(292,930)	0
		Est Fund Balance 06/30/22			235,706	
141	Gas Tax-RMRA SB1	Available Fund Balance 06/30/21			1,447,608	
		Revenues	816,500	430,506	816,500	0
		Expenditures	2,134,482	95,689	2,134,482	0
		Revenues over (under) Expenditures	(1,317,982)	334,817	(1,317,982)	0
		Est Fund Balance 06/30/22			129,626	

145	**Stormwater NPDES**	Available Fund Balance 06/30/21			284,010	
		Revenues	**506,000**	**247,326**	**506,000**	0
		Expenditures	**789,776**	**301,428**	**789,776**	0
		Revenues over (under) Expenditures	**(283,776)**	**(54,101)**	**(283,776)**	0
		Est Fund Balance 06/30/22			**234**	
148	**Measure J**	Available Fund Balance 06/30/21			1,132,095	
		Revenues	**605,000**	**189**	**605,000**	0
		Expenditures	**1,372,718**	**57,430**	**1,372,718**	0
		Revenues over (under) Expenditures	**(767,718)**	**(57,241)**	**(767,718)**	0
		Est Fund Balance 06/30/22			**364,377**	
150	**Police P-6 Assessment District**	Available Fund Balance 06/30/21			0	
		Revenues	**5,402,500**	**3,389,358**	**5,402,500**	0
		Expenditures	**5,402,500**	**3,389,401**	**5,402,500**	0
		Revenues over (under) Expenditures	**0**	**(43)**	**0**	0
		Est Fund Balance 06/30/22			**0**	
151	**Supplemental Law Enforcement (SLEF)**	Available Fund Balance 06/30/21			0	
		Revenues	**125,450**	**134,458**	**125,450**	0
		Expenditures	**125,450**	**103,571**	**125,450**	0
		Revenues over (under) Expenditures	**0**	**30,888**	**0**	0
		Est Fund Balance 06/30/22			**0**	
168	**Sports Field Maintenance**	Available Fund Balance 06/30/21			146,580	
		Revenues	**30,000**	**24,463**	**30,000**	0
		Expenditures	**25,570**	**7,791**	**25,570**	0
		Revenues over (under) Expenditures	**4,430**	**16,672**	**4,430**	0
		Est Fund Balance 06/30/22			**151,010**	
170	**Vintage Parkway (LLAD Zone 3-1)**	Available Fund Balance 06/30/21			35,080	
		Revenues	**79,714**	**43,075**	**79,714**	0
		Expenditures	**114,794**	**39,854**	**114,794**	0
		Revenues over (under) Expenditures	**(35,080)**	**3,221**	**(35,080)**	0
		Est Fund Balance 06/30/22			**0**	
171	**Oakley Ranch (LLAD Zone 3-2)**	Available Fund Balance 06/30/21			4,565	
		Revenues	**26,696**	**14,550**	**26,696**	0
		Expenditures	**31,261**	**14,984**	**31,261**	0
		Revenues over (under) Expenditures	**(4,565)**	**(434)**	**(4,565)**	0
		Est Fund Balance 06/30/22			**0**	
172	**Empire (LLAD Zone 3-3)**	Available Fund Balance 06/30/21			21,301	
		Revenues	**5,134**	**2,508**	**5,134**	0
		Expenditures	**26,435**	**1,986**	**26,435**	0
		Revenues over (under) Expenditures	**(21,301)**	**522**	**(21,301)**	0
		Est Fund Balance 06/30/22			**0**	
173	**Oakley Town Center (LLAD Zone 3-4)**	Available Fund Balance 06/30/21			17,576	
		Revenues	**11,535**	**6,028**	**11,535**	0
		Expenditures	**29,111**	**3,769**	**29,111**	0
		Revenues over (under) Expenditures	**(17,576)**	**2,259**	**(17,576)**	0
		Est Fund Balance 06/30/22			**0**	
174	**Oak Grove (LLAD Zone 3-5)**	Available Fund Balance 06/30/21			14,666	
		Revenues	**29,005**	**15,636**	**29,005**	0
		Expenditures	**43,671**	**10,428**	**43,671**	0
		Revenues over (under) Expenditures	**(14,666)**	**5,208**	**(14,666)**	0
		Est Fund Balance 06/30/22			**0**	
175	**Laurel Woods/Luna Estates (LLAD Zone 3-6)**	Available Fund Balance 06/30/21			22,876	
		Revenues	**8,418**	**4,234**	**8,418**	0
		Expenditures	**31,294**	**3,147**	**31,294**	0
		Revenues over (under) Expenditures	**(22,876)**	**1,087**	**(22,876)**	0
		Est Fund Balance 06/30/22			**0**	
176	**South Forty (LLAD Zone 3-7)**	Available Fund Balance 06/30/21			10,529	
		Revenues	**10,113**	**5,401**	**10,113**	0
		Expenditures	**20,642**	**3,849**	**20,642**	0
		Revenues over (under) Expenditures	**(10,529)**	**1,552**	**(10,529)**	0
		Est Fund Balance 06/30/22			**0**	
177	**Claremont (LLAD Zone 3-8)**	Available Fund Balance 06/30/21			3,052	
		Revenues	**7,728**	**4,198**	**7,728**	0
		Expenditures	**10,780**	**5,479**	**10,780**	0
		Revenues over (under) Expenditures	**(3,052)**	**(1,281)**	**(3,052)**	0
		Est Fund Balance 06/30/22			**0**	

178	**Gateway (LLAD Zone 3-9)**	Available Fund Balance 06/30/21			45,763	
		Revenues	**19,860**	**10,130**	**19,860**	0
		Expenditures	**65,623**	**13,726**	**65,623**	0
		Revenues over (under) Expenditures	**(45,763)**	**(3,596)**	**(45,763)**	0
		Est Fund Balance 06/30/22			**0**	
179	**Countryside-Village Green (LLAD Zone 3-10)**	Available Fund Balance 06/30/21			7,762	
		Revenues	**2,875**	**1,448**	**2,875**	0
		Expenditures	**10,637**	**1,763**	**10,637**	0
		Revenues over (under) Expenditures	**(7,762)**	**(314)**	**(7,762)**	0
		Est Fund Balance 06/30/22			**0**	
180	**Country Fair-Meadow Glen (LLAD Zone 3-11)**	Available Fund Balance 06/30/21			1,121	
		Revenues	**5,473**	**2,983**	**5,473**	0
		Expenditures	**6,594**	**5,280**	**6,594**	0
		Revenues over (under) Expenditures	**(1,121)**	**(2,296)**	**(1,121)**	0
		Est Fund Balance 06/30/22			**0**	
181	**California Sunrise (LLAD Zone 3-12)**	Available Fund Balance 06/30/21			17,699	
		Revenues	**4,102**	**1,939**	**4,102**	0
		Expenditures	**21,801**	**1,340**	**21,801**	0
		Revenues over (under) Expenditures	**(17,699)**	**599**	**(17,699)**	0
		Est Fund Balance 06/30/22			**0**	
182	**California Visions-Laurel (LLAD Zone 3-13)**	Available Fund Balance 06/30/21			37,455	
		Revenues	**13,200**	**6,627**	**13,200**	0
		Expenditures	**50,655**	**5,345**	**50,655**	0
		Revenues over (under) Expenditures	**(37,455)**	**1,282**	**(37,455)**	0
		Est Fund Balance 06/30/22			**0**	
183	**Claremont Heritage (LLAD Zone 3-14)**	Available Fund Balance 06/30/21			52,107	
		Revenues	**19,740**	**10,070**	**19,740**	0
		Expenditures	**71,847**	**5,316**	**71,847**	0
		Revenues over (under) Expenditures	**(52,107)**	**4,754**	**(52,107)**	0
		Est Fund Balance 06/30/22			**0**	
184	**Country Fair-Meadow Glen II (LLAD Zone 3-15)**	Available Fund Balance 06/30/21			34,601	
		Revenues	**123,813**	**67,509**	**123,813**	0
		Expenditures	**158,414**	**57,553**	**158,414**	0
		Revenues over (under) Expenditures	**(34,601)**	**9,957**	**(34,601)**	0
		Est Fund Balance 06/30/22			**0**	
185	**Sundance (LLAD Zone 3-16)**	Available Fund Balance 06/30/21			2,628	
		Revenues	**9,010**	**4,903**	**9,010**	0
		Expenditures	**11,638**	**4,020**	**11,638**	0
		Revenues over (under) Expenditures	**(2,628)**	**882**	**(2,628)**	0
		Est Fund Balance 06/30/22			**0**	
186	**CA Jamboree-Laurel Anne (LLAD Zone 3-17)**	Available Fund Balance 06/30/21			88,165	
		Revenues	**120,684**	**63,297**	**120,684**	0
		Expenditures	**208,849**	**54,770**	**208,849**	0
		Revenues over (under) Expenditures	**(88,165)**	**8,527**	**(88,165)**	0
		Est Fund Balance 06/30/22			**0**	
187	**Country Place (LLAD Zone 3-18)**	Available Fund Balance 06/30/21			0 *	
		Revenues	**43,400**	**22,870**	**43,400**	0
		Expenditures	**43,400**	**22,340**	**43,400**	0
		Revenues over (under) Expenditures	**0**	**530**	**0** *	0
		Est Fund Balance 06/30/22			**0**	
		*** From General Fund Loan**				
188	**Laurel Crest (LLAD Zone 3-19)**	Available Fund Balance 06/30/21			8,671	
		Revenues	**158,350**	**83,199**	**158,350**	0
		Expenditures	**167,021**	**84,754**	**167,021**	0
		Revenues over (under) Expenditures	**(8,671)**	**(1,555)**	**(8,671)**	0
		Est Fund Balance 06/30/22			**0**	
189	**Marsh Creek Glen (LLAD Zone 3-20)**	Available Fund Balance 06/30/21			69,153	
		Revenues	**105,523**	**56,891**	**105,523**	0
		Expenditures	**174,676**	**32,132**	**174,676**	0
		Revenues over (under) Expenditures	**(69,153)**	**24,759**	**(69,153)**	0
		Est Fund Balance 06/30/22			**0**	
190	**Quail Glen (LLAD Zone 3-21)**	Available Fund Balance 06/30/21			19,669	
		Revenues	**34,274**	**18,456**	**34,274**	0
		Expenditures	**53,943**	**12,731**	**53,943**	0
		Revenues over (under) Expenditures	**(19,669)**	**5,725**	**(19,669)**	0
		Est Fund Balance 06/30/22			**0**	

191	**Cypress Grove (LLAD Zone 3-22)**	Available Fund Balance 06/30/21			102,000	
		Revenues	**310,642**	**167,439**	**310,642**	0
		Expenditures	**412,642**	**128,019**	**412,642**	0
		Revenues over (under) Expenditures	**(102,000)**	**39,420**	**(102,000)**	0
		Est Fund Balance 06/30/22			**0**	
192	**South Oakley (LLAD Zone 3-23)**	Available Fund Balance 06/30/21			67,729	
		Revenues	**439,873**	**239,856**	**439,873**	0
		Expenditures	**507,602**	**214,032**	**507,602**	0
		Revenues over (under) Expenditures	**(67,729)**	**25,824**	**(67,729)**	0
		Est Fund Balance 06/30/22			**0**	
193	**Stone Creek (LLAD Zone 3-24)**	Available Fund Balance 06/30/21			71,963	
		Revenues	**66,393**	**35,476**	**66,393**	0
		Expenditures	**138,356**	**10,022**	**138,356**	0
		Revenues over (under) Expenditures	**(71,963)**	**25,454**	**(71,963)**	0
		Est Fund Balance 06/30/22			**0**	
194	**Magnolia Park (LLAD Zone 3-25)**	Available Fund Balance 06/30/21			102,800	
		Revenues	**858,052**	**463,528**	**858,052**	0
		Expenditures	**960,852**	**482,269**	**960,852**	0
		Revenues over (under) Expenditures	**(102,800)**	**(18,741)**	**(102,800)**	0
		Est Fund Balance 06/30/22			**0**	
195	**Summer Lake (LLAD Zone 3-26)**	Available Fund Balance 06/30/21			102,930	
		Revenues	**515,056**	**277,827**	**515,056**	0
		Expenditures	**617,986**	**285,504**	**617,986**	0
		Revenues over (under) Expenditures	**(102,930)**	**(7,677)**	**(102,930)**	0
		Est Fund Balance 06/30/22			**0**	
201	**General Capital Projects**	Available Fund Balance 06/30/21			3,310,331	
		Revenues	**865,000**	**325,541**	**1,411,000**	546,000
		Expenditures	**4,160,579**	**414,205**	**4,706,579**	546,000
		Revenues over (under) Expenditures	**(3,295,579)**	**(88,663)**	**(3,295,579)**	0
		Est Fund Balance 06/30/22			**14,752**	
202	**Traffic Impact Fee**	Available Fund Balance 06/30/21			7,388,290	
		Revenues	**3,930,000**	**2,840,983**	**3,930,000**	0
		Expenditures	**8,615,250**	**326,411**	**8,615,250**	160,000
		Revenues over (under) Expenditures	**(4,685,250)**	**2,514,572**	**(4,685,250)**	(160,000)
		Est Fund Balance 06/30/22			**2,703,040**	
204	**Park Impact Fee**	Available Fund Balance 06/30/21			2,802,593	
		Revenues	**2,800,000**	**2,006,828**	**2,800,000**	0
		Expenditures	**3,429,235**	**95,252**	**3,429,235**	0
		Revenues over (under) Expenditures	**(629,235)**	**1,911,576**	**(629,235)**	0
		Est Fund Balance 06/30/22			**2,173,358**	
206	**Public Facilities Impact Fee**	Available Fund Balance 06/30/21			2,435,481	
		Revenues	**1,105,000**	**1,203,809**	**1,105,000**	0
		Expenditures	**707,210**	**359,809**	**707,210**	0
		Revenues over (under) Expenditures	**397,790**	**844,000**	**397,790**	0
		Est Fund Balance 06/30/22			**2,833,271**	
208	**Fire Impact Fee**	Available Fund Balance 06/30/21			0	
		Revenues	**0**	**0**	**0**	0
		Expenditures	**0**	**0**	**0**	0
		Revenues over (under) Expenditures	**0**	**0**	**0**	0
		Est Fund Balance 06/30/22			**0**	
221	**2012 Refunding Assessment Bond CIP**	Available Fund Balance 06/30/21			74,921	
		Revenues	**60,310**	**30,162**	**60,310**	0
		Expenditures	**70,000**	**55,090**	**70,000**	0
		Revenues over (under) Expenditures	**(9,690)**	**(24,928)**	**(9,690)**	0
		Est Fund Balance 06/30/22			**65,231**	
222	**2014 Refunding Assessment Bond CIP**	Available Fund Balance 06/30/21			530,346	
		Revenues	**123,923**	**61,761**	**123,923**	0
		Expenditures	**0**	**0**	**0**	0
		Revenues over (under) Expenditures	**123,923**	**61,761**	**123,923**	0
		Est Fund Balance 06/30/22			**654,269**	
231	**Main Street**	Available Fund Balance 06/30/21			2,308,489	
		Revenues	**350,000**	**175,000**	**350,000**	0
		Expenditures	**2,665,626**	**1,278,814**	**2,665,626**	0
		Revenues over (under) Expenditures	**(2,315,626)**	**(1,103,814)**	**(2,315,626)**	0
		Est Fund Balance 06/30/22			**(7,137)**	

232	**Regional Parks (CFD)**	Available Fund Balance 06/30/21			1,490,483	
		Revenues	**135,000**	**158,440**	**135,000**	0
		Expenditures	**78,879**	**50,191**	**78,879**	0
		Revenues over (under) Expenditures	**56,121**	**108,249**	**56,121**	
		Est Fund Balance 06/30/22			**1,546,604**	
235	**Street Maintenance Reserve**	Available Fund Balance 06/30/21			2,150,941	
		Revenues	**4,000,000**	**2,000,000**	**4,000,000**	0
		Expenditures	**5,782,016**	**2,504,913**	**5,782,016**	0
		Revenues over (under) Expenditures	**(1,782,016)**	**(504,913)**	**(1,782,016)**	0
		Est Fund Balance 06/30/22			**368,924**	
301	**Developer Deposits**	Available Fund Balance 06/30/21			0	
		Revenues	**1,040,102**	**567,995**	**1,040,102**	0
		Expenditures	**1,040,102**	**0**	**1,040,102**	0
		Revenues over (under) Expenditures	**0**	**567,995**	**0**	0
		Est Fund Balance 06/30/22			**0**	
	* Revenues are earned as deposits are spent.					
351	**Debt Service**	Available Fund Balance 06/30/21			45,335	
		Revenues	**671,870**	**335,707**	**671,870**	0
		Expenditures	**673,129**	**176,143**	**673,129**	0
		Revenues over (under) Expenditures	**(1,259)**	**159,564**	**(1,259)**	0
		Est Fund Balance 06/30/22			**44,076**	
403	**Stormwater Citywide (CFD)**	Available Fund Balance 06/30/21			3,422	
		Revenues	**8,082**	**4,152**	**8,082**	0
		Expenditures	**1,870**	**745**	**1,870**	0
		Revenues over (under) Expenditures	**6,212**	**3,407**	**6,212**	0
		Est Fund Balance 06/30/22			**9,634**	
404	**Fire Protection (CFD 2018-1)**	Available Fund Balance 06/30/21			0	
		Revenues	**100,000**	**134,602**	**100,000**	0
		Expenditures	**100,000**	**142,750**	**100,000**	0
		Revenues over (under) Expenditures	**0**	**(8,148)**	**0**	0
		Est Fund Balance 06/30/22			**0**	
405	**Emerson Ranch Parks/St. Lighting (CFD 2015-1)**	Available Fund Balance 06/30/21			666,046	
		Revenues	**193,118**	**105,226**	**193,118**	0
		Expenditures	**168,557**	**75,211**	**168,557**	0
		Revenues over (under) Expenditures	**24,561**	**30,015**	**24,561**	0
		Est Fund Balance 06/30/22			**690,607**	
406	**Emerson Ranch Neighborhood (CFD 2015-1)**	Available Fund Balance 06/30/21			559,584	
		Revenues	**184,834**	**100,926**	**184,834**	0
		Expenditures	**165,397**	**59,140**	**165,397**	
		Revenues over (under) Expenditures	**19,437**	**41,786**	**19,437**	0
		Est Fund Balance 06/30/22			**579,022**	
407	**Emerson Ranch Storm Water (CFD 2015-1)**	Available Fund Balance 06/30/21			877,200	
		Revenues	**269,063**	**146,921**	**269,063**	0
		Expenditures	**290,510**	**116,437**	**330,510**	40,000
		Revenues over (under) Expenditures	**(21,447)**	**30,484**	**(61,447)**	(40,000)
		Est Fund Balance 06/30/22			**815,753**	
408	**Prescott Landscaping (CFD 2015-2 Zone 1)**	Available Fund Balance 06/30/21			29,114	
		Revenues	**20,445**	**11,194**	**20,445**	0
		Expenditures	**21,168**	**9,622**	**21,168**	0
		Revenues over (under) Expenditures	**(723)**	**1,572**	**(723)**	0
		Est Fund Balance 06/30/22			**28,392**	
409	**Prescott Stormwater (CFD 2015-2 Zone 1)**	Available Fund Balance 06/30/21			78,017	
		Revenues	**25,501**	**13,928**	**25,501**	0
		Expenditures	**41,322**	**19,037**	**41,322**	0
		Revenues over (under) Expenditures	**(15,821)**	**(5,109)**	**(15,821)**	0
		Est Fund Balance 06/30/22			**62,197**	
410	**Doyle Rd Landscaping (CFD 2015-2 Zone 2)**	Available Fund Balance 06/30/21			1,596	
		Revenues	**718**	**507**	**718**	0
		Expenditures	**1,443**	**728**	**1,443**	0
		Revenues over (under) Expenditures	**(725)**	**(221)**	**(725)**	0
		Est Fund Balance 06/30/22			**871**	
411	**Bella Estates Landscaping (CFD 2015-2 Zone 3)**	Available Fund Balance 06/30/21			184	
		Revenues	**301**	**576**	**1,047**	746
		Expenditures	**1,442**	**729**	**1,442**	0
		Revenues over (under) Expenditures	**(1,141)**	**(153)**	**(395)**	746
		Est Fund Balance 06/30/22			**(211)**	

412	**Quicksilver Landscaping (CFD 2015-2 Zone 4)**	Available Fund Balance 06/30/21			2,040	
		Revenues	**1,047**	**576**	**1,047**	0
		Expenditures	**2,455**	**1,079**	**2,455**	0
		Revenues over (under) Expenditures	**(1,408)**	**(503)**	**(1,408)**	0
		Est Fund Balance 06/30/22			**632**	
413	**7-11/Self Storage Landscaping (CFD 2015-2 Zone 5)**	Available Fund Balance 06/30/21			2,872	
		Revenues	**1,272**	**699**	**1,272**	0
		Expenditures	**2,677**	**1,079**	**2,677**	0
		Revenues over (under) Expenditures	**(1,405)**	**(380)**	**(1,405)**	0
		Est Fund Balance 06/30/22			**1,467**	
414	**Aspen Place Landscaping (CFD 2015-2 Zone 6)**	Available Fund Balance 06/30/21			12,814	
		Revenues	**7,422**	**4,084**	**7,422**	0
		Expenditures	**10,361**	**4,870**	**10,361**	0
		Revenues over (under) Expenditures	**(2,939)**	**(786)**	**(2,939)**	0
		Est Fund Balance 06/30/22			**9,875**	
415	**Aspen Lane Landscaping (CFD 2015-2 Zone 7)**	Available Fund Balance 06/30/21			24,830	
		Revenues	**12,320**	**6,780**	**12,320**	0
		Expenditures	**12,259**	**4,754**	**12,259**	0
		Revenues over (under) Expenditures	**61**	**2,026**	**61**	0
		Est Fund Balance 06/30/22			**24,891**	
416	**Duarte Ranch Landscaping (CFD 2015-2 Zone 8)**	Available Fund Balance 06/30/21			67,013	
		Revenues	**62,741**	**34,463**	**62,741**	0
		Expenditures	**66,170**	**38,474**	**66,170**	0
		Revenues over (under) Expenditures	**(3,429)**	**(4,012)**	**(3,429)**	0
		Est Fund Balance 06/30/22			**63,584**	
417	**Duarte Ranch Stormwater (CFD 2015-2 Zone 8)**	Available Fund Balance 06/30/21			85,575	
		Revenues	**22,256**	**12,145**	**22,256**	0
		Expenditures	**23,985**	**10,545**	**23,985**	0
		Revenues over (under) Expenditures	**(1,729)**	**1,600**	**(1,729)**	0
		Est Fund Balance 06/30/22			**83,846**	
418	**Nature Properties Landscaping (CFD 2015-2 Zone 10)**	Available Fund Balance 06/30/21			10,906	
		Revenues	**5,095**	**2,804**	**5,095**	0
		Expenditures	**5,095**	**1,983**	**5,095**	0
		Revenues over (under) Expenditures	**0**	**821**	**0**	0
		Est Fund Balance 06/30/22			**10,906**	
419	**Chevron Laurel/O'Hara Landscaping (CFD 2015-2 Zone 12)**	Available Fund Balance 06/30/21			6,282	
		Revenues	**2,878**	**1,584**	**2,878**	0
		Expenditures	**2,868**	**1,081**	**2,868**	0
		Revenues over (under) Expenditures	**10**	**503**	**10**	0
		Est Fund Balance 06/30/22			**6,292**	
420	**4700 Main St Landscaping (CFD 2015-2 Zone 13)**	Available Fund Balance 06/30/21			0	
		Revenues	**0**	**0**	**0**	0
		Expenditures	**0**	**0**	**0**	0
		Revenues over (under) Expenditures	**0**	**0**	**0**	0
		Est Fund Balance 06/30/22			**0**	
421	**Gilbert Property Landscaping (CFD 2015-2 Zone 14)**	Available Fund Balance 06/30/21			111,940	
		Revenues	**327,503**	**239,048**	**327,503**	0
		Expenditures	**361,981**	**165,983**	**361,981**	0
		Revenues over (under) Expenditures	**(34,478)**	**73,065**	**(34,478)**	0
		Est Fund Balance 06/30/22			**77,462**	
422	**Gilbert Property Stormwater (CFD 2015-2 Zone 14)**	Available Fund Balance 06/30/21			1,343	
		Revenues	**133,429**	**133,185**	**242,155**	108,726
		Expenditures	**194,882**	**90,968**	**236,882**	42,000
		Revenues over (under) Expenditures	**(61,453)**	**42,217**	**5,273**	66,726
		Est Fund Balance 06/30/22			**6,616**	
423	**UPS Expansion Landscaping (CFD 2015-2 Zone 16)**	Available Fund Balance 06/30/21			3,399	
		Revenues	**3,206**		**3,206**	0
		Expenditures	**3,206**	**350**	**3,206**	0
		Revenues over (under) Expenditures	**0**	**(350)**	**0**	0
		Est Fund Balance 06/30/22			**3,399**	
424	**ARCO AM/PM Landscaping (CFD 2015-2 Zone 17)**	Available Fund Balance 06/30/21			(4,598)	
		Revenues	**702**	**1**	**702**	0
		Expenditures	**2,142**	**1,078**	**2,142**	0
		Revenues over (under) Expenditures	**(1,440)**	**(1,078)**	**(1,440)**	0
		Est Fund Balance 06/30/22			**(6,038)**	

425	**Shiloh Landscaping (CFD 2015-2 Zone 18)**	Available Fund Balance 06/30/21			(4,598)	
		Revenues	**11,028**	**0**	**11,028**	0
		Expenditures	**5,479**	**2,000**	**5,479**	0
		Revenues over (under) Expenditures	**5,549**	**(2,000)**	**5,549**	0
		Est Fund Balance 06/30/22			**951**	
426	**The Village at Main Landscaping (CFD 2015-2 Zone 20)**	Available Fund Balance 06/30/21			(4,598)	
		Revenues	**25,568**	**0**	**25,568**	0
		Expenditures	**5,448**	**2,000**	**5,448**	0
		Revenues over (under) Expenditures	**20,120**	**(2,000)**	**20,120**	0
		Est Fund Balance 06/30/22			**15,522**	
501	**Vehicle Internal Service Fund**	Available Fund Balance 06/30/21			1,164,875	
		Revenues	**437,081**	**210,606**	**437,081**	0
		Expenditures	**477,215**	**195,159**	**477,215**	0
		Revenues over (under) Expenditures	**(40,134)**	**15,448**	**(40,134)**	0
		Est Fund Balance 06/30/22			**1,124,741**	
502	**Capital Facilities Maintenance & Replacement**	Available Fund Balance 06/30/21			339,165	
		Revenues	**475,000**	**237,539**	**475,000**	0
		Expenditures	**600,710**	**243,136**	**600,710**	0
		Revenues over (under) Expenditures	**(125,710)**	**(5,598)**	**(125,710)**	0
		Est Fund Balance 06/30/22			**213,455**	
503	**Technology Internal Service Fund**	Available Fund Balance 06/30/21			327,227	
		Revenues	**160,000**	**80,015**	**160,000**	0
		Expenditures	**206,995**	**135,958**	**231,995**	25,000
		Revenues over (under) Expenditures	**(46,995)**	**(55,943)**	**(71,995)**	(25,000)
		Est Fund Balance 06/30/22			**255,231**	
621	**2012 Refunding Assessment Bond Debt Service**	Available Fund Balance 06/30/21			1,217,022	
		Revenues	**1,199,985**	**11,151,273**	**1,199,985**	0
		Expenditures	**1,153,270**	**12,314,756**	**1,153,270**	0
		Revenues over (under) Expenditures	**46,715**	**(1,163,483)**	**46,715**	0
		Est Fund Balance 06/30/22			**1,263,737**	
622	**2014 Refunding Assessment Bond Debt Service**	Available Fund Balance 06/30/21			515,653	
		Revenues	**765,430**	**417,653**	**765,430**	0
		Expenditures	**766,318**	**552,495**	**766,318**	0
		Revenues over (under) Expenditures	**(888)**	**(134,842)**	**(888)**	0
		Est Fund Balance 06/30/22			**514,765**	
767	**Tax Increment Housing**	Available Fund Balance 06/30/21			(922,521) *	
		Revenues	**10,700**	**1,482**	**10,700**	0
		Expenditures	**10,000**		**10,000**	0
		Revenues over (under) Expenditures	**700**	**1,482**	**700**	0
		Est Fund Balance 06/30/22			**(921,821)**	

***Advances from other funds**

Note: Throughout this schedule, available fund balances at 06/30/20 include the amounts appropriated from Reserves in funds where applicable.

RESOLUTION NO. __-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE FISCAL YEAR 2021/2022 MIDYEAR BUDGET REVIEW AND ADOPTING ITS RECOMMENDATIONS FOR REVISING THE FISCAL YEAR 2021/2022 OPERATING AND CAPITAL BUDGETS

WHEREAS, the City is required by law to approve a budget prior to the beginning of each fiscal year, and finds it prudent to review the status of the budget at midyear each year; and

WHEREAS, the Finance Director and other City Department Heads have undertaken a thorough review and projected revenues and expenditures for the remainder of the fiscal year; and

WHEREAS, the City Council of the City of Oakley has been presented with a Midyear Budget Review Report, including a "State of the Budget" summary and Staff recommendations; and

WHEREAS, the Staff recommendations in the Midyear Budget Review Report include increasing the General Fund Reserve Policy from 20% to 30%; and

WHEREAS, the City Council has reviewed the Midyear Review Report and wishes to approve and adopt the Staff recommendations;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley hereby approves and adopts the Staff recommendations included in the Midyear Budget Review presented by the City Manager.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Oakley held on the 22nd day of February 2022, and adopted by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Randy Pope, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

BUDGET TRANSFER/REVISION REQUEST FORM

Date Received in Finance	Division	Activity	Budget Adjustment #
2/22/2022	Finance	Mid-Year Budget Adjustment - Expenditures	BA-20

Source of Funding	Type of Transfer	Reason for Request
☐ From Existing Budget Appropriations ☐ From Donations, Fees or Grants ☑ From Unappropriated Fund Balance	☐ Intra-Division Transfer (within a division) ☐ Inter-Division Transfer (between divisions) ☐ Interfund Transfer (between funds)	Mid-Year Budget Adjustments

						Amount	
	Description	Fund	Account Number	Project#	Project Phase/Task	Increase	Decrease
1	Repairs & Mtnc - City Hall & PWOB	100	100-14-015-5300			$ 50,000	
2	Salaries - two new officers to be added	100	100-12-060-5811			50,000	
3	Contracted Srvcs - Bldg Mtnc - Custodial	100	100-12-070-5810			150,000	
4	Pallet Jack	100	100-51-001-7550			4,000	
5	Sports Field Infield Groomer	100	100-51-001-7550			30,000	
6	Backhoe	100	100-51-001-7550			149,000	
7	Compact Track Loader	100	100-51-001-7550			121,000	
8	Solar Traffic Safety Message Sign	100	100-51-001-7550			20,000	
9	Hot Water Pressure Washer	100	100-51-001-7550			9,000	
10	CAM Repairs and Mtnc- Guanatos Bldg	138	138-82-003-5300			2,000	
11	P-6 District - Interfund Charges Police	150	150-21-001-5911			645,040	
12	Emerson Ranch Gas and Electricity	407	407-53-501-5420			40,000	
13	Delaney Park Gas and Electricity	422	422-53-501-5420			40,000	
14	Delaney Park - Water	422	422-53-501-5430			2,000	
15	CIP #262 - Traff Sig Proj - power backup	202	202-75-262-0101			100,000	
16	City Council Chamber Safety Dividers	100	100-11-010-7410			9,600	
17	GF Xfer Out - Skipolini's Roof Rplcmt	100	100-99-901-8410			23,000	
18	Fund 201 Proj - Skipolini's Roof Rplcmt	201	201-10-001-7200			23,000	
19	GF Xfer Out - Mr Pickle's Roof Rplcmt	100	100-99-901-8410			23,000	
20	Fund 201 Proj - Mr Pickle's Roof Rplcmt	201	201-10-001-7200			23,000	
21	GF Xfer Out- EV Charging Units, CIP 215	100	100-99-901-8410			150,000	
22	Fund 201 - EV Charging Units, CIP 215	201	201-75-215-0101			150,000	
23	CIP No. 273 - Laurel Rd Ext Proj- Design	202	202-75-273-0201			60,000	
24	GF Xfer - Cap Imp Sheer Prop Exchg	100	100-99-901-8410			350,000	
25	Fund 201 - Cap Imp Sheer Prop Exchg	201	201-75-215-0101			350,000	
26	ARPA - Salaries	120	120-10-001-4101				45,092.00
27	ARPA - FICA/Medicare	120	120-10-001-4201				640.00
28	ARPA - CAUI/CBUI Tax	120	120-10-001-4204				3,366.00
29	ARPA - Consulting	120	120-10-001-5120				250,000.00
30	ARPA - Projects	120	120-10-001-7120				2,870,000.00
31	Battery Backup Tower	503	503-13-001-7420			25,000	
32	Contracted Services - HR Comp Study	100	100-12-060-5120			60,000	

Division Requesting Change:

Division Head Signature	Date
Tim Przybyla	2/22/2022
Prepared by (print name and initial)	Date

The above information has been reviewed, is complete and accurate and the appropriations

Finance Division Action:

Accounting Manager Signature	Date
Director of Finance Signature	Date

City Council Action:

☐ Approved ☐ Disapproved ☐ Not Required

Resolution Number	2/22/2022 Council Meeting Date

City Manager Action:

☐ Approved ☐ Disapproved ☑ Not Required

City Manager Signature	Date

BUDGET TRANSFER/REVISION REQUEST FORM

Date Received in Finance	Division	Activity	Budget Adjustment #
2/22/2022	Finance	Mid-Year Budget Adjustment - Revenues	BA-20 (continued)

Source of Funding	Type of Transfer	Reason for Request
☐ From Existing Budget Appropriations ☐ From Donations, Fees or Grants ☑ From Unappropriated Fund Balance	☐ Intra-Division Transfer (within a division) ☐ Inter-Division Transfer (between divisions) ☐ Interfund Transfer (between funds)	Mid-Year Budget Adjustments

						Amount	
	Description	Fund	Account Number	Project#	Project Phase/Task	Increase	Decrease
1	Propert Taxes	100	100-3101			$ 400,000	
2	Property Tax In-Lieu of VLF	100	100-3103			170,000	
3	Property Transfer Tax	100	100-2104			200,000	
4	Sales and Use Taxes	100	100-3201			800,000	
5	Franchise- PG&E	100	100-3220			90,000	
6	Franchise - Garbage	100	100-3222			226,000	
7	Damaged Property Repair Recovery	100	100-3376			40,000	
8	General Plan Impact Fee	100	100-3395			18,000	
9	Sale of Property	100	100-3801			119,698	
10	Inferfund Charges - Police	100	100-5911			645,040	
11	Inferfund Charges - Engineering	100	100-5914				241,000.00
12	American Recovery Plan Act (ARPA)	120	120-3120				2,911,405.00
13	P-6 District Fund - Special Assessments	150	150-3207			757,500	
14	Operating Transfers In from General Fund	201	201-6950			546,000	
15	CFD - Neighborhood Parks & Landscape	411	411-3234			746	
16	CFD - Stormwater Maintenance	322	322-3235			108,726	
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							

Division Requesting Change:

Division Head Signature	Date
Tim Przybyla	2/22/2022
Prepared by (print name and initial)	Date

The above information has been reviewed, is complete and accurate and the appropriations

Finance Division Action:

Accounting Manager Signature	Date
Director of Finance Signature	Date

City Council Action:

☐ Approved ☐ Disapproved ☐ Not Required

Resolution Number	2/22/2022 Council Meeting Date

City Manager Action:

☐ Approved ☐ Disapproved ☑ Not Required

City Manager Signature	Date

Minimum Fund Balance Policies

The City's Budget Policies require the City to strive to maintain the following fund balances:

1) ~~20%~~ 30% of the annual operating expenditures in the General Fund's Unassigned Fund Balance for emergencies and unforeseen operating or capital needs. The primary purpose of this reserve is to protect the City's essential service programs and funding requirements during periods of economic downturn (defined as a recession lasting two or more years) or other unforeseen catastrophic costs not covered by the annually budgeted Contingency Reserve.

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: February 22, 2022

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Kenneth W. Strelo, Planning Manager

SUBJECT: **Second Continued Public Hearing for McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20) – Request for approval to construct and operate a 4,365 square foot quick serve restaurant with dine-in and drive-through service; APN 035-510-006**

Summary

This is a second continued public hearing on an application by Core States Group ("Applicant") requesting Design Review (DR 09-20) approval to develop an approximately 1.7-acre parcel within the Laurel Plaza shopping center with a new 4,365 square foot quick serve restaurant with dine-in and drive-through service. Applicant also requests approval of a Conditional Use Permit (CUP 03-20) to operate the drive-through service use ("Project"). The project site consists of an existing parcel fronting on Laurel Road and within the Laurel Plaza Shopping Center, which is located on the northwest corner of Laurel Road and O'Hara Avenue. The site is zoned RB (Retail Business) District. APN 035-510-006.

Staff Recommendation

Staff recommends the City Council approve the project titled, "McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)," as conditioned.

Fiscal Impact

None. This is a developer funded account. All Staff time and City of Oakley generated materials are charged to the account.

Background

April 27, 2021 Public Hearing

This item was originally heard by the City Council on April 27, 2021. The April 27, 2021 Staff Report is attached and should be referred to for the following information regarding the project:

- Background, including General Plan Land Use Designation, Zoning District, Entitlement History of the Laurel Plaza Shopping Center, and Existing Conditions and Surrounding Uses;
- Project Description, including the Proposed Conditional Use Permit, and Proposed Design Review;
- Environmental Review; and
- Analysis, including the Conditional Use Permit and Design Review.

Items from the April 27, 2021 Staff Report that are included in this continued Staff Report include the Summary, Staff's Recommendation, attachments, and list of items in the City Clerk's Reading File. Some attachments listed in the April 27, 2021 Staff Report are now attached to or referenced in this Staff Report only, while others are not attached to either but remain a part of the public record.

On April 27, 2021 during the Regular Oakley City Council Meeting the City Council continued the item to a date certain (May 25, 2021), per recommendation by the City Attorney. The main reason for this recommendation was the unavailability of a key member of the applicant's technical team related to the traffic study. An oral presentation was not provided by Staff, and the City Council did not deliberate on the project, but the public hearing was opened to allow public comments via the call-in line.

The City Council received verbal public comments over the call-in line, and also acknowledged receipt of several public comments received via the online submittal portal both prior to and on the day of the meeting. In addition to the comments received via the online portal, the City Council received a letter from Jessica L. Blome of Greenfire Law, PC on April 26, 2021. Since many of these comments were received after completion of the agenda and project packet, Staff drafted a memo to summarize and respond to the comments received up until 2:30 P.M. on the day of the public hearing. That memo was made available prior to the April 27, 2021 public hearing and is attached to this Staff Report. The applicable minutes for item 5.1 from the April 27, 2021 City Council Meeting are also attached for additional reference.

May 25, 2021 Continued Public Hearing

The City Council continued the public hearing on May 25, 2021. The Staff Report from that hearing item is attached. As with the April 27, 2021 Staff Report, items listed as attachments are not separately included, and instead have been made direct attachments or references to this February 22, 2022 Staff Report, as necessary, or have been excluded and remain a part of the public record. The applicable minutes from the May 25, 2021 public hearing are also attached.

After receiving the staff report and presentation, the City Council received public comment, asked questions of the City Attorney, Staff, technical experts, and the

applicant, and then deliberated on the project. At the end of deliberations, the City Council directed Staff to require a supplemental analysis that focused on the pedestrian safety and any potential impacts to the nearby land uses, specifically with Laurel Elementary School on Mercedes Lane. The Council also directed Staff to bring the completed supplemental analysis back to the Council for a work session discussion, which was eventually scheduled for the January 25, 2022 Regular City Council Meeting.

January 25, 2022 Laurel Plaza Supplemental Traffic Operations Analysis Assessment Work Session

On January 25, 2022, the City Council held a work session to discuss the traffic analysis requested at the May 25, 2021 public hearing. Staff hired Fehr and Peers to conduct the additional analysis and funded the studies through a pass-through account paid for by the two project applicants and property owner. Only City Staff managed the study from start through to the final document. The Staff Report from that Work Session is attached for reference, and it includes summaries of the data collected, review of the site plans, and conclusion recommendations to enhance operations of the proposed projects and nearby public right of way. The draft minutes from that meeting can be found as a consent calendar item on this meeting's Agenda (February 22, 2022 City Council Agenda Item 3.3).

At the conclusion of the Work Session, the City Council individually provided feedback to Staff and the applicants. Some feedback required actions on the part of both project applicants (McDonald's and Quick Quack) through implementation of the recommended enhancements to their respective sites and working with City Staff on solutions to implement the recommended off-site improvements. For McDonald's those on-site enhancements included:

- Eliminating spaces 35, 36, and 37 to increase the drive-through throat depth and accommodate additional vehicle queues.
- Shifting the drive-through pedestrian crossing to the east, bulb out the pedestrian areas adjacent to the crossing, and incorporate a raised crossing to improve pedestrian visibility. Additionally, including a 10-to15-foot pedestrian barrier (i.e., fence) to the right of pedestrians exiting the McDonald's building to increase visibility to vehicles exiting the drive-through.
- Providing at least four bicycle parking spaces.

Other recommended enhancements included installing signs within Laurel Plaza to deter non-customers from using Laurel Plaza as student drop-off and pick-up. There were also three recommended off-site enhancements as follows:

- Modifying the traffic signal phasing and timing to install leading pedestrian intervals at the intersection to improve pedestrian visibility and reduce potential conflicts between pedestrians and vehicles.

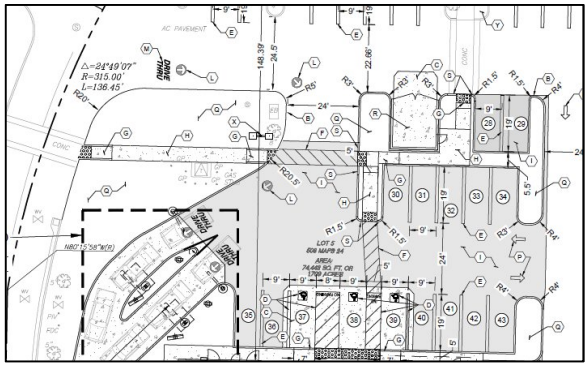
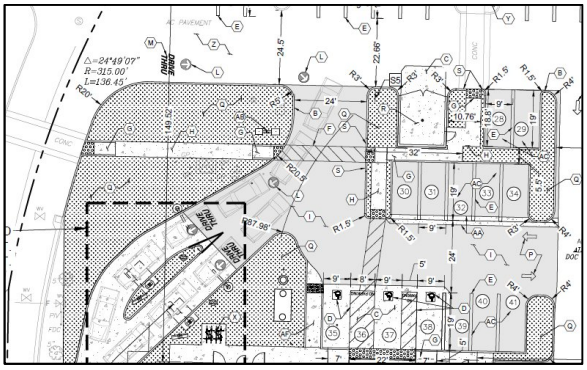
- Installing blank out "No Turn on Red" signage for the eastbound and southbound approaches. This signage should be operational during school pick-up and drop-off periods only.
- Installing high-visibility crosswalks with advanced stop bars for all crosswalks.

Modifications to Plans

The applicant has made several modifications to the plans to address the recommendations in the supplemental traffic study as summarized below:

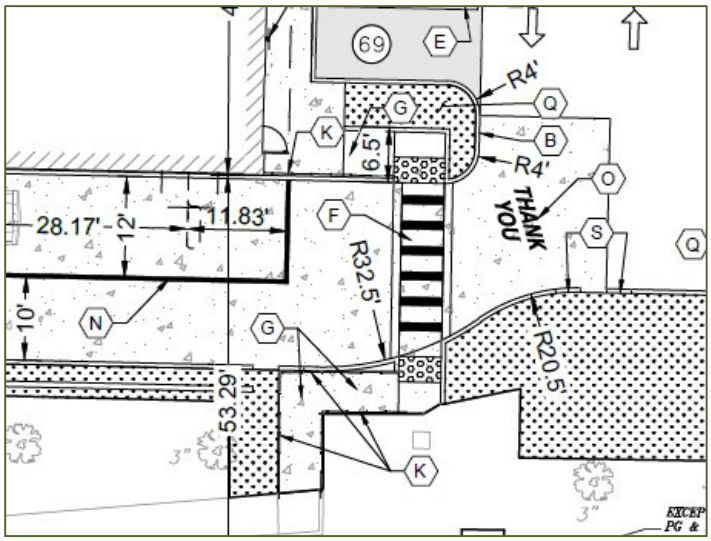
- Applicant has eliminated parking spaces 35, 36, and 37 in order to increase drive-through throat depth and better accommodate additional vehicle queues so they don't interfere with parking space access. Figure 1 shows a before and after for this area of the site plan.

Figure 1. Before and After Drive-Through Queue Portion of Site Plan

Previous Plans	Current Plans
	

- Applicant has shifted the drive-through pedestrian crossing to the east, has bulbed out the pedestrian areas adjacent to the crossing, has incorporated a raised crossing to improve pedestrian, and has included a pedestrian barrier adjacent to the drive aisle. Figure 2 (next page) shows a close up of the redesigned area of the site plan with applicable notes from plans.

Figure 2. Close Up of Drive-Through Pedestrian Crossing Area with Notes



"F" – Proposed raised pedestrian crosswalk.

"K" – Proposed guardrail / handrail with pickets.

- Applicant has added bike parking spaces, which are located between the building and drive-through ordering boards. Refer to Figure 1, "Current Plans" – Notation "X".

Drive-Through Screen Wall

In response to a City Council comment received during the January 25, 2022 Work Session, the applicant has included a detail on their plans that show the drive-through screen wall as a 3-foot high solid wall consisting of a stucco exterior colored to match the main building. This wall will eventually be mostly screened from the non-drive through side due to landscaping, but the existence of the solid wall should provide additional deterrence from pedestrians potentially cutting through the drive-through lane other than at the striped crosswalk at the eastern end.

Building Design and Architecture

The applicant has modified the building architecture from what was presented at the May 25, 2021 public hearing. The revised architecture has the same base color scheme but with a darker stone veneer. Other changes include the addition of a main pyramid roof on a raised architectural feature at the main pedestrian entrance, a gabled raised architectural element that faces the interior of the center, and two other raised elements that carry the veneer all the way up and around the back side where it is above the roofline. Figure 3 (next page) shows the previous and current proposed colored renderings of the building from all four sides.

Figure 3. Previous and Current Proposed Colored Renderings



Analysis

Original Analysis and Recent On-Site Recommendations

The original analysis for the project is included in the April 27, 2021 Staff Report. That analysis is based on factual information and technical studies and the adopted design standards and applicable land use regulations. Since that analysis was conducted, the Supplemental Traffic Study was produced and discussed during the January 25, 2022 Work Session. The on-site recommendations from that work session that were incorporated into the McDonald's plans include: 1) the removal of three parking spaces near the rear of drive-through queue; 2) safety enhancements to the drive-through pedestrian crossing by shifting it east, raising it, and deterring pedestrians from crossing the drive-through further west by installing a barrier that funnels people to the crosswalk; and 3) inclusion of bike racks.

Other Recommendations (Shopping Center of Off-Site)

Other recommendations were included in the supplement traffic study, including the recommendation to install signs within Laurel Plaza to deter non-customers from using the shopping center for drop-off and pick-up of school children, and a few off-site enhancements for the intersection of Laurel Road and Mercedes Lane. Since the use of the site for student drop-off and pick-up is a private property matter that comes down to how the property owner wants to manage the public access to the property, this can remain a recommendation, but should not be a condition of approval for the land use entitlements. Likewise, the proposed enhancements related to off-site improvements do not fall solely on the proposed use, especially since Laurel Plaza was already approved for similar square footage and higher vehicle trips rate, which was publicly adopted through the CEQA Mitigated Negative Declaration process.

Laurel Plaza is one commercially zoned property amongst the four corners at Laurel Road and O'Hara Avenue and build out of the City under the current General Plan would include all four corners being developed with commercial uses. The observations with school drop-off and pick-up identified in the supplemental traffic study, such as vehicles queuing on Laurel Road from Mercedes Lane and students being dropped off/picked up or walked to school from the Laurel Plaza parking lot, are occurring whether Laurel Plaza is further developed or not. The enhancements being recommended in the supplemental traffic study, such as modifying traffic signal timing, installing "no turn on red" signage, and installing high visibility crosswalks with advanced stop bars are additional potential benefits to the City of Oakley, but not directly required as mitigation or a condition of development for Laurel Plaza. Staff is recommending the City not include any of the off-site recommendations as conditions of approval for either of the McDonald's or future projects in Laurel Plaza, unless any required future studies find a nexus between the use and the potential impact.

Community Benefit Program

In recognition that the off-site traffic-related enhancements are not adopted mitigation measures or proposed as conditions of approval, the Applicant has provided Staff written confirmation that they agree to initiate the City of Oakley's Community Benefit Program to implement the off-site enhancements as recommended by the City of Oakley Public Works and Engineering Department. Since participation in the Community Benefit Program is neither a condition of approval nor a factor in a project's findings, the applicant participating in it offers a solution for the applicant to share in the completion of the off-site enhancements without them being tied directly to the project. This would result in both a benefit to the community and avoid any precedent being established of requiring private development projects to implement additional off-site enhancements not related to any CEQA mitigation or the proposed use's direct impacts. Although the Community Benefit Program is 100% voluntary, it would be the best option in implementing some of the off-site enhancements recommended in the supplemental traffic study without direct costs to the City.

Conditional Use Permit

The Conditional Use Permit approval is required for the drive-through and not the food service itself. Regardless of the type of drive-through use, the analysis would objectively focus on site design, traffic and circulation impacts, and other items related to the drive-through, but not on the type of food being served, or the company proposing to operate the business. The findings required for approval of a conditional use permit are found in Oakley Municipal Code Section 9.1.1602, part "f". In summary, they require an analysis to ensure the following (paraphrased standards):

- The site is big enough and shaped correctly for the use's development;
- The streets accessing the site can accommodate the use's generated traffic;
- The proposed use is designed to be compatible with the intended character of the area and won't change the essential character of the area from that intended by the General Plan and applicable zoning;
- The proposed use provides for the continued growth and orderly development of the community and is consistent with various elements of the General Plan; and
- The proposed use complies with CEQA.

The required findings can be made for the proposed drive-through. 1) The site is adequate in size and shape to accommodate the proposed use and all yards, spaces, wall and fences, etc. to adapt the land use to those I the neighborhood. The applicant has shown the site can handle substantial queues in the drive-through and has implemented recommended n-site safety enhancement to further strengthen the compliance with the required finding. 2) Laurel Road and O'Hara Avenue are both arterials within the City of Oakley and ultimately designed to handle not only the traffic generated by this proposed drive-through use, but also build out of the entire City of Oakley. 3) The intended character of the area is for commercial uses. The proposed use is not only compatible with the intended character, but is a commercial use specifically conditionally permitted within the applicable zoning district or RB (Retail Business) District. 4) The proposed use will provide for the continued growth and orderly development of the community, in that it has been designed to meet all applicable zoning regulations and building code requirements, including ADA accessibility, and the building design is subject to discretionary Design Review approval. 5) The use complies with CEQA, as explained in the previous proposed findings, in that the project falls within the scope of the original Laurel Plaza Shopping Center Initial Study/Mitigated Negative Declaration (SCH #2008012068), and applicable mitigation measures from that MND will also apply to the proposed project.

For the reasons stated above and included in the attached proposed resolution, Staff recommends approval of the Conditional Use Permit to operate a drive-through use, as conditioned.

Design Review

The building has been modified since the previous public hearing in a manner that uses the same color scheme, but adds a darker and more prominently used stone veneer, and a standing seam metal roof where applicable. The removal of the three parking spaces and shifting of the drive-through pedestrian crossing benefit the overall site functionality and vehicular and pedestrian safety. Overall, the building modifications and enhancements to the site plan are improvements over the previously submitted plans.

The overall site planning meets required setbacks, circulation and parking, landscape, and buffer requirements, and locates the trash enclosure in a manner where it has minimal interference with the proposed use and other nearby uses. Architecture and massing of the building meets the criteria as found in the adopted Oakley Commercial and Industrial Design Guidelines. Roof top equipment is screened from public view. The site is adequately landscaped, including the addition of trees for aesthetic and parking lot shade, and a screen wall to soften the appearance of cars queued in the drive-through. Lighting is sufficient, and as conditioned, will provide additional pedestrian safety. Finally, the streetscape is existing and already in compliance with the standards for review.

Findings

Draft findings for the Conditional Use Permit and Design Review can be found in the proposed resolution.

Staff Recommendation

Staff recommends the City Council approve the project titled, "McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)," as conditioned.

Attachments

1. Vicinity Map
2. Notice of Public Hearing
3. Project Staff Report from April 27, 2021 City Council Meeting (without attachments) (Item 5.1)
4. City Council Minutes from April 27, 2021 for Item 5.1 (excerpt)
5. Project Staff Report from May 25, 2021 City Council Meeting (without attachments) (Item 3.1)
6. City Council Minutes from May 25, 2021 for Item 3.1 (excerpt)
7. City Attorney Memo to City Council dated May 17, 2021
8. Laurel Plaza Supplemental Traffic Operations Analysis Assessment Work Session Staff Report from January 25, 2022 City Council Meeting (without attachments) (Item 7.1)
9. Applicant's Plans
10. Proposed Conditional Use Permit and Design Review Resolution

Available Online or at City Hall for Viewing

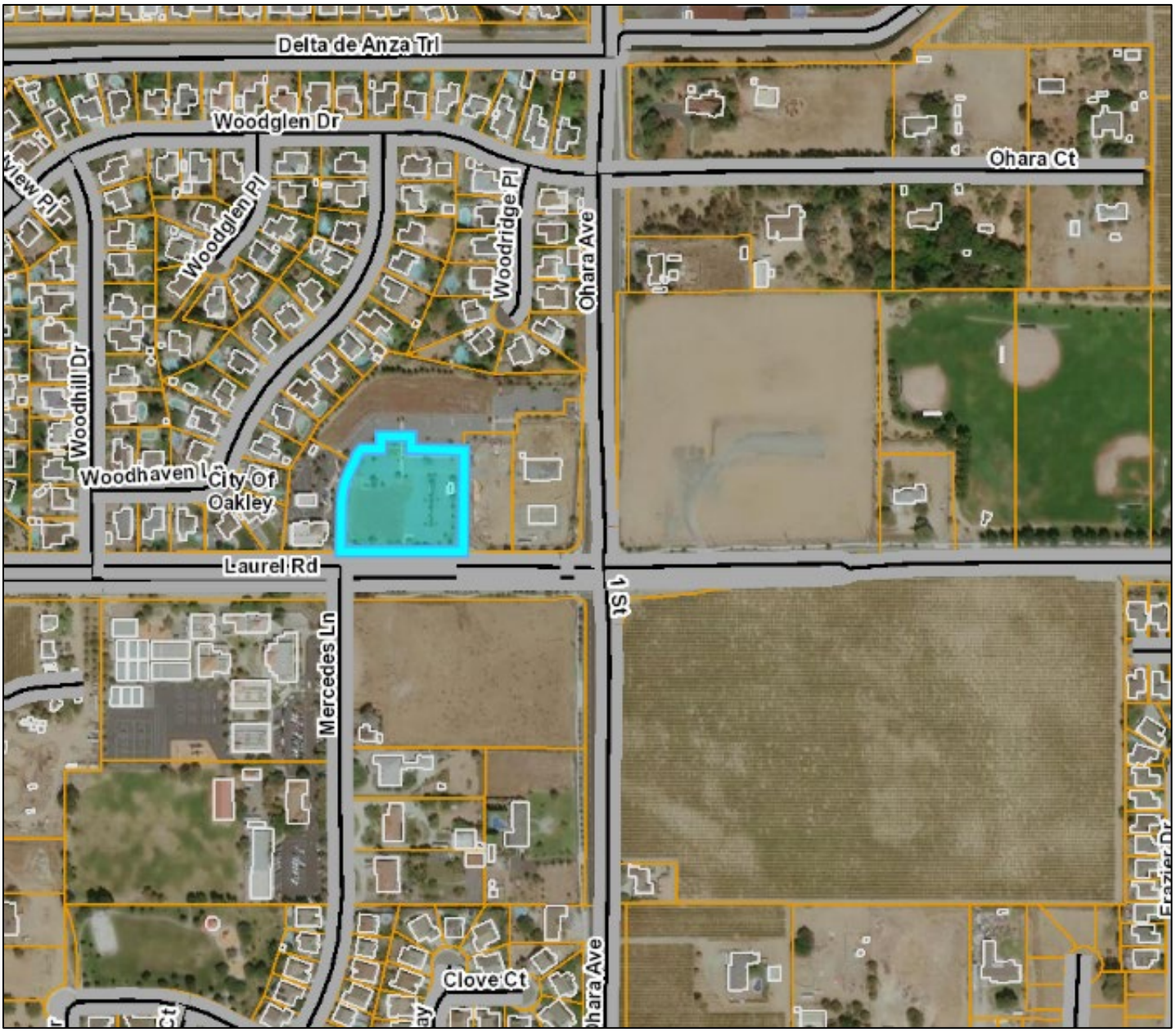
1. Oakley McDonald's and Quick Quack Traffic Analysis, dated March 15, 2021: (https://www.ci.oakley.ca.us/wp-content/uploads/2021/04/McDonalds-and-Quick-Quack-Traffic-Analysis_03-15-2021.pdf

2. Laurel Plaza Supplemental Traffic Operations Analysis Assessment, dated January 7, 2022: (https://www.ci.oakley.ca.us/wp-content/uploads/2022/01/Laurel-Plaza-Supplemental-Traffic-Operations-Analysis-Assessment_2022-01-07.pdf)

Any other documents referenced in this Staff Report or in other documents made a part of this project's public record can be requested from the City of Oakley Planning Division.

Vicinity Map

McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)
APN: 035-510-006



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

NOTICE OF PUBLIC HEARING

Notice is hereby given that on **February 22, 2022** 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 an application for a **Conditional Use Permit** and **Design Review** as described below:

Project Name: Second Continued Public Hearing for McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20).

Project Location: North of Laurel Rd. within the Laurel Plaza Shopping Center. APN 035-510-006. Oakley, CA 94561

Applicant: Core States Group (Zach Michels), 6500 Chippewa St., Ste. 200, St. Louis, MO 63109. zmichels@core-states.com.

Request: Second continued public hearing on an application by Core States Group ("Applicant") requesting Design Review (DR 09-20) approval to develop an approximately 1.7-acre parcel within the Laurel Plaza Shopping Center with a new 4,365 sf. quick serve restaurant with dine-in and drive-through service. Applicant also requests approval of a Conditional Use Permit (CUP 03-20) to operate the drive-through service use ("Project"). The project site consists of an existing parcel fronting on Laurel Road and within the Laurel Plaza Shopping Center, which is located on the northwest corner of Laurel Road and O'Hara Avenue. The site is zoned RB (Retail Business) District. APN 035-510-006.

How to Review: The Staff Report and its attachments will be available for public review, on or before **February 17, 2022** at City Hall, 3231 Main Street, Oakley, CA 94561 or online at www.ci.oakley.ca.us/agendas-minutes-videos-archive/ by navigating to the **February 22, 2022** agenda and clicking the project title link. (Note: City Hall is closed on the 1st and 3rd Fridays of each month). Interested persons are invited to submit written comments prior to and may testify at the public hearing. Written comments may be submitted to Kenneth W. Strelo, Planning Manager at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to 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.

STAFF REPORT

DATE: April 27, 2021

TO: Bryan Montgomery, City Manager *Approved and Forwarded to the City*

FROM: Kenneth W. Strelo, Principal Planner

SUBJECT: **McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20) – Request for approval to construct and operate a 4,365 square foot quick serve restaurant with dine-in and drive-through service; APN 035-510-006**

Summary

This is an application by Core States Group ("Applicant") requesting Design Review (DR 09-20) approval to develop an approximately 1.7-acre parcel within the Laurel Plaza shopping center with a new 4,365 square foot quick serve restaurant with dine-in and drive-through service. Applicant also requests approval of a Conditional Use Permit (CUP 03-20) to operate the drive-through service use ("Project"). The project site consists of an existing parcel fronting on Laurel Road and within the Laurel Plaza Shopping Center, which is located on the northwest corner of Laurel Road and O'Hara Avenue. The site is zoned RB (Retail Business) District. APN 035-510-006.

Staff Recommendation

Staff recommends the City Council approve the project titled, "McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)," as conditioned.

Fiscal Impact

None. This is a developer funded account. All Staff time and City of Oakley generated materials are charged to the account.

Background

General Plan

Commercial ("CO") - This designation allows for a broad range of commercial uses typically found adjacent to residential neighborhoods, downtowns, and freeways. The particular form of commercial zoning for different areas of the City will depend, among other factors, on the characteristics of surrounding land uses. General types of

commercial uses include retail and service facilities, and limited office uses. Through sensitive design, commercial uses can be located near single-family residences with minimal disruption or impact. Typical uses will vary widely in size and purpose and include large-scale retail, regional-serving retail, grocery and convenience stores, salons, professional offices, restaurants, drug stores, dry cleaners, post office facilities, banks, and other uses of similar character and impacts. (City of Oakley 2020 General Plan).

Zoning

Retail Business District (RB) – The purpose of the RB District is to retain small-scale businesses and facilities that will provide a wide range of services to adjacent neighborhoods and to the community as a whole. Properties in the RB District are intended for small-scale developments that are adjacent to, or within the vicinity of, residential districts. The RB District is found to be compatible with the CO General Plan Designation per Table 2-6 of the General Plan (General Plan/Zoning Compatibility Matrix). The RB District use allowances and development regulations are found in Oakley Municipal Code (OMC) Section 9.1.504.

Entitlement History

The Laurel Plaza shopping center was first approved by the City Council on March 11, 2008 through the adoption of Resolution No. 24-08. The approval included the following: 1) Rezoning the property from Neighborhood Business (remnant County zone) to Retail Business (valid City zone), 2) a Tentative Map to subdivide the 7.01-acre site into 5 commercial lots, 3) a Conditional Use Permit for a Rite Aid with a drive-through, and 4) a Development Plan for the Rite Aid with a drive-through.

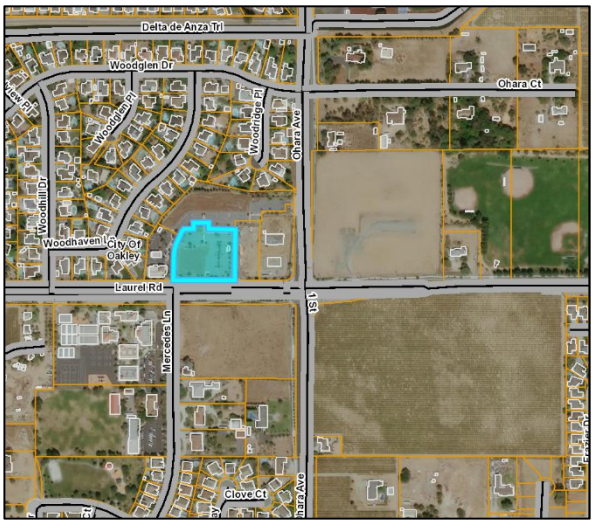
Subsequent entitlements approved by the Planning Commission on April 21, 2008 (PC Resolution No. 05-08) covered development of the remaining parcels within the center, including: a bank (existing), grocery store (Fresh and Easy, since withdrawn), drive-through (tenant not known at the time), and retail pad buildings. The drive-through building approved with this plan was designed as a multi-tenant building with included drive-through component. Since the above approvals, the Rite Aid on the corner never came to fruition, and the Fresh and Easy withdrew their application; however, the site was developed with all off and on site infrastructure when the first building housing the BAC Community Bank was constructed on the most western parcel of the site.

On May 9, 2017, nearly 9 years after the last entitlements and with nothing but the bank moving forward with development, the City Council approved a Conditional Use Permit and Design Review for the Laurel Plaza Mini-Mart and Gas Station. This approval included a 25 foot by 80 foot car wash tunnel to be located in a north/south orientation and on the west side of the store. Free-use outdoor vacuums were also approved. Today, the gas station is existing, but decided to forego the car wash and vacuums.

Existing Conditions and Surrounding Land Uses

The approximately 1.7-acre project site is located on the north side of Laurel road, approximately 320 feet west of the Laurel Road and O'Hara Avenue intersection. The site is part of a larger 7.01-acre Laurel Plaza commercial shopping center. The current site is improved with a bank, gas station and mini-mart, parking lot and drive aisles, on-site landscaping, frontage improvements along Laurel Road and O'Hara Avenue, and several graded pad areas for future commercial development.

Figure 1. Aerial of Project Site



The site is located on a main City arterial, Laurel Road, and is adjacent to a residential neighborhood to the north and west. The corner site properties to the south, across Laurel Road, and to the east across O'Hara Avenue are of the same General Plan Land Use Designation and Zoning, and currently vacant. The large vineyard located kitty-corner and on the southeast corner of the intersection is of the same General Plan Land Use Designation, but zoned General Commercial District (C). The active vineyard encompasses the entire parcel. Figure 1 (left) shows an aerial view of the site from the Contra Costa County GIS website (https://ccmap.cccounty.us).

Project Description

Proposed Conditional Use Permit

Approval of a Conditional Use Permit (CUP) is required in order to establish a "Drive-thru Restaurant and Services" use in the RB District (OMC Section 9.1.504(c)(9)). The CUP only applies to the "drive-through" component of the use. The restaurant component is permitted by right and not subject to any discretion.

CUPs are required in order to establish a land use within a zoning district that does not allow establishment by right, but does allow the granting of a land use permit after a public hearing (OMC Section 9.1.1602(f)). When approving or conditionally approving a CUP, the decision making body must make specific findings. Those findings relate to whether the site is adequate for the operation, whether the location can be accessed and the streets leading to it can handle the generated traffic, whether the use fits in with the intended character of the area as set forth in the zoning ordinance and General Plan, whether the use allows for continued growth and orderly development of the area and is consistent with various elements of the General Plan, and whether the proposed use and any conditions attached thereto are in compliance with the California

Environmental Quality Act (CEQA). The Analysis section of this Staff Report looks at the project in relation to these required findings in more detail.

Proposed Design Review

The Design Review Ordinance (OMC section 9.1.1604) sets forth duties to review, as well as procedures for review and approval of a Design Review application. OMC section 9.1.1604(d) requires Design Review approval for any structure that is above ground or alters the grade in any commercial district, and that the design review shall be undertaken by the Planning Commission[1] and be heard as a public hearing. The proposed new development fits the criteria above and requires Design Review. The proposed design review covers all of the physical development of the project, such as the site development, architecture and elevations, landscaping and design of the storm water treatment.

Proposed Site Plan

The project proposed on the approximately 1.7-acre site includes one restaurant (4,365 square feet (sf.)) with drive-through, a parking lot with drive aisles and parking spaces, landscaping and lighting, and pedestrian walkways and pavement striping. About half of the parcel is already improved with parking and drive aisles, as this was done when the shopping center main drive aisles and parking were installed with the bank. There are driveways on each side of the site that enter from Laurel Road. These are shared driveways with each respective parcel to the east and west, and are also shared ingress/egress for the entire shopping center. Once in the shopping center, there are drive entrances into the McDonald's parking lot, which also leads to the drive-through. Table 1 provides a summary of the site plan information.

Table 1. Summary of Site Plan Information

	Existing	Proposed	Total
Site	1.7 acres (apx. 74,443 sf.	No change	1.7 acres (apx. 74,443 sf.
Building	0 sf.	4,365 sf.	4,365 sf.
Parking Spaces	51	20	71
Trees	48	13	58 (3 existing to be removed)

Another aspect of the site plan is the pedestrian access and circulation. The project plans were analyzed in the "Oakley McDonald's and Quick Quack Traffic Analysis" conducted by Kimley-Horn and Associates, Inc., dated March 15, 2021. That analysis found that there are many existing and proposed pedestrian facilities provided on- and off-site to assist with pedestrian access to the McDonald's project site. Existing

[1] City Council acts as the Planning Commission per Ordinance No. 06-09

pedestrian facilities include crosswalks, sidewalks, ADA ramps, and crossing guards for the Laurel Elementary School. Proposed pedestrian facilities include pedestrian pathways and ADA ramps that connect to the restaurant from both the sidewalk on Laurel Road and from the internal shopping center. The traffic analysis included a couple of recommendations related to lighting and signage, which are covered in more detail in the "Analysis" section of this Staff Report.

Proposed Architecture

The 4,365 sf, one-story restaurant building is rectangular in shape with a flat roof that includes a parapet to screen rooftop equipment. The main body uses stucco in two colors, which are "Fairview Taupe" by Benjamin Moore for the main building, and "Iron Ore" by Sherwin Williams for the wall accents. A beige colored cultured stone called "Foundation" by Hewn Stone is proposed along most of the building base with extension to the top of parapet in line with the three drive–through windows. Corner elements of the building are enhanced with wood-grain, aluminum vertical batten siding that reaches from the ground to the top of parapet. Aluminum canopies are proposed above windows and at entrances. Figure 2 shows a color rendering of the north (faces interior parking lot) and south (alongside main drive-through aisle and facing Laurel Road) elevations.

Figure 2. Color Rendering of North and South Elevations



Environmental Review

The Laurel Plaza Shopping Center was analyzed pursuant to CEQA in an Initial Study resulting in a Mitigated Negative Declaration (IS/MND). The Notice of Determination (NOD) for the IS/MND (SCH #2008012068) was filed with the Contra Costa County Clerk and Governor's Office of Planning and Research (OPR) on March 31, 2008. Mitigation Measures were adopted for the following impact categories: Aesthetics; Air Quality; Biological Resources; Cultural Resources; Hydrology and Water Quality; Noise; Transportation/Circulation; and Utilities and Service Systems.

Since the original CEQA analysis included development of the whole shopping center, changes from the original plan are only required to be re-analyzed where they may differ from the original project. In this case, the proposed project and the adjacent proposed project for a car wash were jointly analyzed for traffic-related impacts and compared to those originally analyzed. The potential traffic impacts were analyzed by Kimley-Horn and Associates, Inc. in a study titled, "Oakley McDonald's and Quick Quack Traffic Analysis," dated March 15, 2021. In addition to being conducted by Kimley-Horn, the study was peer reviewed by the City by TJKM Transportation Consultants.

Per the conclusion of the traffic study, the proposed project (includes the adjacent proposed car wash) would not result in any new traffic impacts compared to the previously approved project. The project would generate approximately 626 fewer trips daily, 28 fewer trips in the AM peak hour, and 22 fewer trips in the PM. The study also concluded the drive-through queue for the proposed project is sufficient and no site changes are recommended. The pedestrian analysis found adequate pedestrian circulation and recommended the addition of lighting and warning signage for drivers at the walkway that crosses the drive-through aisle. Also, it is recommended to keep landscaping near the northwest corner of the parcel cut back and low to allow for better visibility.

Since there is no new mitigation required for this project, the project has been deemed to be within the scope of the previously adopted Mitigated Negative Declaration (SCH # 2008012068). No additional environmental review is necessary.

Analysis

Conditional Use Permit

The proposed use is defined as "Drive-through Restaurant and Services", which is allowed in the Retail Business (RB) District with the approval of a Conditional Use Permit (CUP). The purpose of a CUP is to allow for uses that are not allowed by right, and to ensure that the proposed land use is compatible with the surrounding land uses in the neighborhood. In order to remain fair and objective, when analyzing a CUP application, Staff may not consider the type of food being offered for sale for drive-through restaurants (e.g. burgers, chicken, ice cream, coffee, etc.), specific brand or franchise behind the application, or whether the same business already exists in Oakley. In short, Staff allows the free market to play out, and focuses on analyzing the use, in this case a "drive-through", in relation to the General Plan, applicable zoning district, and required findings for a CUP.

Conditional Use Permit Findings

Staff's analysis finds that the proposed "Drive-through Restaurant and Services" use, as proposed and conditioned is found to be consistent with the required findings as found in

OMC Section 9.1.1602(f). Complete findings are found in the attached Proposed Resolution and summarized below:

- The site is adequate in size and shape to accommodate the use;
- The site relates to streets and highways adequate in width and pavement type to carry traffic generated by the use;
- The proposed use will be arranged, designed, constructed, operated, and maintained so as to be compatible with the intended character of the area as intended in the General Plan and applicable zoning;
- The proposed use allows for the continued growth and orderly development of the community and is consistent with the various elements of the General Plan; and
- The proposed use, including conditions of approval, will be established in compliance with CEQA.

Design Review

The proposed plans were analyzed for consistency with the applicable development regulations in the Oakley Municipal Code and adopted City of Oakley Commercial and Industrial Guidelines ("Guidelines").

Circulation/Parking

Vehicular access to the proposed McDonald's is possible from two driveways that enter the shopping center off of Laurel Road. Both vehicular and pedestrian circulation was analyzed in the traffic study, including queuing for the drive-through. The traffic analysis found no issues with the on-site circulation. Queuing for the drive-through was found to be adequate. The model ran 1,000 iterations of demand from a Saturday night and found that 95% of the iterations result in a maximum of 13 vehicles or less. This is one more vehicle than the drive-through lanes are designed to queue, but the parking lot is able to handle this additional vehicle without any impacts to circulation or parking, or create any spillover into the main shopping center drive aisle or onto Laurel Road.

Pedestrian circulation and access to nearby sites is found to be adequate, and there are recommendations to further enhance pedestrian safety. Some existing pedestrian connectivity includes: signalized crosswalks at Laurel Road and Mercedes Lane intersection with ADA ramps at each end of the crosswalk; a crossing guard on the west leg of that intersection during school hours; and eastbound right turn restriction on red from Mercedes Lane during student activity. Pedestrian access to McDonald's is possible from the existing sidewalk on the north side or Laurel Road, or from within Laurel Plaza. ADA ramps and marked crosswalks are both existing on the site, and proposed as part of the new development. Recommendations to further enhance pedestrian safety include additional lighting, visibility, and warning signage be provided where the pedestrian access crosses the drive-through aisle between Laurel Road and the building. In addition, it is recommended that the landscaping within the pedestrian

pathway, north of the drive-through entrance, allow for pedestrian visibility to oncoming vehicles traveling to and from the intersection of Laurel Road and Mercedes Lane.

On-site/off-street parking complies with the Oakley Municipal Code. The parking lot is proposed to accommodate 71 parking spaces, including 3 ADA spaces. OMC off-street parking requirements establish a minimum of 1 parking space per 150 sf. of net public area. The gross floor area (includes the net public area plus all other floor area) of the restaurant would require 29 spaces. 71 spaces is more than adequate and would provide additional shared parking for any future uses in the center.

Building Design

This section analyzes the proposed building's compliance with applicable development regulations and design guidelines. The proposed rectangular building is 21.5 feet tall at the highest point of the parapet. OMC allows buildings up to 35 feet tall in the RB District; therefore, the proposed height complies with the municipal code. Maximum site coverage and floor area ratio[2] (FAR) for the RB District are 40% and 1.0, respectively. The building occupies approximately 6% of the site and since it is a single-story building, results in a FAR of approximately .06. The proposed site coverage and FAR, even with the trash enclosure, are well below the maximum allowances, and comply with the municipal code.

Architecture on the building consists of quality materials and is of a color palette that complements both the existing mini-mart and bank. The architectural style is different from the mini-mart and bank in that it does not include hipped roofs or any roof pitch or peaked elements, rather corner elements with a flat parapet roof. The proposed architecture combines the corporate theme with Oakley's demand for secondary materials, such as the stone and wood-grain aluminum siding.

Design Review Findings

Staff's analysis finds that the proposed site development and building design, as proposed and conditioned, is found to be meet the standards of review as found in OMC Section 9.1.1604(f). Complete findings are found in the attached Proposed Resolution and summarized below:

- The overall site planning meets required setbacks, circulation and parking, landscape, and buffer requirements, and locates the trash enclosure in a manner where it has minimal interference with the proposed use and other nearby uses;

[2] Floor area ratio is the ratio of floor area (not just building coverage) of a building or buildings to the site they occupy.

- Architecture and massing of the building meets the criteria as found in the adopted Oakley Commercial and Industrial Design Guidelines. Roof top equipment is screened from public view.
- The site is adequately landscaped, including the addition of trees for aesthetic and parking lot shade, and a screen wall to soften the appearance of cars queued in the drive-through. Lighting is sufficient, and as conditioned, will provide additional pedestrian safety.
- The streetscape is existing and already in compliance with the standards for review.

Findings

Draft findings for the Conditional Use Permit and Design Review can be found in the proposed resolution.

Staff Recommendation

Staff recommends the City Council approve the project titled, "McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)," as conditioned.

Attachments

1. Vicinity Map
2. Public Hearing Notice
3. Applicant's Plans
4. Proposed Conditional Use Permit and Design Review Resolution
5. Staff Report Power Point Presentation

In City Clerk's Reading File

1. Oakley McDonald's and Quick Quack Traffic Analysis, dated March 15, 2021

Minutes of the 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 held April 27, 2021

Excerpt of Item 5.1

McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20) – Request for approval to construct and operate a 4,365 square foot quick serve restaurant with dine-in and drive-through service; APN 035-510-006. (Ken Strelo, Principal Planner)

Mayor Higgins called for public comments.

Online comments are summarized for the meeting record. Comments were submitted in opposition of approval of the conditional use permit by Melissa Emery, Andres Arenas, Erin Pina, Nicole Prins, Karyn Martin, Marco Batcha, Chrishan Ross, Mary Roney, Jessica Blome with Greenfire Law, PC, Renee Pearson, ShaiLynne Jensen, Karen Riach, Pamela Miller, Susan Menke, Jimmy Saliani, Lindsay Waters, Marissa Holder, Andrea Wacker, Diana Patterson, Priscilla Wiley, Lisa Sanchez, Veronica Mangante, Kerry Stewart, Susie Gillilan, Shelly Fitzgerald, Sean Ireland, Christine Dugan-Ihm, Laura Seeno, Eric Walters, Elsa Santiago, Japheth Hardy, Gregory Hetrick, Cary Hilt, Marci Lozoya, Eve Dooms, Ken and Lori Faulkenstrom, Valerie Ferreira, Stephanie Wessels and Tosha Gray. Online comments submitted by Diane Merritt and Ross Hillesheim did not indicate their position.

Mr. Greg Hetrick submitted a written comment via email. Mr. Greg Hetrick submitted a written comment via email. Mr. Hetrick identified himself as the Superintendent of the Oakley Union Elementary School District (OUESD). Mr. Hetrick wrote that the OUESD had reviewed the projects slated for construction on Laurel Plaza. The OUESD, and Mr. Hetrick, believed the projects would impact the district and the safety of the students.

Mr. Hetrick continued that there are over 1,000 students at both Laurel Elementary School and O'Hara Middle School. Transportation for those students continues throughout the day. Also, a large number of students

leave both schools periodically throughout the school day. The safety of those children would be in jeopardy from the vehicle traffic generated by the Laurel Plaza project.

Mr. Hetrick closed his transmittal, stating the number one priority is protecting the safety and well-being of the children of Oakley. Mr. Hetrick noted that the restaurant construction at Laurel Plaza would be a detriment to the safety and well-being of the children.

Diane Merritt requested the City Council consider the neighborhood, not just revenue. She indicated McDonald's portrays a squeaky clean image on the outside but reinforces eating bad foods through its marketing and there is no escaping it with placement of it directly across the street from an elementary school. She expressed it doesn't meet school standards for healthy eating, accompanying pollution is not good for the neighborhood, and crime rates are higher around fast food outlets. She requested the City Council consider safety of the school and neighborhood in the surrounding location.

Mary Roney expressed concern regarding the special permit for the drive-through and pedestrian crossing. She indicated increased traffic that would come with the establishment increases chances of an accident occurring. She requested the City Council consider the impact on the neighborhood as the drive-through may be open 21 hours a day. She expressed she does not believe the City Council should set precedence to allow fast food restaurants to locate within school zones.

Ross Hillesheim commented he is a neighboring property owner and has had his business in Oakley for the past 10 years. He expressed support for the use. He mentioned comments shared indicate that people are clearly distinguishing between restaurants and fast-food; however, the type of restaurant is not something people have ability to discriminate against. He added that Laurel Plaza has been a commercial property for over 15 years and during the time of this pandemic, with jobs lost, it is not good precedence to set to not allow businesses that have been deemed essential.

Tosha Gray urged the City Council to take into serious consideration the surrounding community near the quick serve, drive-through in Laurel Plaza.

She expressed concern regarding noise, blight, traffic, student and pedestrian safety, and the direct negative impact for the adjacent Woodglen neighborhood that has existed since 1985. She requested the City Council exercise its legal right to deny this conditional use permit.

Conan Moats reiterated it is within the City Council's legal right to deny the conditional use permit as the issue is the drive-through and the drive-through is not zoning protected. He implored the City Council to deny the conditional use permit for reasons including safety, negative dietary habits that would be promoted, traffic during school drop off times, precedence being set if the City Council is willing to grant a conditional use permit to any business wanting to change the zoning within the City, and homeowners adjacent to the drive-through that would encounter traffic at all hours. He expressed he would like to move forward positively and is not opposed to fast-food or other establishments as businesses are needed for revenue, but this process is wrong as it is not taking into issues into consideration. He mentioned the traffic report is 14 years old which provides an obsolete impact on the community. He expressed that he doesn't appreciate people having to wait an hour to provide public comment and the Council should have made this item a priority.

Mr. Montgomery commented that cities are required to establish a zoning code which sets forth rules and regulations that inform property owners what can or cannot be done with property. He explained that this is a scenario where the applicant has proposed a project that meets all requirements and the applicant has provided all required studies, therefore staff must provide an objective review, not an emotional review. He mentioned for future projects, the City Council may want to choose to change the rules; however, the existing rules were adopted in 2004 when none of current City Councilmembers were here and it would not be fair to change the rules in the middle of the game on the applicant.

Conan Moats commented he believes it is improper for the City Manager to rebut a public comment.

Mr. Cole commented that the Mayor is calling for public comments and if the City Manager or City Attorney want to respond, they have ability to do so as ultimately they have to advise the City Council and it is the City Council that takes action. He mentioned at this point, anyone who has not

already spoken may speak for 3 minutes and if anyone speaks that has already spoken, the line will be muted. He announced again that the item is being continued and will be heard in full on May 25. He asked that people whom have already spoken show courtesy to allow others to speak.

Chrishan Ross commented that she moved to Oakley because she thought that it had promise but is not finding a lot of trust building with this City Council. She expressed concern regarding interrupting a public meeting with a closed session item and having voices quieted and muted for the City Manager to speak on a topic when it was not his turn. She mentioned she is upset by the entire process as very concerned citizens expressing their positions should be good thing, but they are feeling stifled. She requested the City Council not shun people who want to speak on behalf of children and not put profit over children.

Eve Dooms commented that her children and others walk through Laurel Plaza en route to school and if children are going to use it, she wants it to be safe. She mentioned accidents in fast food drive-throughs happen a lot more than people know and with an elementary school 200 feet away, it is irresponsible for the City Council to think it is okay to allow this establishment with a drive-through as eating and driving is a distraction. She urged the City Council to deny the conditional use permit if it cares about the children and recommended the Council watch the movie Super Size Me.

Shelly Fitzgerald commented that Mr. Hillesheim is correct that the City Council cannot distinguish the type of restaurant for laurel Plaza; however she and others are asking the City Council to deny the conditional use permit for the drive-through as there is no need for it directly across from the school. In relation to the applicant not being fully prepared this evening, she inquired if she were unable to attend the meeting tonight because she didn’t have her stuff together, if the item would have been delayed.

Mr. Cole commented that the City Council has an obligation to be fair to everyone, a lot of opposition came in today and yesterday via public comments, and it is actually fair as the applicant did not have the benefit of key consultant this evening. He mentioned no privilege is being given, it was a concern by himself and staff in the interest of being fair to all parties, as at the end of the day, it will help the City Council to make a more

informed decision. He explained that staff suggested continuing the item in the interest of fairness. He shared that in land use decisions with some controversy, often they have continuance; he sees it in his practice and throughout the state. He added that courts often do the same to allow facts and issues in the interest of fairness. He shared he understands the frustration as people want to be heard and they are being heard now and will be heard again.

Kerry Stewart commented that many residents didn't realize plans were happening across the street from the school and have spent the last couple of days just figuring out how to speak on the item.

Rick Onolfo commented that the McDonald's shouldn't be put in that area as it will create more traffic, accidents and noise and there is already a location near Walnut Meadows and Big Break Road. He mentioned he can hear the Popeye's loud speaker beyond the railroad tracks. He expressed it is not fair to adjacent neighborhoods, nor to children who have to sleep and go school across the street to that school.

Roberto Estrada commented that the decision for the Chevron/7-Eleven was made during one night at the objection of residents. He mentioned the drive-through is inconsistent with the mission statement of the City and it is irresponsible to jeopardize the safety of the community. He shared he has been awakened 4 times this past month by drunks whom have purchased alcohol at the 7-Eleven and believes Laurel Plaza should be shut down at 10 p.m., the conditional use permit should allow dine-in only and close by 9 p.m., and the architecture should adhere to the same scheme of the bank.

Lindsay Waters commented she feels like their voices are being stifled as everyone has had to wait for over an hour to make comments when the City Council knows there are residents waiting to comment. She expressed she is not asking the City Council to reject business, but is requesting smart development. She mentioned drivers get distracted when coming out of the drive-through and elementary age children don't have awareness maturity to be cautious of drivers. She added that this project could be fatal to development and she feels residents' voices are not being heard. She commented that the City Attorney's job is to protect the City Council and the traffic study is 14 years old. She suggested the applicant provide a more recent report.

Paul Seger commented he is speaking again as a resident and in no other capacity. He thanked Mr. Montgomery for misrepresenting the facts of the project as the conditional use permit is not already approved for the drive-through. He mentioned Vice Mayor Pope commented during the recent Strategic Planning that Empire and Laurel is the most dangerous intersection in Oakley and Laurel will be the main thoroughfare to Sellers, therefore, he cannot wrap his head around why the City Council would allow this business to make it the most dangerous area. He suggested the City Council take a close look at land use in its General Plan considering safety in this location with a drive-through and a gas station selling alcohol.

A public comment was made (name inaudible) comparing the Brentwood Sand Creek Road intersection area which is home to a Quick Quack car wash, McDonald's, liquor store, and Dollar Tree, to Laurel Plaza. The person indicated it doesn't meet this City's vision and the City Council represents the people who voted for them so if there is consensus that the people don't agree with it, the City Council should reject the conditional use permit for the drive-through and the Quick Quack car wash as well.

--END

STAFF REPORT

DATE: May 25, 2021

TO: Joshua McMurray, Interim City Manager *Approved and Forwarded to the City Council*

FROM: Kenneth W. Strelo, Principal Planner

SUBJECT: **Continued Public Hearing for McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20) – Request for approval to construct and operate a 4,365 square foot quick serve restaurant with dine-in and drive-through service; APN 035-510-006**

Summary

This is a continued public hearing on an application by Core States Group ("Applicant") requesting Design Review (DR 09-20) approval to develop an approximately 1.7-acre parcel within the Laurel Plaza shopping center with a new 4,365 square foot quick serve restaurant with dine-in and drive-through service. Applicant also requests approval of a Conditional Use Permit (CUP 03-20) to operate the drive-through service use ("Project"). The project site consists of an existing parcel fronting on Laurel Road and within the Laurel Plaza Shopping Center, which is located on the northwest corner of Laurel Road and O'Hara Avenue. The site is zoned RB (Retail Business) District. APN 035-510-006.

Staff Recommendation

Staff recommends the City Council approve the project titled, "McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)," as conditioned.

Fiscal Impact

None. This is a developer funded account. All Staff time and City of Oakley generated materials are charged to the account.

Background

This item was original scheduled to be heard by the City Council on April 27, 2021. The April 27, 2021 Staff Report is attached and should be referred to for the following information:

- Background, including General Plan Land Use Designation, Zoning District, Entitlement History of the Laurel Plaza Shopping Center, and Existing Conditions and Surrounding Uses;
- Project Description, including the Proposed Conditional Use Permit, and Proposed Design Review;
- Environmental Review; and
- Analysis, including the Conditional Use Permit and Design Review.

Items from April 27, 2021 Staff Report that are included in this continued Staff Report include the Summary, Staff's Recommendation, attachments, and list of items in the City Clerk's Reading File. In order to avoid redundancy, attachments listed in the April 27, 2021 Staff Report are now attached to this Staff Report only.

April 27, 2021 Public Hearing

This item was scheduled to be heard by the Oakley City Council as Item 5.1 on the April 27, 2021 Regular Oakley City Council Agenda. Per the recommendation by Derek Cole, City Attorney, the City Council continued the item to a date certain (May 25, 2021). The main reason for this recommendation was the unavailability of a key member of the applicant's technical team related to the traffic study. An oral presentation was not provided by Staff, and the City Council did not deliberate on the project, but the public hearing was opened to allow public comments via the call-in line.

The City Council also acknowledged receipt of several public comments received via the online submittal portal both prior to and on the day of the meeting. In addition to the comments received via the online portal, the City Council received a letter from Jessica L. Blome of Greenfire Law, PC on April 26, 2021. Since many of these comments were received after completion of the agenda and project packet, Staff drafted a memo to summarize and respond to the comments received up until 2:30 P.M. on the day of the public hearing. That memo was made available prior to the public hearing and is attached to this Staff Report. The minutes for item 5.1 from the April 27, 2021 City Council Meeting are also attached for additional reference.

Analysis

The technical analysis for the project is included in the April 27, 2021 Staff Report. That analysis is based on factual information and technical studies and compare those to the adopted design standards and applicable land use regulations. As a reminder, the Conditional Use Permit is for the drive-through and not the food service itself. Regardless of the type of drive-through use, the analysis would objectively focus on site design, traffic and circulation impacts, and other items related to the drive-through, but not on the type of food being served, or the nutritional value of the menu. While those are important personal decisions for people to make, they are not required findings for approving a drive-through.

There may be a general misconception that the traffic study only compares current traffic generated by the center versus what the use would create. The entire Laurel Plaza Shopping Center was previously studied for traffic impacts assuming build out of the center, which included drive-throughs. Mitigation measures were adopted and still apply to any project moving forward. In addition, the updated traffic study has found the proposed drive-through would generate less daily and peak-hour trips than what was originally anticipated.

Citizen Planning Advisor's Comments

Emails were received by two of the Citizen Planning Advisors as quoted or summarized below:

- "It seems the design criteria meet city requirements. Obviously, many Oakley citizens are unhappy with the anticipated businesses but that has nothing to do with our responsibilities as CPA."
- A second CPA stated they did not have any comments.

Findings

Draft findings for the Conditional Use Permit and Design Review can be found in the proposed resolution.

Staff Recommendation

Staff recommends the City Council approve the project titled, "McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)," as conditioned.

Attachments

1. City Attorney Memo to City Council dated May 17, 2021
2. Vicinity Map
3. Public Hearing Notice for April 27, 2021 Meeting
4. Applicant's Plans
5. Project Staff Report from April 27, 2021 (without attachments)
6. City Council Minutes from April 27, 2021 for Item 5.1 (excerpt)
7. Memo to City Council "Summary of Public Comments Received with Staff Response", dated April 27, 2021
8. Proposed Conditional Use Permit and Design Review Resolution
9. Staff Report Power Point Presentation

In City Clerk's Reading File

1. Oakley McDonald's and Quick Quack Traffic Analysis, dated March 15, 2021

Minutes of the 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 held May 25, 2021

Excerpt of Item 3.1

Continued from April 27th. McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20) – Request for approval to construct and operate a 4,365 square foot quick serve restaurant with dine-in and drive-through service; APN 035-510-006 (Ken Strelo, Principal Planner)

Principal Planner Ken Strelo presented the staff report.

Mr. Cole explained that his memorandum supplementing the staff report addresses the comments received to date and the Council's discretion to act. He mentioned the CUP is a quasi-judicial decision and the Council can consider the evidence and apply existing policies, including the laws of the General Plan and Zoning Ordinance as they exist today. He mentioned the question is whether the applicant has provided sufficient evidence that the project meets the 5 factors. He mentioned the project is subject to a CUP because of the drive-through; the issue is not whether there should or should not be a restaurant (fast food or otherwise) as it is already permitted. He mentioned evidence to be considered for the 5 factors requires some statement of fact, some relevant observation or something measurable that can be relied on; it does not include lay opinion.

McMurray mentioned Chris Kinzel with TJKM Transportation Consultants is on the line and available to address questions and comments made.

Project applicant Kevin McAuley with McDonald's USA shared a presentation regarding the design and layout of the McDonald's.

Ben Huie, Traffic Engineer with Kimley-Horn shared information regarding the traffic study they prepared for the project. He mentioned the traffic study previously prepared in 2007 analyzed multiple uses, including a fast food restaurant with e drive-through present and future conditions up to

2025. He mentioned their analysis was to compare the trips generated from the previous project and the current project and if the current project did not generate more trips, the previous study would hold. He explained trip generation is not based on population, but rather square footage of the project. He shared the square footage of the current project is smaller than the previous project resulting in fewer daily and A.M. and P.M. trips generated. They concluded the project does not result in any new traffic impact. He mentioned there was a comment regarding Danville data. He explained that the Danville data was used to determine the amount of time it takes a person to go through the drive-through before the next person goes through and the data is not used to calculate trip generation.

Brad Goldblatt commented his family owns the other McDonald's in Oakley and looks forward to opening this McDonald's which will provide employment to over 60 people.

Chris Kinzel with TJKM Transportation Consultants shared TJKM provided a peer review of the 2007 study to look at trips generated and circulation. He mentioned when the study was performed in 2007, it used the 7th edition of the reference manual and the 10th edition has updated data which was used in their analysis. He mentioned the size of the building as well as experience and studies are taken into account with the current data. He mentioned they concur with the findings of the 2007 traffic study; it is accurate, reasonable and applies proper standards.

Vice Mayor Pope commented he will reserve his comments for later. Councilmember Williams inquired if a real-time site study is ever conducted or if projects always rely upon data in manuals.

Mr. Huie responded that manuals are developed from data collected at fast food sites and averages are created from various studies. He mentioned because there is no McDonald's currently on the site, they have to rely on this type of data.

Councilmember Williams inquired if the data takes into consideration school sites across the street from fast food restaurants in areas where there is already a lot of traffic. Mr. Huie responded the studies are conducted all across the nation, but there is no information provided regarding what the sites are located next to.

Councilmember Williams indicated she will reserve her comments until after public comments.

Councilmember Fuller commented he is glad to see Mr. Strelo opened the door to mitigation and thanked Mr. McMurray for providing information regarding CEQA projects yesterday. He
shared he spent 30 hours studying documents to prepare for this meeting. He inquired if a preliminary review was conducted in 2002.

Mr. Strelo responded the 2008 traffic study is for Laurel Plaza and there was nothing in the negative declaration for Laurel Plaza regarding a 2002 preliminary study. He mentioned it may have been based on the General Plan EIR and tiered off of that, but for the project itself, it was based on the 2008 traffic study.

Councilmember Fuller referenced page 4 of the initial study and mentioned it indicates there were significant issues with the project in January 2008, but because they have been mitigated, the project can move forward. He reference page 41 of the initial study that there will be an 8-foot fence to dispense noise. He inquired if the fence has been built.

Mr. Strelo responded he believes it refers to the existing wall between the residences and the plaza built on the north and western portion of the site which is between 8-10 feet at various locations of the site.

Councilmember Fuller commented that City standards for noise are in the Municipal Code, but he understands from the EIR that the City can impose stricter standards.

Mr. Strelo explained that the analysis requires what is adopted in the General Plan for different land use categories, both impacts that may be created by a project that is being proposed and impacts that may be put onto existing uses; for instance, the neighboring business, the Quick Quack, submitted an acoustical analysis which staff has asked them to revisit which looked at the sound impacts of the car wash and blowers on adjacent properties. He explained here, the sounds studies have already been done with the original study for the site and the sound wall exists.

Councilmember Fuller inquired if stricter sounds controls were to be put in place, if it would be under the CUP.

Mr. Strelo responded that if it were done through the CUP, evidence would have to be found that the drive-through is creating sound above and beyond what the General Plan has adopted as the thresholds.

Councilmember Fuller commented he is discussing the drive-through, but provided an example if a lawnmower shop were located next to a funeral parlor, if sounds could be restricted through the CUP for the lawnmower shop.

Mr. Strelo commented if the sound exceeded the threshold there could be mitigation to reduce noise or the project could be redesigned to be under the threshold. He mentioned sound studies are not based on a single noise, but an average throughout the day and night.

Councilmember Fuller commented that hypothetically, the City could put conditions on the noise levels.

Mr. Strelo commented if the noise exceeds the threshold allowed in the General Plan, the City could put conditions on it to lower the noise under the threshold.

Councilmember Fuller inquired if this particular CUP can have conditions on it to reduce noise levels.

Mr. Strelo responded that there is no evidence that noise levels here exceed the General Plan threshold.

Councilmember Fuller mentioned that on page 44, it is marked that there will be no impact to schools. He inquired why it would say there is no impact on the schools with the project.

Mr. Strelo responded he is not aware which section Councilmember Fuller is referring to but if it is for public services, it includes fire and police impacts. He commented that he believes in California the payment of school impact fees is mitigation for any impact on schools and all of the City’s projects are subject to school impact fees.

Councilmember Fuller commented that in all of the documents he has gone through, he sees Laurel Elementary School but he did not see mention of children, pedestrian safety of children, or any information requested for OUESD input. He inquired why there are no studies on children.

Mr. Strelo responded that he does not know why children are not mentioned in the study. He explained that the studies follow the protocol for traffic studies and in addition staff requested a pedestrian safety study be conducted which was amended into the traffic report.

Councilmember Fuller referred to page 47, showing that in 2008, this project would have a significant impact on traffic, but the 2017 report shows there was a decrease. He inquired why traffic would be shown to decrease.

Mr. Strelo explained that the original environmental study showed a cumulative impact on traffic and the mitigation for cumulative impacts on traffic is payment of both the City's traffic mitigation impact fee and the County's traffic mitigation impact fee. He mentioned the new study or addendum to the study shows there are no new trips generated therefore there are no new impacts; however, the project is still subject to the original CEQA mitigation which is payment of the traffic mitigation impact fees.

Councilmember Fuller commented the initial study indicates that the project will have an impact on alternate transportation (other than cars) which is part of the General Plan. He asked Mr.Strelo to comment how to negate that.

Mr. Strelo responded he would like to review that portion of the initial study before trying to comment.

Councilmember Fuller referenced page 47 for Mr. Strelo. He also referenced page 63 regarding environmental effects which would cause substantial adverse effects on human beings directly or indirectly. He inquired why the study would say there are no impacts to elementary school children, human beings, going to and from school or around the project area. He mentioned from what he has read with the EIR, the City doesn't have to worry about mitigation if it is marked less than significant impacts. He inquired if that is correct.

Mr. Strelo responded there is no mitigation proposed if it is less than significant through project design or CUP. He indicated here, the initial study finds if there is less than significant impacts with mitigation then mitigation needs to be adopted to lower it to a less than significant threshold and if that does not lower it to a less than significant threshold, then an EIR is required and impacts must be disclosed. He mentioned there were no new findings that would suggest that there was evidence that there is a significant impact on parts A through D of that section.

Councilmember Fuller commented the school pedestrian traffic around the school was seen as a less than significant impact.

Mr. Strelo responded that he is pretty sure what was seen is that this project includes frontage improvement which include sidewalks, signalized intersections, a signalized crosswalk, and school drop off zones. He mentioned he is partially speculating because he does not have the document in front of him, but it was found that there were no significant impacts to the site which is commercial.

Councilmember Fuller referred to page 25 which addresses habitat impact, but when he went through the biological report, it said approximately 9 specific species would be impacted but would not live there. He inquired if a report says an animal or flower will not live at the project site if that is sufficient for mitigation.

Mr. McMurray commented that the General Plan provides guidance as to potential habitat and it is very common for sites that have some habitat potential, additional studies are done to determine if there is suitable habitat and additional analysis is done on a case-by-case basis as projects come through. He mentioned the General Plan may have said there is some sensitive habitat here, but when the initial study was done, there was no finding of suitable habitat. He mentioned it is not uncommon before grading that the project must undergo a preconstruction survey; if no suitable habitat exists, grading may be commenced; if suitable habitat exists, they will have to follow additional measures.

Councilmember Fuller referred to the 2008 addendum which shows there will be a significant increase in noise. He referred to page 20 which refers to no impact on the schools under public services.

Mr. McMurray explained the CEQA initial study has certain areas the State says have to be addressed including environmental review. He mentioned when the analysis is being done, they look at what has been done previously. He mentioned the City adopted its General Plan in 2002 and Environmental Impact Report which is very broad and addresses all of the impacts to the build out of the City in general. He shared that this site is designated commercial so when a subsequent environmental review is done, it is already assumed that the analysis has already been done in the General Plan and this site is assumed to hold the same capacity for commercial property today. He mentioned that is why when reviewing the Laurel Plaza study, Councilmember Fuller is finding no impact or less than significant impact because they have been previously analyzed and already disclosed.

Councilmember Fuller commented Mr. Strelo mentioned the 2002 report was not looked at, only the 2008 report, but Mr. McMurray is suggesting the 2002 report was looked at for impacts to the schools and it carries forward to 2008.

Mr. McMurray explained the site is already zoned commercial so it is assumed to hold all of the uses both permitted and conditionally permitted.

Councilmember Fuller asked Mr. Cole if he is bound to make decisions by what he sees as mistakes made by previous Councils in regard to proper mitigation in 2002.

Mr. Cole confirmed he is bound to those decisions. He pointed out that the restaurant is already a permitted use that does not require Council approval. He mentioned there have been a series of plans and approvals of that commercial site and CEQA was performed. He explained the way that CEQA works is that once finalized and not challenged, it creates the base for moving forward so any subsequent projects are looked at from what was studied and what is current; there is no going back to change the base line. He indicated as a general rule the Appendix G goes through checklists which is applied to the drive-through and they can only look at the difference of impacts from then to today. What staff and the consultants are saying is that what is proposed today doesn’t go beyond what was studied before and for what has gone beyond, it has been mitigated.

Councilmember Fuller inquired how many lanes Laurel Road had in 2002.

Mr. Strelo said he does not know for sure but he believes it was two. Councilmember Fuller inquired what the number of enrolled students was in 2002.

Mr. Strelo indicated he does not know the answer to that question. Councilmember Fuller commented he believes it is higher now. He indicated it would be good to know if the Woodglen neighborhood children go to Laurel and O'Hara and if that has changed since 2002. He mentioned vehicles are addressed in the traffic report and even though it says trips are reduced, he doesn't see that when driving and doesn't understand how that will be when the McDonald's goes in. He expressed concern children are not mentioned anywhere in the report. He mentioned he does not see any measure of the smoke, grease or exhaust mentioned regarding particle matter. He also expressed concern regarding the study addressing air quality in Bethel Island and Concord rather than Oakley. He mentioned noise is defined as unwanted sound and provided examples of wanted and unwanted sound. He mentioned a
conversation level happening at the car wash may be acceptable during the day, but at 9 p.m., the same conversation level may be unwanted sound.

Mr. Strelo responded that this project is not looking at the noise levels of the car wash.

Councilmember Fuller referred to page 4 that indicates the City may impose more restrictive noise level standards, but it is not being applied.

Mr. McMurray explained when a noise study in conducted, existing ambient noise is taken into consideration.

Councilmember Fuller commented that residents may not appreciate the noise levels from the car wash.

Mr. Cole mentioned it goes back to what he said in the beginning of his presentation; the Council is considering existing laws and evidence presented for the 5 factors. He mentioned there are 2 factors which may apply: 1) the proposed use will be arranged, designed, constructed,

operated and maintained so as to be compatible with the intended character of the area as intended in the General Plan and applicable zoning, and 2) the proposed use allows for the continued growth and orderly development of the community and is consistent with the various elements of the General Plan. He mentioned Councilmember Fuller provided good examples of wanted and unwanted noise. He explained in the General Plan there are noise standards so when the project is considered, the Council's authority is limited. He mentioned the Council has to look at what is provided in the General Plan and if the applicant can establish that he/she has met such standards, the applicant is deemed to have met the standard. He added that the Council does not have discretion to look outside the General Plan if the applicant has met the standard of the General Plan.

Councilmember asked is CEQA is to address all environmental effects.

Mr. Cole mentioned CEQA addresses thresholds and Appendix G which he referred to earlier provides the checklist for impacts and for each impact there is a threshold that applies. He explained thresholds are not written in CEQA law or regulations; the Appendix is used for the thresholds. He mentioned with noise impacts at the local level, the threshold of significance is measure by the General Plan and Zoning Ordinance. He mentioned if the applicant is meeting the General Plan and Zoning standards, the applicant has satisfied the requirement.

Interim City Manager Joshua McMurray added that CEQA is meant to disclose impacts; it is not to say there are no impacts because impacts may exist and can be mitigated. He explained staff knows there will be some level of traffic and noise because that is what commercial projects do, but he is confident the studies address impacts and mitigated them fully and he is confident the traffic studies adhere to all applicable standards required. He mentioned the sound study was not done for McDonald's, only the Quick Quack Car Wash which is not on the agenda tonight.

Councilmember Fuller commented he will summarize his thoughts during deliberation.

Councilmember Meadows mentioned the design wasn't necessarily what the City was looking for.

Mr. Strelo mentioned the architecture lacked a pyramid roof such as the nearby gas station and bank structures. He shared that staff asked the applicant if they could integrate it into the design. He mentioned the parapet roof was proposed to accommodate the restaurant's equipment and staff asked that it be screened from up close and from far away. He shared that the applicant declined that request and asked if there was anything else they could do in which staff asked the applicant to add vertical elements at the pick-up and payment windows and the three elements near the bottom of the building.

Councilmember Meadows inquired if staff is satisfied with the current design.

Mr. Strelo responded it is not perfect to match other architecture in the plaza, but that architecture may not be perfect. He mentioned this was sufficient for the franchise to maintain its iconic look that Oakley has honored in the past and the colors were changed to compliment the gas station and bank.

Mayor Higgins inquired if there is an agreement with the school to have parking there.

Mr. McMurray commented he has spoken to the property owner on many occasions and the property owner has no agreement with the school to allow parking at the project site.

Mayor Higgins commented that people park there and walk their children across to the school with the help of a volunteer crossing guard and this landowner has every right to tow vehicles or cite people trespassing on his property. She mentioned the property owner has been a good neighbor to allow the use the property to park for school for years and if people park there that are not patronizing the restaurant, the property owner can disallow people to park there. She mentioned any restaurant is still going to bring traffic. She mentioned the City has a noise ordinance.

Mr. McMurray confirmed the City does have a noise ordinance and the noise element in the General Plan.

Mayor Higgins commented that the study does not show new trips. She asked if the study addresses that people will be passing through and this will be a stop along the way.

Mr. Strelo explained that the traffic study looks at it all, including multi-use trips, such as the gas station, and McDonald's. He mentioned no new trips are included because in 2008, the trips included development on all sites in the location, not just McDonald's; the study was based on all square footage of the plaza, and that is what is the number of trips generated for the project is based on. He mentioned an engineering firm reviewed the study and the 10th edition has more information and is even more accurate. He shared that when looking at what is proposed now and what was previously done, and when replacing numbers with the 10th edition data, today's project produces less daily and A.M. and P. M. peak hour trips. He mentioned any impacts to the school or crosswalk have already been accounted for in the initial plaza study and the new traffic study doesn't show any new impacts that exist. He mentioned that there have been comments shared that the McDonald's is going to endanger children; however, the traffic study doesn't show the McDonald's will add any impact on their safety.

Mayor Higgins inquired if children have to be 12 years old to be unaccompanied. She also inquired if the drive-through will have an ADA component.

Mr. Strelo responded he is uncertain; he is only aware of ADA compliant parking spaces.

Mayor Higgins inquired if the drive-through is ADA compliant.

Mr. McAuley commented that all McDonald drive-throughs they construct are ADA compliant; they have signage to let the driver know that they can pull forward for staff assistance and all sites are inspected for ADA compliance and are 100% ADA compliant upon completion.

Councilmember Williams was called upon for any questions. She responded she will reserve comments until after public comments are heard.

Councilmember Fuller suggested the Council allow the public more than 3 minutes to speak.

Mr. Cole explained that City Council Resolution 10-10 provides 3 minutes for each public comment; however, the Council could vote to suspend the procedural rule on a case-by-case basis.

Vice Mayor Pope inquired how many people are on the line (teleconference).

Recreation Director Lindsey Bruno responded there are 64 people on the call.

Vice Mayor Pope indicated 3 minutes for each person to speak assuming all 64 speak, will already push the meeting beyond a reasonable and respectful time. He commented that the rule is in place for a purpose to respect everyone's time and he wants everyone to be able to participate; therefore, he is not in favor.

Councilmember Fuller indicated the applicant has been allowed many times to speak.

Mr. Cole further explained that an applicant with a land use project is given 10 minutes to speak, exclusive of questions, and he does not believe the applicant here has exceeded that amount of time, on April 27 or tonight. He mentioned the Council always has time to ask questions of the applicant. He also mentioned that the rule is that 11 p.m. is the hour of adjournment which requires a majority vote of the Council to continue past 11 p.m. He added that if a meeting is not continued, it usually becomes a special meeting. He mentioned that McDonald's is important to the applicant and people in favor or not in favor of the project, but there are also other items to be addressed on the agenda.

Mayor Higgins commented the meeting will proceed with each speaker having 3 minutes for public comments.

Caller *6113: Roberto Estrada commented that the City Attorney seems to be leaning toward being biased toward McDonald's. He mentioned Councilmember Fuller made good points about items not spelled out in the

traffic study, especially about children and pedestrian safety, and the school was not addressed. He mentioned he is opposed to the drive-through and the McDonald's should be a sit-in only restaurant. He suggested the Council should push to make builders to attract boutique shops and small retail.

Caller *8794: The caller commented that a comment that we don't go back and look at what was studied before but they can look at how it was studied. He mentioned the methodology used for trip generation lacks ability to address intersectionality of overlapping traffic impacts of various land uses. He shared there was a case in Florida where it was found that there is a significant deficiency in trip generation data and the methodology has been found to be inaccurate in multiple projects with overlapping uses. He commented he believes it is a self-served method and staff should not look at only what was studied, but how it was studied.

Caller *0873: Liz Elias commented she is against the City's consideration of the CUP for the drive-through. She mentioned it is unfortunate that the restaurant is already permitted because it is bad all around: kids habitually cross the street to get picked up, there will be noise pollution, and the air pollution is unhealthy. She expressed concern that when considering impacts with the car wash, the City only looked at the EIR rather than the cumulative effect on all projects. She mentioned the 14-year old study does not address that residential construction increases traffic. She suggested if only what could be changed could be considered, areas near the freeway are more appropriate than schools and the neighborhood. She expressed that studies ignore public input, the real experts who live in the neighborhoods, rather than other places. She mentioned the job of government is to take care of its citizens, not to run it like a business. She requested the Council respect the City's agricultural heritage and stop sucking up to developers.

Caller *0514: Linda Carter commented the environmental impact of 12 cars sitting idle at a time is not addressed by the traffic study and she would like clarification on the number of cars expected. She shared that ongoing movement of vehicles and idle car movement should be focused on and attention should be given on the health impact. She shared that idle vehicles produce air pollutants and air toxins; with children being picked up whom are closer to the ground. She mentioned these pollutants can cause

children to have an increase in asthma which can result in lung damage or adverse health impacts. She mentioned children are already exposed to pollutants when they are dropped off and picked up and this project will be compounding the level of air pollution. She strongly recommended the Council consider an environmental study be conducted for air quality and any impacts be mitigated if necessary.

Caller *4001: Jacquelyn Seefeldt commented she is a contractor with Child Protective Services and there is no minor law in California; it is based on maturity; therefore it would be ignorant to believe children won't be walking home alone. She mentioned the Council should consider that Brentwood allowed the In and Out Burger restaurant and drive-through but that is a traffic study that failed as vehicles are hit almost daily when stopped in the intersection because there is not enough room for them in the drive-through. She expressed vehicles move into other lanes to go around the sitting traffic. She requested the Council consider this when making its decision.

Caller *2196 was called upon 3 times without response.

Caller *5450: Starla Wise commented she opposes the drive-through due to traffic and proximity to Laurel Elementary School. She mentioned the location is 1.5 miles from Freedom High school and there is already traffic with the elementary school traffic. She also mentioned elementary students will be crossing 4 lanes of traffic and drivers distracted by food and likely in a hurry will be exiting onto Laurel many times per day when elementary school students are in the crosswalk. She commented that there are no rules for elementary students to be accompanied by an adult to walk home. She mentioned inexperienced high school drivers will be visiting the restaurant before school for breakfast, during lunch and after school before practice for food during times when elementary school children will be using the crosswalk. She expressed she does not believe inexperienced high school drivers were considered in the traffic
report. She shared that she was present when the Burger King was built in Brentwood across from Liberty High School and traffic increased substantially. She expressed there have already been 2 injuries and a 12-year old was killed when walking to school. She mentioned this is a safety issue and she asked the Council to consider the safety of children and the community before all else.

Caller *8099: Lindsay Waters commented she is aware the Council is acting in a quasi-judicial role and believes Mr. Cole's input is completely biased. She expressed safety concerns as the location includes a school zone and asked for current traffic reports using data that resembles the Oakley community layout. She mentioned she would like to be assured since 2007 that the report includes all new developments. She inquired why ordinances were not implemented years ago to protect school zones. She shared everyone knows this is a terrible idea but the City is stuck to deny it or get sued. She expressed concern that developers might apply for additional drive-throughs on the other corners near the school and she wants to know how to prevent that from happening as ordinances still are not in place and the Council will have to consider them. She shared the bank in the plaza has a drive-through which is only in operation weekdays beginning at 9 a.m. and open no later than 6 p.m. and is closed on weekends. She mentioned if the applicant insists on equity, have the same hours as the bank; it doesn't open until after school starts. She requested the Council deny the CUP.

Caller *9317: The caller expressed objection to the CUP. She mentioned it is a bad idea. She asked the Council to consider how many people are on the call who are concerned and mentioned they would be at City Hall if they could be. She asked the Council to represent its citizens. She expressed there is a lot of talk about change and fairness, but she believes the Council is favoring the applicant and developer. She referred to Oakley Municipal Code Section 9.1.104 which indicates the City will retain small scale businesses which do not appear in general commercial. She mentioned nothing about the McDonald's speaks to small scale and she requested that the ordinance not be overlooked. She commented it is unfair to allow a fast food drive-through as it will negatively impact citizens who have invested hundreds of thousands of dollars into the City. She inquired how the Council cannot take into consideration the type of businesses that go in as they have different impacts. She requested the Council deny the CUP.

Caller *4814: Chrishan Ross, commented that the Council meeting held on April 27, 2021 lacked professionalism and mismanaged public comments. She mentioned the Council kept constituents wanting to make public comments on hold for an hour. She expressed it is alarming that the City

Attorney interrupted public comments. She mentioned it makes her wonder who is running the city and if the elected can represent her. She mentioned if there is a question, the Planning Commission should communicate with the Council, not the City Attorney as he/she should only speak for clarification purposes. She voiced concern regarding the McDonald's double drive-through and Quick Quack Car Wash so close to an elementary school, middle school and high school. She mentioned a solid Planning Commission would be aware of potential risks and safety issues, not rely on skewed, outdated data, and would demonstrate a strategic approach to development in a safe and responsible manner. She expressed if the City's leadership wants to maintain Oakley's small town character, while strongly encouraging the development of new industry to employ the growing workforce, it would deny the drive-through because of traffic and safety. She indicated the Council needs to make sure the health, safety and welfare of residents is considered. She commented that Police would not be staging officers off Laurel Road on Mercedes and Holmes if Police is not concerned about traffic. She requested the Council deny the CUP for the drive-through and Quick Quack Car Wash and design a better plan congruent with the existing neighborhood and City growth.

Caller *2306: Tasha Gray commented that a drive-through presents an imminent safety hazard for students and pedestrians and the environment for the school and residents, particularly in the Woodglen neighborhood which has existed since 1985. Long before it was approved for commercial. She expressed over 40 comments in opposition to the project were submitted on April 27, many made by members of the School District, including the Superintendent and crossing guard and she believes the Council should weigh heavily their educated and experienced input. She mentioned the community requests the Council consider exercising its discretion and legal right to deny the CUP for the drive-through. She mentioned none of the points made by Greenfire Law have been mentioned; its letter provided in detail the negative impacts of the drive-through, the traffic study that is 14 years old, the population increase (44%), that Laurel Road was not the main access point at the time the study was conducted, and how the restaurant with the drive-through will change the area. She mentioned there were 2 comments in support of the project, one being the adjacent commercial property owner, and she understands the financial gain he stands to risk. She mentioned he is a

resident of Alamo, not Oakley. She mentioned the project is not in the best interest of the residents and urged the Council to deny it.

Caller *7843: Lisa Suarez commented she would prefer two conditions if the Council decides to approve the CUP: 1) the developer should build north and west buildings before the restaurant is built to complete the Plaza which would allow more small scale retail and 2) limit drive-through hours to 5 a.m.-10 p.m. due to the restaurant's proximity to the residential neighborhood.

Caller *2196: Donna Chaddock referenced the book Fast Food Nation by Eric Schlosser which explains how the fast food industry has transformed roads, cities and highways across the nation and how small business have been diminished due to fast food restaurants. She commented that the first speaker mentioned the intersection of Laurel and Mercedes, but he didn't mention that is where Laurel Elementary is located and it is dangerous. She mentioned Mr. Cole's memo to the Council provides the Council has an opportunity to act as the judge as to whether the applicant has provided sufficient evidence for the findings and she does not believe the applicant has presented sufficient evidence. She mentioned the traffic study was done long ago, traffic on roads have increased and residents do not want a drive-through or car wash. She requested the Council adhere to the City's Mission Statement and make an informed decision and listen to the people who do not want a drive-through or car wash.

Caller *Mendoza: Maribel Mendoza commented it is interesting that the traffic study was done in Danville and she is wondering if any studies were done at the Brentwood or other Oakley McDonald's locations. She urged the Council to consider the projected traffic at the location when new high density homes are completed, that the location is near a sports center and across from the elementary school. She compared traffic at In and Out Burger on Lone Tree Way and indicated traffic from this project will unlikely be contained to the plaza unless a security guard is present. She mentioned she agrees the City needs revenue, but does not agree this is the best course of action. She requested the Council think about the kids. She inquired if the sports season has been taken into account with the traffic studies. She commented the person doing the traffic study thinks residents don't know about studies and the wool can be pulled over their

eyes, but that is not the case. She requested the Council go back and look at the study.

Caller *4970: Mary Roney commented she is opposed to the drive-through at Laurel Plaza as 70% of the McDonald's business will be from the drive-through and there will be an impact on pedestrian safety and neighbors. She requested the Council consider the noise level from the drive-through speakers in relation to the hours of operation. She concurred with other speakers that the CUP should be investigated more deeply.

Caller *6424: Ross Hillesheim commented he owns the 7-Eleven and Chevron gas station near the project and has obtained two CUPs in Oakley; he has enjoyed his experience with staff and the Council. He mentioned at O'Hara and Laurel, the General Plan has commercial planned properties over 300,000 square feet of future development. He explained that the Public Works and Engineering Department has planned for foreseen traffic at this intersection and have planned for the retail space. He indicated the proposed McDonald's is approximately 1% of the General Plan's proposed 300,000 square feet of retail at that intersection. He mentioned drive-throughs have been declared an essential business by the Governor during the pandemic. He added that with the economic problems experienced during the pandemic, increased jobs in Oakley will be great. He shared that in response to the comment made that he has a financial interest in it, he can prove he does not have a financial interest in it.

Mayor Higgins called for 5 minute break at 9:17 p.m.

After 5 minutes, the Council reconvened.

Caller *3699: Conan Moats commented that the project and cheerleading by staff is what is wrong with local government. He expressed concern regarding how to mitigate a kid who gets hit at the intersection of Mercedes and Laurel. He inquired how many deaths it will take to achieve a level of significance. He mentioned if Oakley is truly "A Place for Families in the Heart of the Delta" it will deny the CUP for the drive-through. He expressed he doesn't accept the apology of Mr. Cole nor of the applicant for not being present at the last minute on April 27. He mentioned the live-streaming is not legible on the website. He mentioned the City Attorney indicated the restaurant cannot be addressed and wonders why the Goldblatt family

does not speak to the drive-through but rather only the restaurant. He mentioned the Superintendents comments have not been considered which speaks volumes to our City. He expressed the need for a Planning Commission as the information presented is bogus and assumes compliance. He urged the Council to deny the CUP.

Caller *2867: The caller thanked Ross Hillesheim for providing a 24-hour alcohol, tobacco and environmentally polluting 7-Eleven/gas station that causes disturbances. She commented that she does not understand what the Council is trying to do by adding a McDonald's to that. She indicated residents are better than that and the Council should be better than that.

Written comments opposed to the project or specifically the CUP were provided by Irene Segovia, Liz Elias, Veronica Mangante, Mary Roney, Sherie Suhrie, Lisa Van Norsdall, Jaime Spohn, Christine Dugan-Ihm, Isaac Hoffman, Linda Carter, Heather Watters, Nadine Somerhalder, Marci Lozoya, Larry DelaBriandais, Lindsay Waters, Connie Holt, Rachel Kinder, Mindi Wade, Kerry Stewart, Elsa Santiago, Shelly Fitzgerald, Kathleen Estrada, Valerie Ferreria, Hollie Johnson, Lisa Galeano, Roberto Estrada, Leia Montgomery, Donna Chaddock, Jacquelyn Seefeldt, Samantha Madruga, and Tosha Gray.

Written comments in support of the project or specifically the CUP were provided by Dana Bockstahler with BAC Bank and Sean Ireland.

Written comments provided by Diane Merritt, Chrishan Ross, Eve Dooms, Donna Chaddock did not indicate their position, but provided they would like to speak.

A copy of the written comments in their entirety are available on the City's website and through the City Clerk's Office.

Mayor Higgins closed the public hearing.

Mr. Cole advised that pursuant to City Council Resolution 10-10, the applicant, who has the burden of proof, can make a rebuttal up to 10 minutes.

Applicant Kevin expressed no rebuttal.

Mr. Cole shared a hypothetical situation to illustrate the issue. In response to public comments, he mentioned if the Council denies this project tonight, it doesn't guarantee there won't be a fast food restaurant at this location. He provided an example of a Chipotle or Peet's Coffee that usually have no drive-throughs but can generate a lot of traffic at the time parents are dropping off their kids to elementary schools. He mentioned the City doesn't have the ability to stop the developer from having other restaurants from locating at this site. He shared he mentions it because some of the comments heard tonight indicate the Council can stop traffic being generated from this site which the Council cannot. He mentioned if the developer can find a tenant, it will not mean there will not be traffic. He explained that here, the Council is dealing with the restaurant using a drive-through and the Council may consider the impacts of the drive-through with its surroundings and whether it has heard evidence for or against the drive-through.

Vice Mayor Pope requested a continuance as the Council has heard a lot of public comments about the traffic study, which information is not provided in the record or in the packet; therefore, he does not believe the Council can make a quasi-judicial ruling of items not in evidence; it cannot make a decision on an item not seen. He expressed he wants to see an analysis of pedestrian impacts in the traffic study during school hours and when done, he wants a public work session so the Council can properly digest the study, have experts explain it, and have the public involved. He also expressed he wants to make sure the design review is handled separately from the CUP. He indicated that nobody has talked about the design of this restaurant which he believes is horrid. He made a motion for continuance.

Mr. Cole commented that the motion would be to continue the matter until such time a traffic study can be performed considering the pedestrian impacts of the school across the street, a work session will be provided to digest the results of that study, and the design will be heard separately after the CUP. He mentioned staff probably cannot agree to a time certain for the continuance because staff would have to get with the applicant to determine the timing. He mentioned it could be August, but he will leave it to staff.

Mr. McMurray concurred with Mr. Cole in that the item should be continued indefinitely as staff will have to re-notice for the work session, design review and CUP. He mentioned staff has direction if approved.

Councilmember Williams seconded the motion.

Councilmember Fuller commented he appreciates Vice Mayor Pope's comment because the focus has been on the safety of kids and no children have been mentioned in the traffic reports. He expressed that the community should be able to look at a professional evaluation. He requested all evidence and testimony to be able to be used later (everything to remain static until mid-August) and is in favor of the continuance if under those conditions.

Mr. Cole explained that everything today becomes part of the record; therefore, the Council can rely on what it heard today, including all verbal and written comments, when continuing the item to a later date.

The motion was carried to continue the public hearing to a date uncertain and direct staff to have a traffic study prepared including pedestrian impacts and to bring back the results of that traffic study to a work session with the design review heard separately from the CUP at a future meeting. AYES: Higgins, Fuller, Pope, Williams. NOES: Meadows. (4-1)

Agenda Date: April 27, 2021

Agenda Item: 5.1

MEMORANDUM

Date: April 27, 2021

To: City Council

From: Kenneth W. Strelo, Principal Planner

Subject: McDonalds Drive-Through Quick Serve Restaurant Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20) - Summary of Public Comments Received with Staff Response

The City Council has received several public comments in regards to the proposed McDonald's Drive-Through project. As of approximately 2:30 P.M. on April 27, 2021, Staff has reviewed all of the comments received up to that time, and prepared responses. This memo does not include all of the individual comments, rather summaries.

Letter from Jessica L. Blome of Greenfire Law, PC (April 26, 2021)

- Opposed to McDonald's drive-through
- States Council cannot make the required findings to approve CUP

1. States Laurel Plaza is not suitable for the drive-through because the restaurant does not adapt with the use with land and uses in the adjacent neighborhood
    a. Agrees site is appropriate size and shape
    b. Claims drive-through does not adapt to the educational uses of surrounding neighborhood and siting near crosswalk fails to protect students

    Staff Response: Laurel Plaza is anticipated to eventually be built out, resulting in an increase of vehicular traffic from what currently exists in a mostly vacant commercial site. This increase in traffic was assumed in the original traffic study and project design. Proposed project traffic study finds the McDonald's and concurrently proposed drive-through (Quick Quack) result in an overall reduction in both daily and peak hour trips compared to the originally approved Laurel Plaza, based on ITE Manual Trip Generations. In addition to resulting in less overall trips coming into and exiting the shopping center, the pedestrian circulation onsite was analyzed for safety and two recommendations were proposed to increase the level of safety beyond meeting the criteria.

2. States the projected trip generation was arbitrarily concluded since Oakley's population has increased since 2007.

   Staff Response: Generated trips are not arbitrarily concluded, rather based on the most up to date ITE Trip Generation Manual based on the type of use (explained further in the Traffic Study). Also, the Traffic Study updated the previously assumed generated trips by updating the previously assumed uses and currently known uses trip generation numbers with the most current ITE Trip Generation Manual.

3. Childhood Obesity

   Staff Response: Most parents can agree that child obesity, along with many other social issues, is a valid concern. Outside the scope of analyzing a drive-through for a CUP.

4. Target for Criminal Activity

   Staff Response: OPD responded that the building should have security cameras installed around the exterior and to consider holly as plant type near the building and around the property to deter people standing, sleeping, and sitting in those areas. Holly is not being proposed. Although the physical nature may deter loitering/sleeping, is can also be somewhat dangerous unaware pedestrians, etc. McDonald's is proposing to installed security cameras at all four corners of the building providing essentially a view of the entire site.

5. States proposed use inconsistent with pollution-reduction elements and objectives in the GP.

   Staff Response: The General Plan assumes a variety of commercial uses, such as restaurants or all types. This is outside of the scope of the CUP drive-through analysis.

6. Air Pollution

   Staff Response: Project as a whole was analyzed under CEQA and Air Quality is one of the main impact categories.

   Mitigation, which this project is subject to, includes:

   - Measures for construction activities to reduce dust.
   - Requiring delivery trucks to idle for no more than 5 minutes per trip each day, and install signs to state such.

Several other comments were received from the public via the online comment submittal form. Comments vary in their message to some degree, with a couple of

common themes becoming apparent. Those common themes are summarized below, and include a Staff Response.

1. Pedestrian Safety

   Staff Response: Addressed in #1 in response to the Greenfire Law, PC letter.

2. Result in an increase in traffic

   Staff Response: True compared to the current state of traffic, but not accurate when addressed in the manner projects are analyzed for traffic impacts. This site will eventually be built out and result in increased traffic exiting onto Laurel Rd and turning west. This use results in a decrease in total daily and AM/PM peak hour trips than what would have resulted from the originally proposed shopping center. Also, see #2 in Greenfire Law, PC letter.

3. Better options than McDonald's/Not another McDonald's/No more fast food

   Staff Response: As stated in the Staff Report, when analyzing a drive-through, Staff is not rejecting applications due to the franchise submitting it. It should be noted there is an ongoing effort by Staff from all relative departments to attract the very same brands and types of business many residents also request to see. There is a myth the "the City" builds these projects. That is untrue. These are private developments on private property. The City maintains land use authority over the type of use and overall design elements, not the brand name of the business or type of food being offered for sale.

Staff Response Conclusion:

Many of the public comments are related to child/pedestrian safety or the disinterest in another fast food restaurant, and even specifically another McDonald's. Staff wants to make it clear that by responding to comments and recommending approval of the project, that there is not a lack of understanding of the issues or lack of empathy for the commenters' sentiment. Rather, Staff applies a fair and objective analysis to the proposed use of a drive-through. This proposal has been analyzed in the same manner as the adjacent bank, or a potential drive-through for a highly-sought after food-related use, if one was proposed. In other words, Staff has not analyzed this use for it specifically being a "McDonald's". Restaurants are allowed by right. The restaurant name, type of food, how the food smells, etc. are not subject to discretionary approval. Only the drive-through component. In reality, this CUP should be analyzed as if the name of the restaurant is unknown, and that is how Staff has approached this analysis.

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: January 25, 2022

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Kenneth W. Strelo, Planning Manager

SUBJECT: **Laurel Plaza Supplemental Traffic Operations Analysis Assessment Work Session – As Related to Quick Quack Car Wash at Laurel Plaza (CUP 02-20, DR 08-20) and McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza (CUP 03-20, DR 09-20) Applications**

Summary

This is a Work Session on the Laurel Plaza Supplemental Traffic Operations Analysis Assessment as related to two separate Planning applications known as Quick Quack Car Wash at Laurel Plaza Conditional Use Permit (CUP 02-20) and Design Review (DR 08-20), and McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20). This work session is a result of direction by the City Council at the May 25, 2021 Regular City Council Meeting as part of the discussion on Item 3.1 (McDonald's CUP and DR) on that Agenda. Per City Council direction, a traffic study that included analysis of potential pedestrian impacts, including any impacts as a result of the projects proximity to an elementary school, was to be prepared and then presented back to the City Council for a Public Work Session with the Conditional Use Permits and Design Reviews to be heard separately at future meetings. The project is located in the Laurel Plaza shopping center at the northwest corner of Laurel Road and O'Hara Avenue and is zoned Retail Business (RB) District. APNs: 035-510-006 (proposed McDonald's) and 035-510-009 (proposed Quick Quack).

Background

On May 25, 2021, the City Council held a continued public hearing on the McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20). That public hearing included discussion on the Oakley McDonald's and Quick Quack Traffic Analysis, which was an analysis that looked at the two proposed development projects and how they would impact traffic generated by the shopping center in relation to what was originally approved and approved since that time.

The analysis found that the two proposed uses would not result in any additional traffic than what was originally analyzed. Additional discussion was held in relation to the traffic analysis, specifically regarding potential pedestrian impacts due to the proximity of Laurel

Elementary School on nearby Mercedes Lane (across Laurel Road from the site). At the conclusion of the hearing, the City Council directed Staff to oversee a supplemental traffic study that included analysis of potential pedestrian impacts. City Staff hired Fehr and Peers to conduct the study. It is noted that the cost for the study was covered equally by the two applicants of the development projects and the property owner per a pass-through account with the City, but the consultants were managed by City Staff from beginning to end.

Study Purpose and Key Elements

Purpose

Per the Introduction of the Laurel Plaza Supplemental Traffic Operations Analysis Assessment (hereafter "traffic analysis" or "study") the study's purpose is to "…evaluate the potential effects of the development of the Laurel Plaza Project on the nearby area roadway Levels of Service, evaluate the proposed site plan, review collision trends adjacent to the Project site, and assess the Project's compatibility with the adjacent transportation network and land uses." Due to the interest of impacts to the nearby school, Fehr and Peers waited at least a week after school was back in session from summer break to obtain more accurate traffic counts and observations, which were conducted in August 2021. The Study looked at the existing transportation system, including Laurel Road, O'Hara Avenue, and Mercedes Lane. It also factored Tri-Delta bus services, bicycle facilities, and pedestrian facilities.

Data Collection

Data collection in August 2021 was done during weekday mornings and afternoon peak periods to coincide with the time-periods when adjacent street traffic demands are the greatest, and with the nearby school's departure patterns. That data collection also included Laurel Elementary School Field Observations of pick-up and drop-off activities, as summarized in the following bullet list:

- Inadequate pick-up and drop-off capacity at Laurel Elementary School results in vehicles spilling back onto Laurel Road.
- One of the eastbound through lanes on Laurel Road gets blocked, prohibiting through movement, due to pick-up and drop-off.
- Vehicles in the westbound left turn lane at Laurel Road and Mercedes Lane are unable to complete their movement due to vehicle spill back from the drop-off and pick-up areas.
- Parents use the Laurel Plaza parking lot to drop off their children or park their vehicle at Laurel Plaza and walk their children to and from school. In the afternoon peak hour, more than 100 pedestrians were observed to cross Laurel Road, primarily due to pick-up and drop-off occurring in Laurel Plaza.
- A crossing guard at Laurel Road and Mercedes Lane is present to assist children crossing to and from Laurel Plaza.

Site Plan Reviews

The study looked at both site plans and assessed internal circulation for vehicles, pedestrian, and bicycles. Recommendations were provided as summarized below:

- Provide signage on-site that indicates parking is for Laurel Plaza customers only, and that school pick-ups and drop-offs are prohibited.
- Eliminate spaces 35, 36, and 37 (McDonald's) to increase the drive-through throat depth and accommodate additional vehicle queues.
- Shift the drive-through pedestrian crossing to the east, bulb out the pedestrian areas adjacent to the crossing, and incorporate a raised crossing to improve pedestrian visibility. Additionally, include a 10-to15-foot pedestrian barrier (i.e., fence) to the right of pedestrians existing McDonald's building to increase visibility to vehicles exiting the drive-through.
- Provide at least four bicycle parking spaces (McDonald's).
- Shift the Quick Quack internal north-south connector to align with the McDonald's driveway.

Laurel Road and Mercedes Lane

Suggestions for improvements to the Laurel Road/Mercedes Lane intersection provided in the study included:

- Modifying the traffic signal phasing and timing to install leading pedestrian intervals at the intersection to improve pedestrian visibility and reduce potential conflicts between pedestrians and vehicles.
- Install blank out "No Turn on Red" signage for the eastbound and southbound approaches. This signage should be operational during school pick-up and drop-off periods only.
- Install high-visibility crosswalks with advanced stop bars for all crosswalks.

Vehicle Miles Traveled (VMT)

Vehicle miles traveled per the requirements of SB 743 were analyzed in the study. Based on guidance by CCTA (Contra Costa Transportation Authority) and OPR (Governor's Office of Planning and Research) the project can be assumed to have a less than significant impact.

Conclusions

Results of the study show that no new impacts were identified and operations of the intersections that would provide primary site access would not significantly change with the addition of the project traffic. The proposed projects would generate less traffic than the previously approved projects for the same locations within Laurel Plaza. Inadequate pick-up and drop-off capacity at the adjacent Laurel Elementary School results in a substantial number of parents using the Laurel Plaza shopping center parking lot to pick-up and drop-off

their children, which results in pedestrians crossing Laurel Road at Mercedes Lane during the morning and afternoon peaks with the school stationed crossing guard at the location. Assessment of historic collisions in the vicinity of the project site were found to be substantially below predicted values on roadways of similar design and capacity. Based on the results of the study, the recommendations covered throughout this Staff Report would enhance site access, circulation, and safety for all travel modes.

Analysis

The Laurel Plaza Supplemental Traffic Operations Analysis Assessment was conducted based on City Council direction to look at potential pedestrian impacts associated with the two proposed development projects in Laurel Plaza. Staff also requested the consultants to analyze on site circulation, level of service at nearby intersections, opportunities for enhancements, and VMT. The study identified a very low incident count at the study intersections, and that Laurel Road pedestrian crossings during pick-up and drop-off were mostly attributable to the use of Laurel Plaza as a pick-up and drop-off location, likely due to overcrowding and traffic backups onto Mercedes Lane and Laurel Road. The owners and future developers of Laurel Plaza should not be responsible to solve the lack of pick-up and drop-off availability on school grounds; however, there are still several recommendations that can ensure future development of the commercial site functions in a safe manner with the proximity of the school, and those recommendations are included throughout this Staff Report and summarized in in the “Conclusions” section of the attached study.

When considering the findings of the traffic analysis, the development projects should be able to proceed with their requests for conditional use permits and designs reviews with the recommendations in the study integrated into their applications. It is noted these recommendations are not results of lowering significant impacts to a less than significant level, rather only recommendations for enhancements and improvements to the on- and off-site functions.

Recommendation

Staff recommends the City Council direct the applicants of both development projects to modify their projects to implement all the onsite recommendations, and direct Staff to work with the applicants on ways to proceed with implementing the off-site recommendations.

Attachments

1. Vicinity Map
2. Notice of Work Session
3. Laurel Plaza Supplemental Traffic Operations Analysis Assessment (date stamped 01/07/2022)
4. Oakley McDonald’s and Quick Quack Traffic Analysis (date stamped March 15, 2021) – Original traffic analysis for the two development projects

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CONSTRUCTION PLANS
FOR
McDonald's Corporation

McDONALD'S - STORE No. 004-5010

LAUREL ROAD,
OAKLEY, CA 94561

McDONALD'S DRIVE-THROUGH QUICK SERVE
RESTAURANT AT LAUREL PLAZA (CUP 03-20, DR 09-20)



VICINITY MAP

SHEET INDEX			
SHEET	SHEET TITLE	PREPARED BY	REVISION
C1	COVER SHEET	CORE STATES	
C5	SITE PLAN	CORE STATES	
C6	TRUCK PLAN	CORE STATES	
C7	GRADING PLAN	CORE STATES	
LP1	LANDSCAPE PLAN	EVERGREEN DESIGN	
-	PHOTOMETRIC PLAN	SECURITY LIGHTING	
A2.0	ELEVATIONS	CORE STATES	
A2.1	ELEVATIONS	CORE STATES	
-	2D COLOR RENDERING	CORE STATES	
-	LINE OF SITE DIAGRAM	CORE STATES	
-	LINE OF SITE DIAGRAM	CORE STATES	

City of Oakley

FEB 8, 2022

RECEIVED

ALERT TO CONTRACTOR:

1. THE SITE WORK FOR THE PROPOSED DEVELOPMENT SHALL MEET OR EXCEED ALL CITY AND/OR COUNTY AND STATE STANDARDS FOR SITE WORK.
2. ALL NECESSARY INSPECTIONS AND/OR CERTIFICATIONS REQUIRED BY CODES AND/OR UTILITY SERVICE COMPANIES SHALL BE PERFORMED PRIOR TO ANNOUNCED BUILDING POSSESSION AND THE FINAL CONNECTION OF SERVICES.

CORE STATES GROUP

4240 Jurupa Street Suite 402
Ontario, CA 91761
Phone (909) 467-8940
Fax (909) 467-8919
TVincent@core-states.com

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REVISIONS

REV	DATE	COMMENT	BY

DOCUMENT

CIVIL
CONSTRUCTION
PLANS FOR
MCDONALDS AT
OAKLEY, CA

SITE LOCATION

LAUREL RD,
OAKLEY, CA 94561

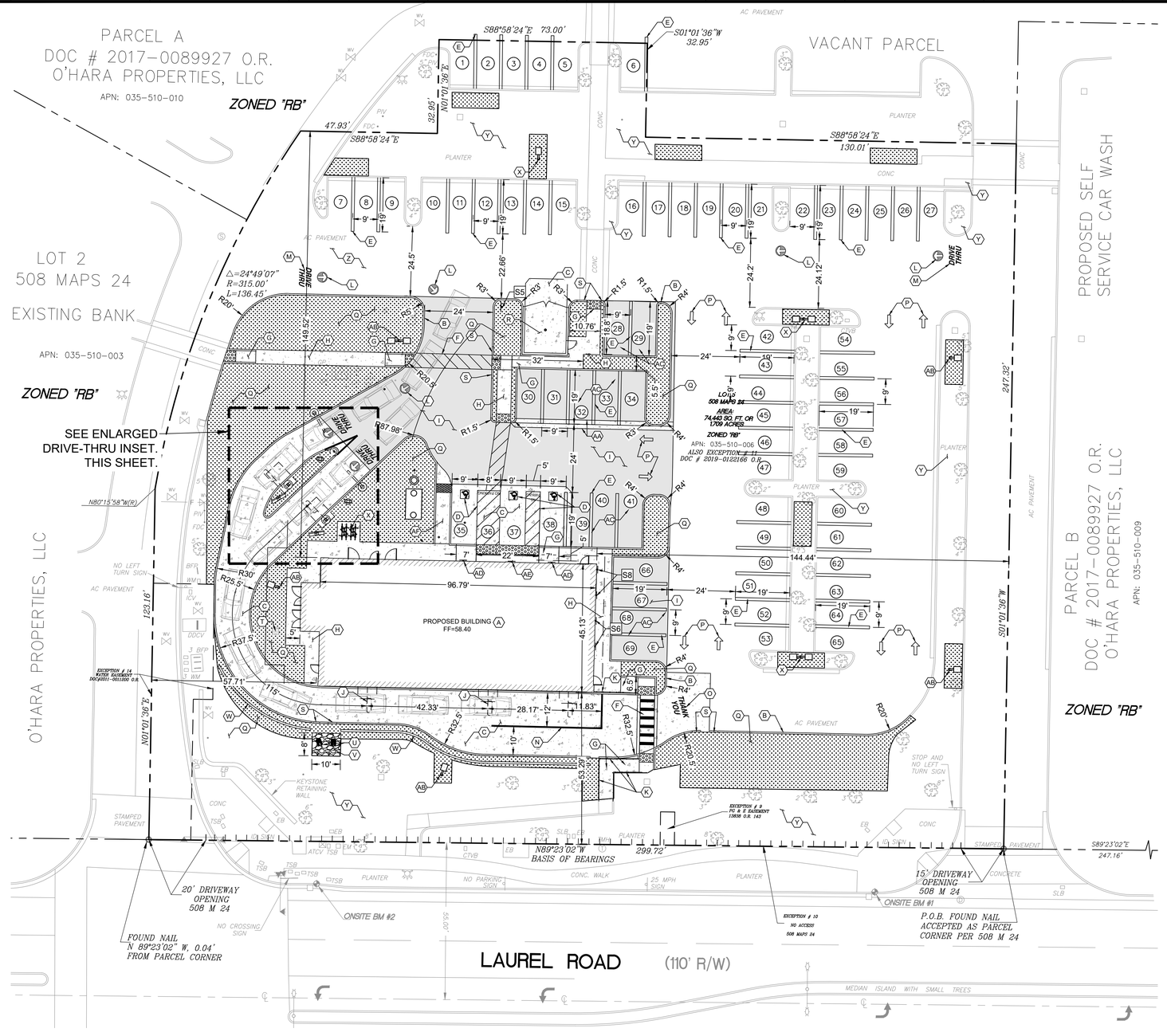
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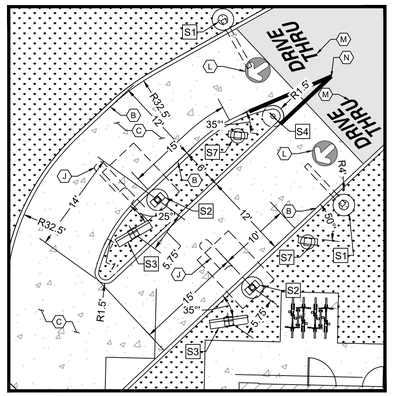
ENGINEER SEAL

SHEET TITLE
COVER SHEET

JOB #:	MCD.26879
DATE:	2/8/22
SCALE:	N.T.S.
DRAWN BY:	KC
CHECKED BY:	ZM

SHEET NO.
C1





ENLARGED DRIVE-THRU
SCALE: 1"=10'

SIGN LEGEND

S1	WELCOME POINT GATEWAY (FOR REFERENCE ONLY)
S2	DRIVE-THRU CANOPY WITH BUILT IN COD (FOR REFERENCE ONLY)
S3	DIGITAL OUTDOOR MENU BOARD. REFER TO SHEET CD-1 FOR FOUNDATION DETAIL.
S4	"ANY LANE ANY TIME" SIGN (FOR REFERENCE ONLY)
S5	DIRECTIONAL SIGN (FOR REFERENCE ONLY)
S6	PULL FORWARD SIGN (FOR REFERENCE ONLY)
S7	DIGITAL PRE-BROWSE BOARD. REFER TO SHEET CD-1 FOR FOUNDATION DETAIL.
S8	MOBILE ORDER PICKUP SIGNS (FOR REFERENCE ONLY)

SIGNAGE NOTES:

1. UNLESS OTHERWISE NOTED, REFER TO SIGN PLAN SET BY OTHERS FOR DETAILS AND FOOTINGS.
2. CONTRACTOR IS RESPONSIBLE FOR ALL ELECTRICAL AND COMMUNICATION CONDUIT AND WIRING PER THE MANUFACTURES SPECIFICATIONS.
3. VERIFY SIGNAGE WITH SIGN ORDER REQUEST FORM.
4. VERIFY ALL SIGNAGE LOCATIONS WITH McDONALD'S REPRESENTATIVE BEFORE INSTALLATION.

SITE LEGEND

- EXISTING PROPERTY BOUNDARY LINE
- EXISTING ROAD CENTERLINE
- PROPOSED DITCH CENTERLINE
- PROPOSED LIMITS OF BMP / DETENTION
- EXISTING CURB
- EXISTING CURB AND GUTTER
- PROPOSED CURB
- PROPOSED CURB AND GUTTER
- PROPOSED RIP RAP
- PROPOSED CONCRETE PAVEMENT
- PROPOSED CONCRETE SIDEWALK
- PROPOSED ASPHALT PAVEMENT
- PROPOSED LANDSCAPE AREA
- EXISTING SANITARY STRUCTURES
- EXISTING WATER STRUCTURES
- PROPOSED WATER STRUCTURES
- PROPOSED SANITARY STRUCTURES
- PROPOSED STORM STRUCTURES
- PROPOSED PARKING COUNT

SITE KEY NOTES:

A. PROPOSED MCDONALDS 4,597 BUILDING. REFER TO ARCHITECTURAL PLANS FOR DETAILS.
B. PROPOSED CONCRETE CURB PER CITY STANDARD PLAN NO. C-02.
C. PROPOSED CONCRETE PAD. REFER TO CONSTRUCTION DETAIL SHEETS.
D. PROPOSED ACCESSIBLE PARKING STRIPING. MUST BE LONG LIFE EPOXY. REFER TO CONSTRUCTION DETAIL SHEETS.
E. PROPOSED PARKING STRIPING (TYP.). MUST BE LONG LIFE EPOXY. REFER TO CONSTRUCTION DETAIL SHEETS.
F. PROPOSED RAISE PEDESTRIAN CROSSWALK. REFER TO CONSTRUCTION DETAIL SHEETS.
G. PROPOSED ACCESSIBLE CURB RAMP WITH 3' DEEP DETECTABLE WARNING. REFER TO CONSTRUCTION DETAIL SHEETS.
H. PROPOSED CONCRETE SIDEWALK. REFER TO CONSTRUCTION DETAIL SHEETS.
I. PROPOSED ASPHALT PAVEMENT. REFER TO CONSTRUCTION DETAIL SHEETS.
J. PROPOSED DETECTOR LOOP(S) TO BE INSTALLED / REPLACED AT EXISTING DRIVE THRU WINDOWS AS DIRECTED BY MCDONALD'S CONSTRUCTION MANAGER. REFER TO CONSTRUCTION DETAIL SHEETS.
K. PROPOSED GUARDRAIL/HANDRAIL WITH PICKETS. REFER TO CONSTRUCTION DETAIL SHEETS.
L. PROPOSED YELLOW DRIVE-THRU DIRECTION PAVEMENT MARKINGS. REFER TO CONSTRUCTION DETAIL SHEETS.
M. PROPOSED YELLOW "DRIVE THRU" PAVEMENT MARKINGS. REFER TO CONSTRUCTION DETAIL SHEETS.
N. PROPOSED 6" WIDE YELLOW STRIPE. REFER TO CONSTRUCTION DETAIL SHEETS.
O. PROPOSED YELLOW "THANK YOU" PAVEMENT PARKING. REFER TO CONSTRUCTION DETAIL SHEETS.
P. PROPOSED TRAFFIC FLOW ARROWS. REFER TO CONSTRUCTION DETAIL SHEETS.
Q. PROPOSED LANDSCAPE AREA PER LANDSCAPE PLANS.
R. PROPOSED TRASH ENCLOSURE. REFER TO SHEETS FD1 AND FD2.
S. PROPOSED DEPRESSED CURB SECTION. REFER TO CONSTRUCTION DETAIL SHEETS.
T. PROPOSED TYPE III LANDSCAPE INLET PER CITY ST. PLAN NO. SD-10.
U. PROPOSED MITERED END SECTION PIPE CUT GROUTED WITH RIP RAP.
V. PROPOSED RIP RAP PROTECTIVE APRON. REFER TO CONSTRUCTION DETAIL SHEETS.
W. PROPOSED SCREENING WALL. REFER TO ARCHITECTURAL PLANS FOR DETAILS.
X. PROPOSED BIKE RACKS. REFER TO CONSTRUCTION DETAIL SHEETS.
Y. EXISTING LANDSCAPE PLANTER TO REMAIN.
Z. APPLY SEAL COAT TO EXISTING ASPHALT. PAVEMENT TO REMAIN.
AA. PROPOSED THREE-FOOT WIDE CONCRETE V-GUTTER PER CITY STANDARD PLAN NO. SD-02.
AB. PROPOSED LIGHT POLE. REFER FOR SHEET CD-2 FOR FOUNDATION DETAILS AND PHOTOMETRIC PLAN FOR LIGHT FIXTURE HEAD DETAILS.
AC. PROPOSED PARKING STALL ASPHALT PAVEMENT. REFER TO CONSTRUCTION DETAIL SHEETS.
AD. PROPOSED ADA SIGN, "MINIMUM FINE $250" SIGN, AND POST. REFER TO CONSTRUCTION DETAIL SHEETS.
AE. PROPOSED ADA SIGN, "VAN ACCESSIBLE" & "MINIMUM FINE $250" SIGN. REFER TO CONSTRUCTION DETAIL SHEETS.
AF. PROPOSED DELIVERY RAMP.

N

GRAPHIC SCALE
20 10 5 0 20
1" = 20'

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REVISIONS

REV	DATE	COMMENT	BY

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CIVIL CONSTRUCTION PLANS FOR MCDONALDS AT OAKLEY, CA

SITE LOCATION
LAUREL RD,
OAKLEY, CA 94561

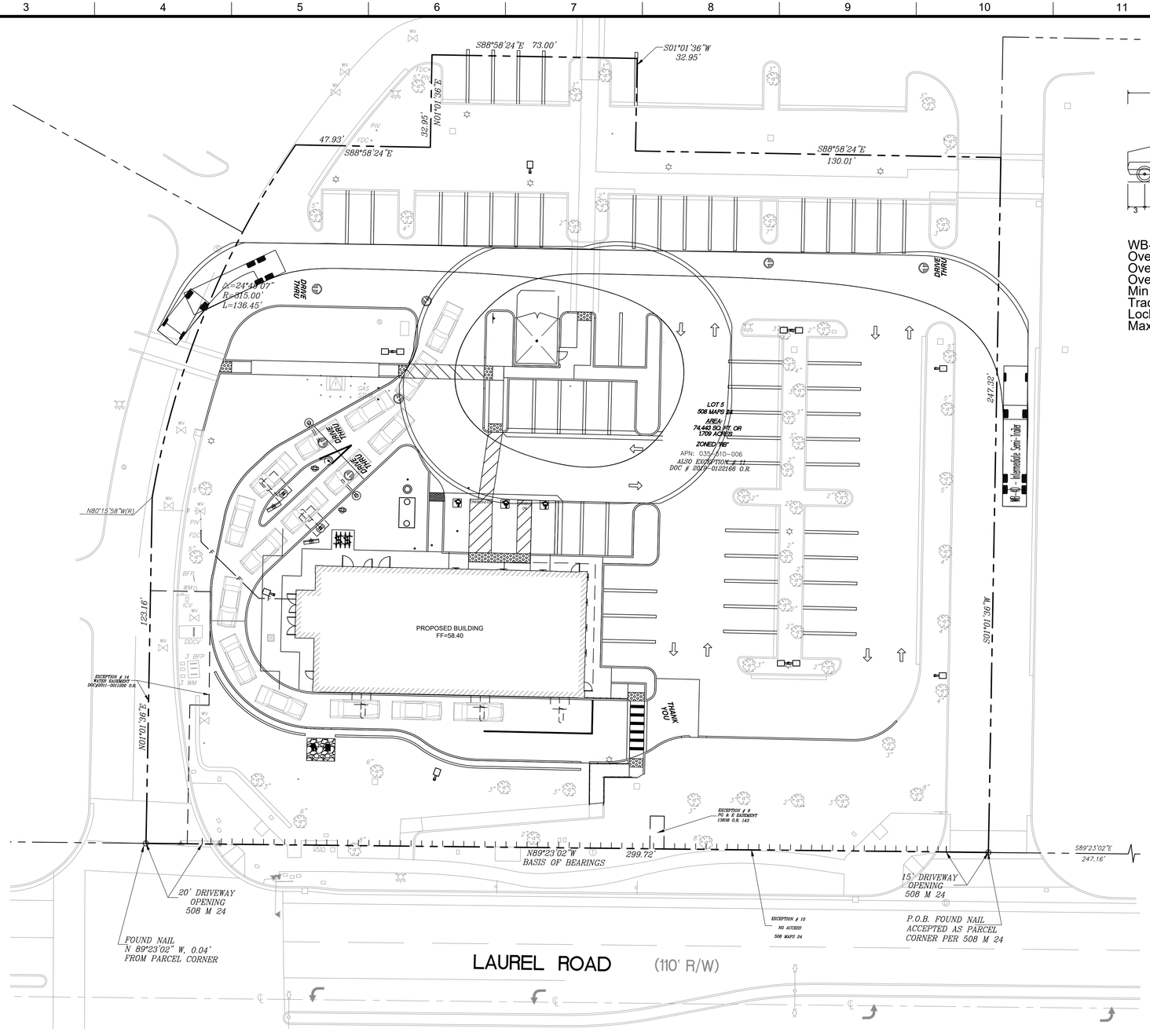
(004-5010)

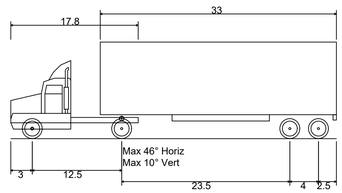
ENGINEER SEAL

SHEET TITLE
SITE PLAN

JOB #:	MCD.26879
DATE:	2/8/22
SCALE:	1" = 20'
DRAWN BY:	KC
CHECKED BY:	ZM

SHEET NO.
C5





WB-40 - Intermediate Semi-Trailer

Overall Length	45.499ft
Overall Width	8.000ft
Overall Body Height	13.500ft
Min Body Ground Clearance	1.334ft
Track Width	8.000ft
Lock-to-lock time	4.00s
Max Steering Angle (Virtual)	20.30°

SITE LEGEND

- EXISTING PROPERTY BOUNDARY LINE
- EXISTING ADJOINING PROPERTY LINE
- EXISTING ROAD CENTERLINE
- PROPOSED ROAD CENTERLINE
- PROPOSED DITCH CENTERLINE
- PROPOSED LIMITS OF BMP / DETENTION
- PROPOSED SAWCUT LINE
- EXISTING CURB
- PROPOSED CURB
- PROPOSED MOUNTABLE CURB
- PROPOSED BUILDING
- PROPOSED ASPHALT
- PROPOSED CONCRETE
- EXISTING SANITARY STRUCTURES
- EXISTING WATER STRUCTURES
- PROPOSED PARKING COUNT

N

GRAPHIC SCALE
20 10 5 0 20
1" = 20'

BOUNDARY & TOPOGRAPHIC SURVEY
APN: 035-510-006, LOT 5
OAKLEY
CONTRA COSTA COUNTY, STATE OF CALIFORNIA
PREPARED BY: ZIEBATECH LAND SURVEYING
DATED: 02/27/2020

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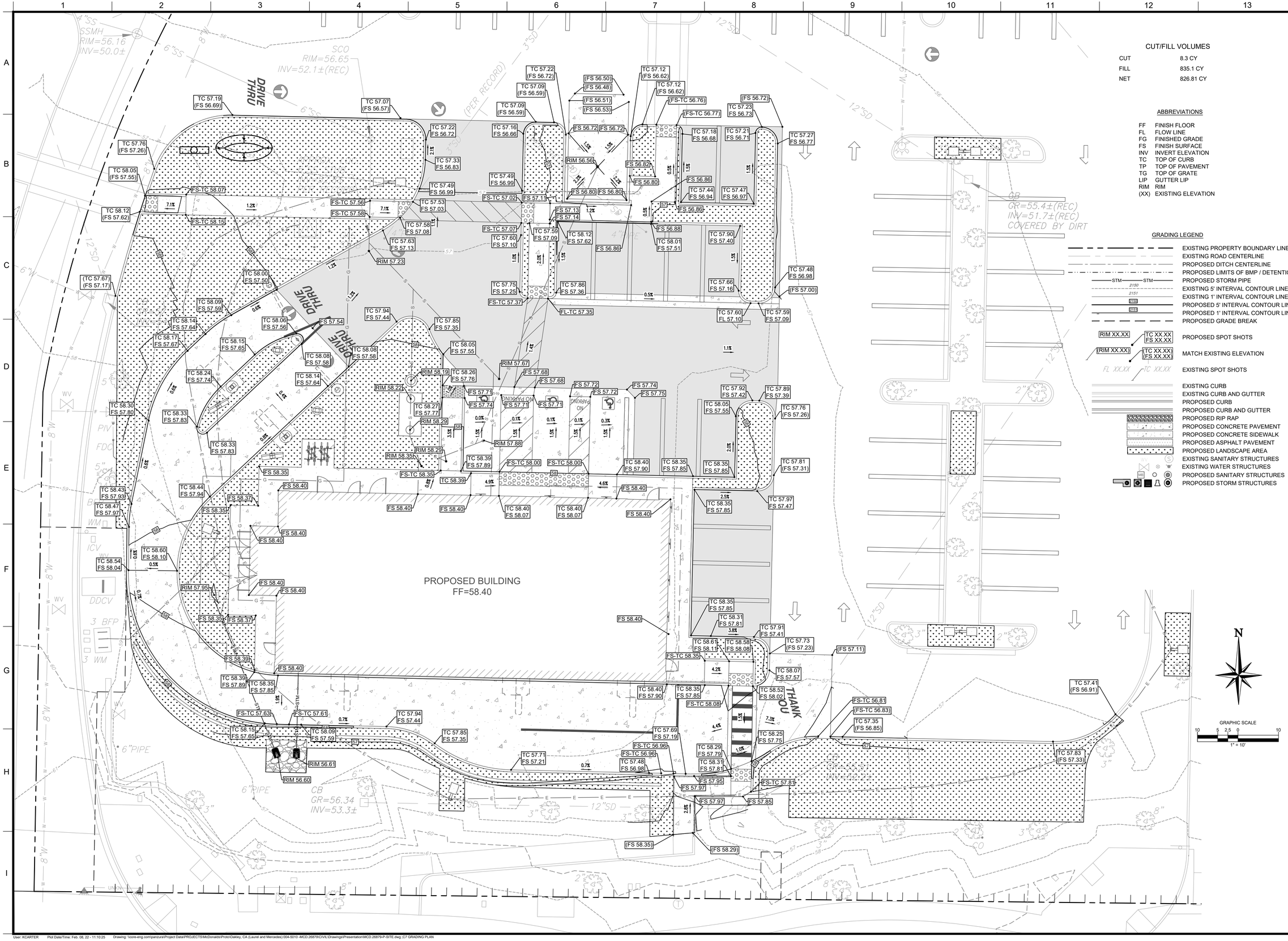
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ENGINEER SEAL

SHEET TITLE
TRUCK PLAN

JOB #:	MCD.26879
DATE:	2/8/22
SCALE:	1" = 20'
DRAWN BY:	KC
CHECKED BY:	ZM

SHEET NO.
C6



CUT/FILL VOLUMES

CUT	8.3 CY
FILL	835.1 CY
NET	826.81 CY

ABBREVIATIONS

FF	FINISH FLOOR
FL	FLOW LINE
FG	FINISHED GRADE
FS	FINISH SURFACE
INV	INVERT ELEVATION
TC	TOP OF CURB
TP	TOP OF PAVEMENT
TG	TOP OF GRATE
LIP	GUTTER LIP
RIM	RIM
(XX)	EXISTING ELEVATION

GRADING LEGEND

- EXISTING PROPERTY BOUNDARY LINE
- EXISTING ROAD CENTERLINE
- PROPOSED DITCH CENTERLINE
- PROPOSED LIMITS OF BMP / DETENTION
- PROPOSED STORM PIPE
- EXISTING 5' INTERVAL CONTOUR LINE
- EXISTING 1' INTERVAL CONTOUR LINE
- PROPOSED 5' INTERVAL CONTOUR LINE
- PROPOSED 1' INTERVAL CONTOUR LINE
- PROPOSED GRADE BREAK
- PROPOSED SPOT SHOTS
- MATCH EXISTING ELEVATION
- EXISTING SPOT SHOTS
- EXISTING CURB
- EXISTING CURB AND GUTTER
- PROPOSED CURB
- PROPOSED CURB AND GUTTER
- PROPOSED RIP RAP
- PROPOSED CONCRETE PAVEMENT
- PROPOSED CONCRETE SIDEWALK
- PROPOSED ASPHALT PAVEMENT
- PROPOSED LANDSCAPE AREA
- EXISTING SANITARY STRUCTURES
- EXISTING WATER STRUCTURES
- PROPOSED SANITARY STRUCTURES
- PROPOSED STORM STRUCTURES

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REVISIONS

REV	DATE	COMMENT	BY

DOCUMENT
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SITE LOCATION
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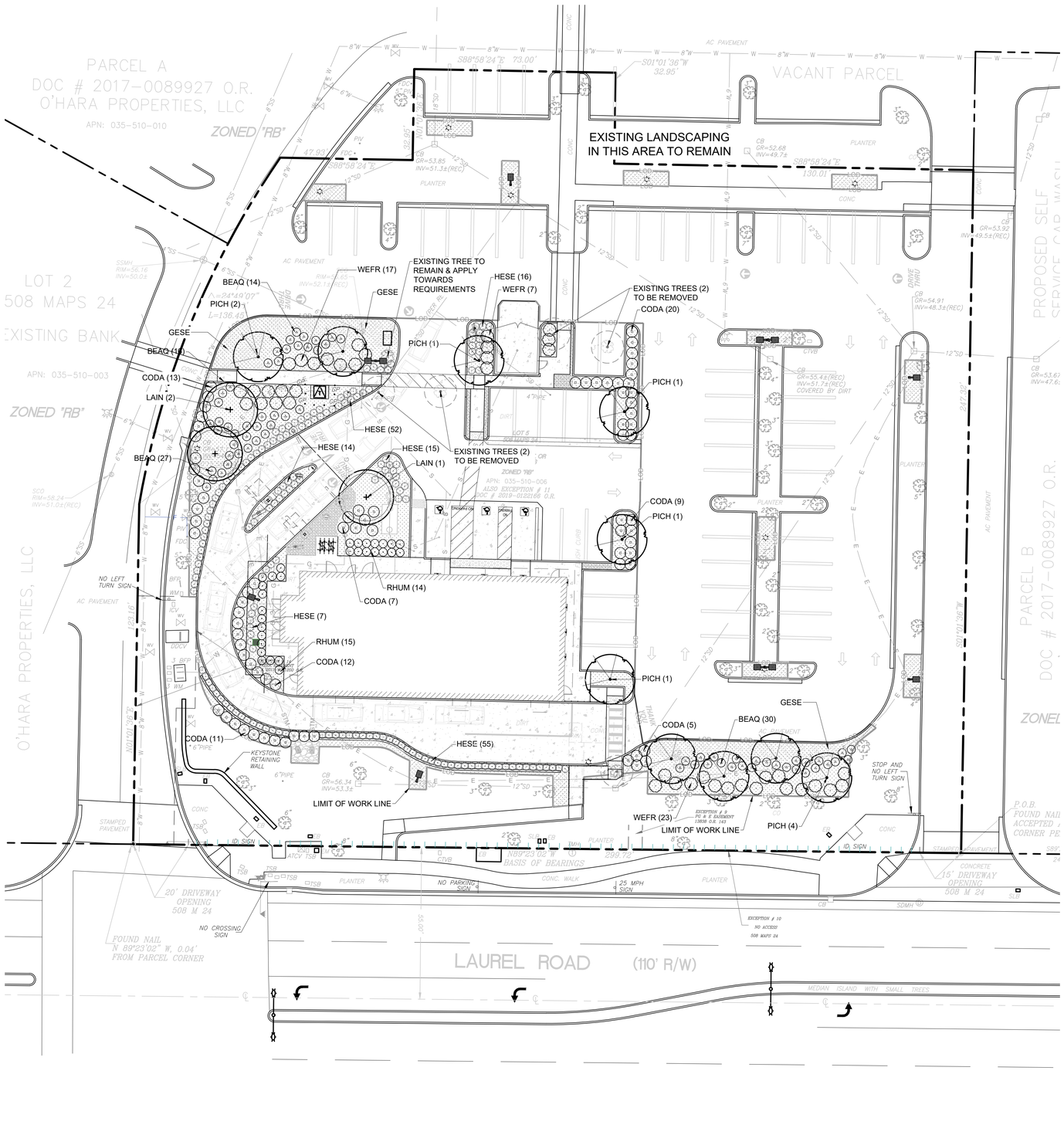
(004-5010)

ENGINEER SEAL

SHEET TITLE
GRADING PLAN

JOB #:	MCD.26879
DATE:	2/8/22
SCALE:	1" = 10'
DRAWN BY:	KC
CHECKED BY:	ZM

SHEET NO.
C7



0' 10' 20' 40'

Scale 1" = 20'

PLANTING LEGEND

SYMBOL	BOTANICAL NAME	COMMON NAME	MIN. SIZE	SPACING	WUCOLS	QUANTITY	REMARKS
TREES							
LAIN	Lagerstroemia indica 'Natchez'	White Crepe Myrtle	24" Box	Per Plan	Low	3	1 ½" caliper, 10'-12' high
PICH	Pistachia chinensis	Chinese Pistache	24" Box	Per Plan	Low	10	1 ½" caliper, 10'-12' high
NOTE: ALL TREES SHALL BE CONTAINER-GROWN. SEE SPECIFICATIONS FOR PROPER ROOT QUALITY.							
SHRUBS & ORNAMENTAL GRASSES							
BEAQ	Berberis aquifolium 'Compacta'	Compact Oregon Grape	5 Gallon	4' o.c.	Low	67	
CODA	Cotoneaster dammeri 'Lowfast'	Lowfast Cotoneaster	5 Gallon	4' o.c.	Low	76	
HESE	Helictotrichon sempervirens	Blue Oat Grass	1 Gallon	2.5' o.c.	Low	164	
RHUM	Rhaphiolepis umbellatat 'Minor'	Dwarf Yeddo Hawthorn	5 Gallon	3' o.c.	Low	30	
WEFR	Westringia fruticosa	Coast Rosemary	5 Gallon	5' o.c.	Low	41	Allow to grow naturally, shall not be sheared
GROUND COVERS							
	Gelsemium sempervirens	Carolina Jessamine	1 Gallon	3' o.c.	Low	- - -	
	Decomposed Granite, Tan Color, 3" Deep over Weed Barrier Fabric			- - -	- - -	- - -	
	Shredded Wood Mulch, All Planting Areas, 3" Deep			- - -	- - -	- - -	
	Replace disturbed landscape areas with like kind plants (ground cover, shrubs)						

LANDSCAPE CALCULATIONS

TOTAL SITE AREA: 74,443 SF
SITE AREA FOR THIS PROJECT: 26,747 SF
LANDSCAPE AREA REQUIRED (15%): 4,012 SF
LANDSCAPE AREA PROVIDED: 7,457 SF (27.8% OF SITE AREA)

STREET TREES
STREETS TREES EXISTING, NOT A PART OF THIS PROJECT

INTERIOR TREES
TREES REQUIRED IN REQUIRED LANDSCAPE: 12 TREES (1 TREE PER 600 SF)
TREES PROVIDED: 12 TREES (2 EXISTING TREES TO REMAIN)
(10 NEW PISTACHE TREES)

TREES REQUIRED IN PARKING AREAS: 3 TREES (1 PER 6 SPACES, 20 SPACES TOTAL)
TREES PROVIDED IN PARKING AREAS: 3 TREES

SHADE CALCULATION FOR PARKING AREAS
TOTAL PARKING AREA ASPHALT: 3,369 SF
REQUIRED SHADE AREA 50%: 1,685 SF

PROVIDED MATURE TREE SHADE AREA: 2,234 SF
PERCENTAGE: 66%

SPECIES	QTY	MATURE SHADE AREA*	TOTAL SHADE AREA
LAGERSTROEMIA	1	113 SF	113 SF
PISTACHE	3	707 SF	2,121 SF
TOTAL PARKING AREA SHADE CALCULATION			2,234 SF

*BASED ON SUNSET GARDEN BOOK

ROOT BARRIERS

THE CONTRACTOR SHALL INSTALL ROOT BARRIERS NEAR ALL NEWLY-PLANTED TREES THAT ARE LOCATED WITHIN FIVE (5) FEET OF PAVING OR CURBS. ROOT BARRIERS SHALL BE "CENTURY" OR "DEEP-ROOT" 24" DEEP PANELS (OR EQUAL). BARRIERS SHALL BE LOCATED IMMEDIATELY ADJACENT TO HARDSCAPE. INSTALL PANELS PER MANUFACTURER'S RECOMMENDATIONS. UNDER NO CIRCUMSTANCES SHALL THE CONTRACTOR USE ROOT BARRIERS OF A TYPE THAT COMPLETELY ENCIRCLE THE ROOTBALL.

MULCHES

AFTER ALL PLANTING IS COMPLETE, CONTRACTOR SHALL INSTALL 3" THICK LAYER OF 1-1/2" SHREDDED WOOD MULCH, NATURAL (UNDYED), OVER LANDSCAPE FABRIC IN ALL PLANTING AREAS (EXCEPT FOR TURF AND SEEDED AREAS). CONTRACTOR SHALL SUBMIT SAMPLES OF ALL MULCHES TO LANDSCAPE ARCHITECT AND OWNER FOR APPROVAL PRIOR TO CONSTRUCTION. ABSOLUTELY NO EXPOSED GROUND SHALL BE LEFT SHOWING ANYWHERE ON THE PROJECT AFTER MULCH HAS BEEN INSTALLED (SUBJECT TO THE CONDITIONS AND REQUIREMENTS OF THE "GENERAL GRADING AND PLANTING NOTES" AND SPECIFICATIONS).

SEE WATER EFFICIENT LANDSCAPE WORKSHEET FOR MWELO WATER USE CALCULATIONS.

EVERGREEN DESIGN GROUP
(800) 680-6630
11801 Pierce Street, Suite 200
Riverside, CA 92505
www.EvergreenDesignGroup.com

CORE STATES GROUP
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Ontario, CA 91761
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REV	DATE	COMMENT	BY

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SITE LOCATION
LAUREL RD,
OAKLEY, CA 94561

(004-5010)

ENGINEER SEAL

REGISTERED LANDSCAPE ARCHITECT
DAVID W. BRANHAM
Signature
Renew Date 11/30/23
Date 2/4/2022
STATE OF CALIFORNIA

SHEET TITLE
Landscape Planting

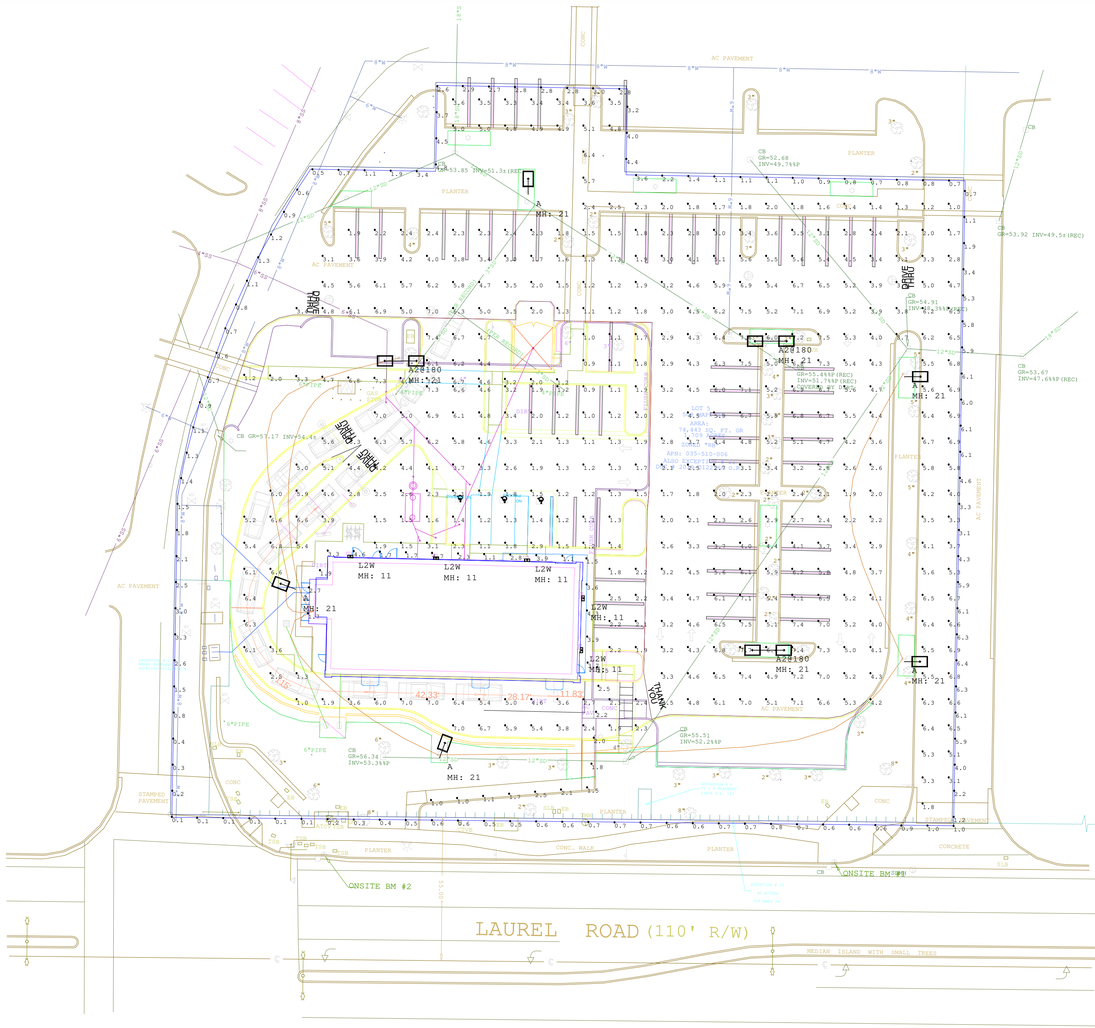
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DATE:	02/04/2022
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DRAWN BY:	DB
CHECKED BY:	ZM

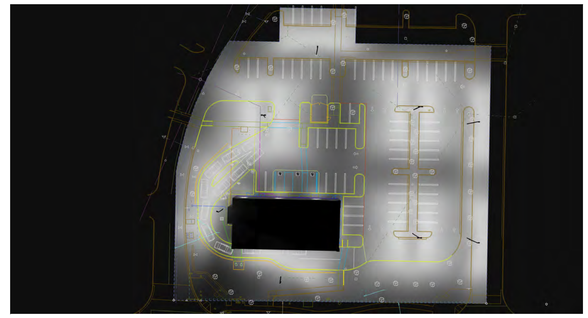
SHEET NO.
LP-1

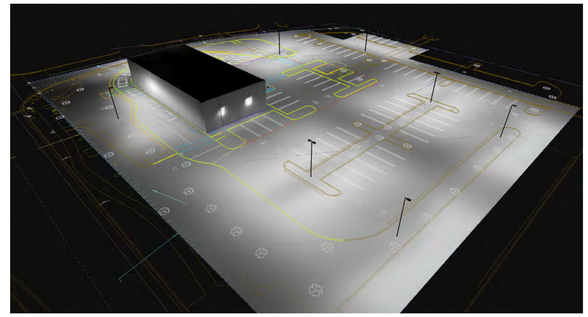
NOTES:

1. THE FOOTCANDLE LEVELS AS SHOWN ARE BASED ON THE FOLLOWING CRITERIA. ANY SUBSTITUTIONS IN SPECIFIED FIXTURES OR CHANGES TO LAYOUT WILL AFFECT LIGHTING LEVELS SHOWN AND WILL NOT BE THE RESPONSIBILITY OF SECURITY LIGHTING.

2. DISTANCE BETWEEN READINGS 10'







Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
PAVED SURFACE READINGS	Illuminance	Fc	4.04	7.7	0.9	4.49	8.56
PEDESTRIAN AREAS	Illuminance	Fc	2.97	7.3	1.0	2.97	7.30
PROPERTY LINE READINGS	Illuminance	Fc	2.07	6.4	0.1	20.70	64.00

Luminaire Schedule									
Symbol	Qty	Label	Arrangement	LLF	Description	Lum. Watts	EPA	Mtg Height	Pole Type
	5	A	SINGLE	0.900	RAR2-480L-240-5K7-4W-SCP/40F	226.9	.55	21	SES-18-40-1-GL-TA-xx (4")
	3	A2@180	BACK-BACK	0.900	RAR2-480L-240-5K7-4W-SCP/40F	226.9	1.1	21	SES-18-40-1-GL-TA-xx (4")
	5	L2W	SINGLE	0.900	RWSC-36L-5K-DO-U-WH-SCP/40F	14.4		11	

Mounting Height=24' (22' Pole + 2' Base)

Regional Drawing
004-5010

** - SPECIFY COLOR

* PROJECT WIND LOAD CRITERIA BASED ON:
ASCE 7-10 WIND SPEEDS (3-SEC PEAK GUST MPH)
50 YEAR MEAN RECURRENCE INTERVAL

Allowed EPA 13.6 @
Wind Load 90MPH

THIS DRAWING MEETS OR EXCEEDS McDONALDS CURRENT ILLUMINATION SPECIFICATIONS OF A 3-4 FOOTCANDLE AVERAGE, UNLESS SUPERSEDED BY OTHER REQUIREMENTS.

1. THIS LIGHTING DESIGN IS BASED ON INFORMATION SUPPLIED BY OTHERS TO SECURITY LIGHTING SYSTEMS. SITE DETAILS PROVIDED HEREON ARE REPRODUCED ONLY AS A VISUALIZATION AID. FIELD DEVIATIONS MAY SIGNIFICANTLY AFFECT PREDICTED PERFORMANCE. PRIOR TO INSTALLATION, CRITICAL SITE INFORMATION (POLE LOCATIONS, ORIENTATION, MOUNTING HEIGHT, ETC.) SHOULD BE COORDINATED WITH THE CONTRACTOR AND/OR SPECIFIER RESPONSIBLE FOR THE PROJECT.

2. LUMINAIRE DATA IS TESTED TO INDUSTRY STANDARDS UNDER LABORATORY CONDITIONS. OPERATING VOLTAGE AND NORMAL MANUFACTURING TOLERANCES OF LAMP, BALLAST, AND LUMINAIRE MAY AFFECT FIELD RESULTS.

3. CONFORMANCE TO FACILITY CODE AND OTHER LOCAL REQUIREMENTS IS THE RESPONSIBILITY OF THE OWNER AND/OR THE OWNER'S REPRESENTATIVE.

4. THIS LAYOUT MAY NOT MEET TITLE 24 OR LOCAL ENERGY REQUIREMENTS. IF THIS LAYOUT NEEDS TO E COMPLIANT WITH TITLE 24 OR OTHER ENERGY REQUIREMENTS, PLEASE CONSULT FACTORY WITH SPECIFIC DETAILS REGARDING PROJECT REQUIREMENTS SO THAT REVISIONS MAY BE MADE TO THE DRAWING.

SECURITY LIGHTING™
2100 Golf Road, Suite 460, Rolling Meadows, IL 60008
1-800-544-4848

UNLESS OTHERWISE SPECIFIED, ALL DIMENSIONS ARE IN INCHES

SCALE 1"=20' 0"

DRAWN BY VS

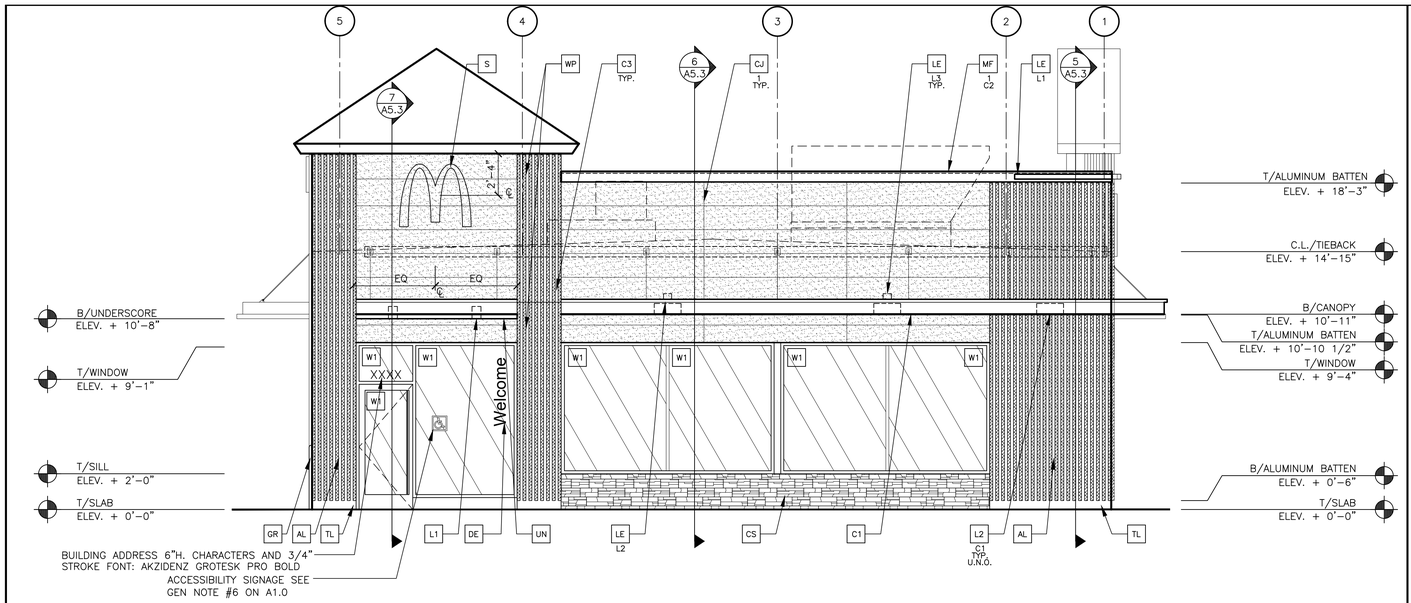
POINT-BY-POINT FOOTCANDLE PLOT FOR
MCDONALDS
LAUREL ROAD
OAKLEY, CA

NATIONAL STORE NUMBER
38566

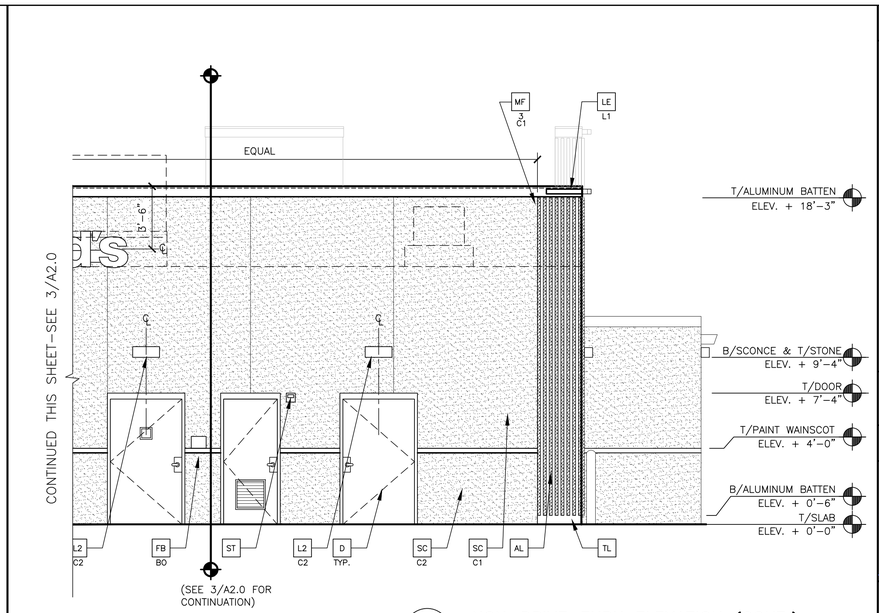
DATE 1/31/2022

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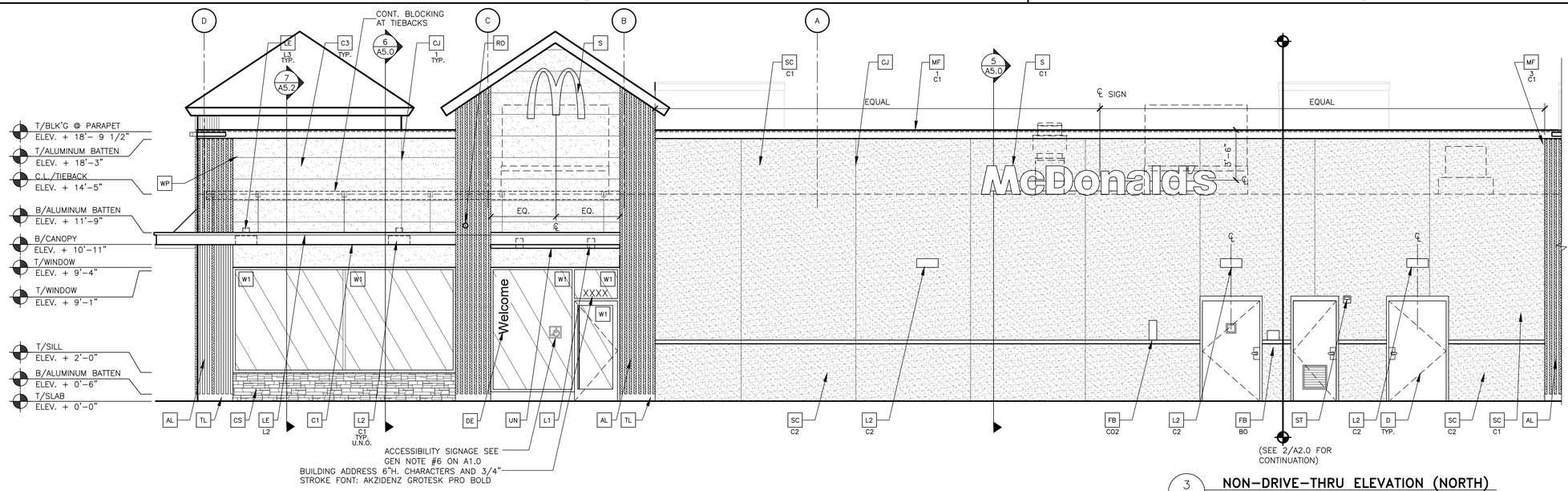
S01



1 A2.0 **FRONT ELEVATION (EAST)**
1/4" = 1'-0"



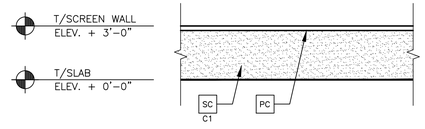
2 A2.0 **NON-DRIVE-THRU ELEVATION (CONT.)**
1/4" = 1'-0"



3 A2.0 **NON-DRIVE-THRU ELEVATION (NORTH)**
1/4" = 1'-0"

KEY NOTES:

- AL — ALUMINUM BATTEN SYSTEM
  SIZE: 2"x2" PROFILE
  COLOR: WOOD GRAIN, BACKRAIL UNFINISHED, ENDCAP PAINTED TO MATCH SUBSTRATE: 1/2" EXTERIOR HIGH DENSITY OVERLAY (HDO) PLYWOOD, BB, GROUP 1, HDO BOTH FACES, APA TRADEMARKED.
  COURSE GRIT SAND SURFACES PRIOR TO PRIMING. PRIME AND PAINT BOTH SIDES AND ALL EDGES PRIOR TO INSTALLATION.
  SUBSTRATE COLOR: "IRON ORE" SW 7069 BY SHERWIN WILLIAMS
- AP — ALPOLIC METAL PANEL (COLOR: RAL 7022)
- C1 — ALUMINUM CANOPY SYSTEM W/FASCIA
  COLOR: WHITE
- C2 — ALUMINUM CANOPY SYSTEM
  COLOR: RAL 7022
- C3 — ALUMINUM CANOPY TIEBACK
  COLOR: RAL 7022
  GC TO PROVIDE CONTINUOUS BLOCKING ON WALL BEHIND TIEBACKS, WHEN TIEBACKS ARE INSTALLED ON METAL PANELING.
  SEE DETAIL 3/A5.0
- CJ — CONTROL JOINT
  1 —TYPE: 1 = STUCCO
- CS — OLD COUNTRY FIELDSTONE, COLOR: CHARDONNAY. BY CULTURED STONE.
  CONTACT: KEVIN Reidy, (717) 377-2746
- D — HOLLOW METAL DOOR
  "FAIRVIEW TAUPE" HC-85 BY BENJAMIN MOORE
- DE — DECAL BY GRAPHICS SUPPLIER
  SURFACE APPLIED, FIELD INSTALLED, PRE CUT, PRE SPACED.
  SUPPLIERS:
  VOMELA (865) 330-7337, ann.bowen@vomela.com
  GFX INTERNATIONAL (847) 543-4600, mcdonaldsdecor@gfxi.com
- FB
  CO2— CO2 = BULK CO2 FILL BOX (EQPM SCHEDULE ITEM 49.00)
  BO = BULK OIL FILL BOX (EQPM SCHEDULE ITEM 700.18)
- GR — GUARD RAIL —SEE SITE PLAN FOR EXACT LOCATION AND LENGTH
  PAINT: "FAIRVIEW TAUPE" HC-85 BY BENJAMIN MOORE
- L1 — RECESSED DOWN LIGHT FIXTURE — SEE ELECTRICAL
  COLOR: GOLD
- L2 — RADIAL SCONCE LIGHT FIXTURE — SEE ELECTRICAL
  C1— COLOR:
  C1= WHITE
  C2= PLATINUM SILVER
- LE — ACCENT LIGHTING — SEE ELECTRICAL
  L1— LED LIGHT:
  L1 = SLIM LED (DOWN ONLY)
  L2 = INTEGRAL CANOPY FIXTURE
  L3 = UP ONLY FLOOD FIXTURE
- MF — METAL FASCIA
  1 — TYPE:
  C1— 1 = PRE-FAB ANCHOR-TITE FASCIA
  2 = BOTTOM TRIM AT METAL REVEAL PANEL
  3 = VERTICAL TRIM AT METAL REVEAL PANEL CORNERS, CLOSURES
  COLOR:
  C1= WEATHERED ZINC
  C2= RAL 7022
- PB — PIPE BOLLARD — PAINTED YELLOW
- PC — PRECAST CONCRETE SLOPED CAP
  COLOR: FOUNDATION
- PT — (RMHC) COIN COLLECTOR
  MODEL: #WPT STD
  CALL 1-888-743-7435 TO ORDER
- RO — ROOF DRAIN OVERFLOW PIPE PAINT TO MATCH SURROUNDING MATERIAL
- S — McDONALD'S SIGNAGE BY OTHERS — UNDER SEPARATE PERMIT.
  C1— COLOR:
  C1= WEATHERED ZINC RACEWAY
  C2= RAL 7022 RACEWAY
- SC — STUCCO
  C1— COLOR:
  C1 = "FAIRVIEW TAUPE" HC-85 BY BENJAMIN MOORE
  C2 = "NORTHWOOD BROWN" 1000 BY BENJAMIN MOORE
- ST — CO2 STROBE/ALARM. SEE MECHANICAL DRAWINGS FOR SPECIFICATION.
- TL — TILE (@ BASE OF BATTEN SYSTEM)
  EUROWEST: E-WOOD
  COLOR: R-9 BLACK, SIZE: 6"X24"
  WATERPROOFING SETTING MATERIAL AND GROUT: BY MAPEI
  GROUT COLOR: ULTRA COLOR PLUS - 47 CHARCOAL
  GROUT WIDTH: 1/8" TO 3/16"
  CONTACT: JAN DETER, (714) 937-7500
- UN — METAL UNDERSCORE
  COLOR: GOLD
- W1 — EXTERIOR WINDOW ASSEMBLY — TEMPERED GLASS
  COLOR: DARK BRONZE
- W2 — DRIVE-THRU WINDOW BY READY ACCESS
  XX— MODEL: 600 SERIES, 36" SERVICE HEIGHT WITH TRANSOM, MANUAL OPEN; ELECTRONIC RELEASE
  COLOR: DEEP BRONZE
  SLIDE DIRECTION: RL = RIGHT TO LEFT
  LR = LEFT TO RIGHT
- WP — ARCHITECTURAL WALL PANELS BY NICHIHA
  VINTAGE WOOD, AWP-3030. COLOR: BARK.
  NOTE: PANEL PATTERN SHALL BEGIN W/ FULL PANELS ABOVE/BELOW OPENING HEAD ELEVATION (9'-4")
  CONTACT: MATT STEPHENSON mstephenson@nichiha.com, (770)-805-9466 or (770)-789-8228



REV	DATE	DESCRIPTION	BY

REGISTERED PROFESSIONAL ENGINEER DAVID M. LEBITZKE 34319 MECHANICAL STATE OF CALIFORNIA
06/03/2020

PREPARED BY: CORE STATES GROUP
4240 East Jurupa Street, Suite 402, Ontario, CA 91761
www.corestatesgroup.com

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PREPARED FOR: McDonald's USA, LLC

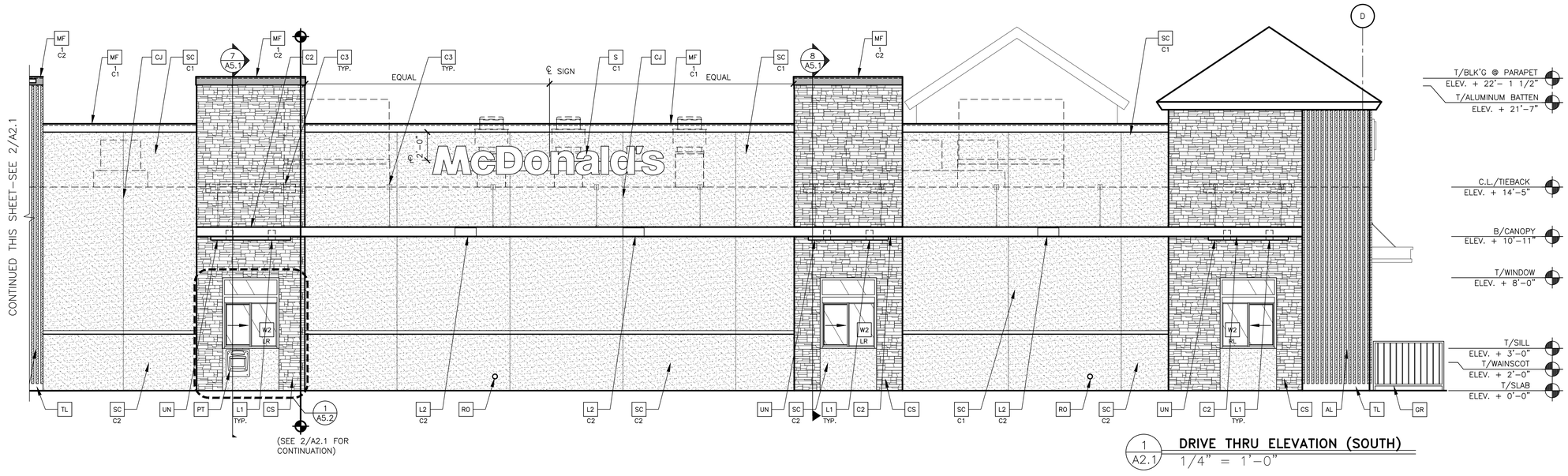
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DRAWN BY	STD ISSUE DATE	REVIEWED BY	DATE ISSUED	C.S.G. PROJECT #
B.ABDALLA	2018_10	M.PELINI	03/05/2021	MCD.26879

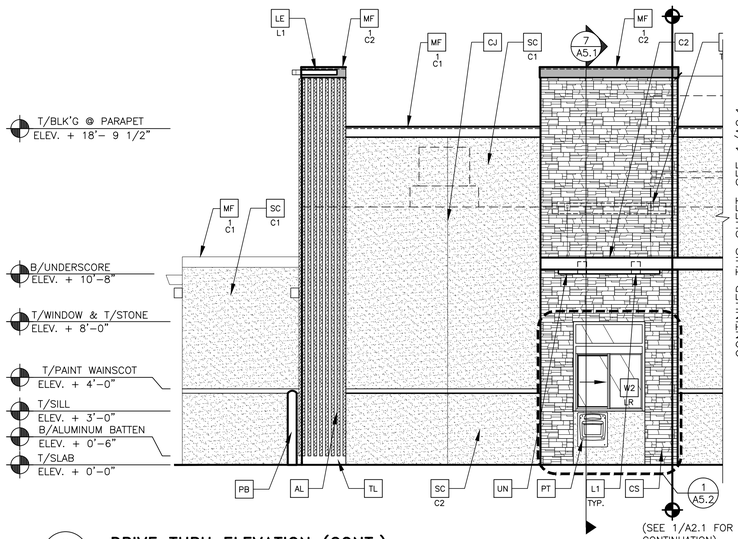
TITLE	DESCRIPTION	SITE ID	SITE ADDRESS
2017 STANDARD BUILDING - BB20 4597 - WOOD/WOOD	WOOD BEARING WALLS W/HARDIE EXTERIOR FINISH WOOD ROOF TRUSS FRAMING BATTEN/STUCCO WITH STONE ACCENT EXTERIOR	004-5010	1070 LAUREL ROAD OAKLEY, CA

McDONALD'S DRIVE-THROUGH SERVE RESTAURANT AT LAUREL PLAZA (CUP 03-20, DR 09-20)

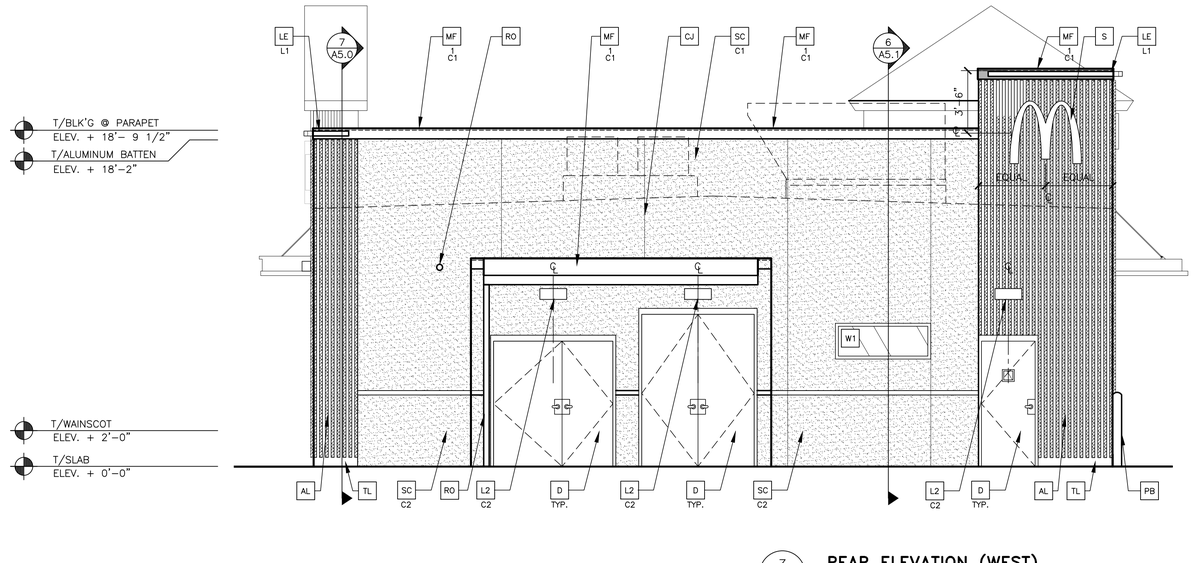
SHEET NO. 004-5010.00
A2.0
ELEVATIONS



1 A2.1 **DRIVE THRU ELEVATION (SOUTH)**
1/4" = 1'–0"



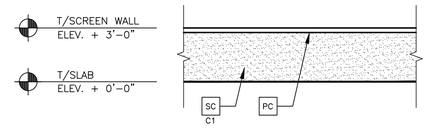
2 A2.1 **DRIVE THRU ELEVATION (CONT.)**
1/4" = 1'–0"



3 A2.1 **REAR ELEVATION (WEST)**
1/4" = 1'–0"

KEY NOTES:

- AL ALUMINUM BATTEN SYSTEM
  SIZE: 2"X2" PROFILE
  COLOR: WOOD GRAIN, BACKRAIL UNFINISHED, ENDCAP PAINTED TO MATCH SUBSTRATE: 1/2" EXTERIOR HIGH DENSITY OVERLAY (HDO) PLYWOOD, BB, GROUP 1, HDO BOTH FACES, APA TRADEMARKED.
  COURSE GRIT SAND SURFACES PRIOR TO PRIMING. PRIME AND PAINT BOTH SIDES AND ALL EDGES PRIOR TO INSTALLATION.
  SUBSTRATE COLOR: "IRON ORE" SW 7069 BY SHERWIN WILLIAMS
- AP ALPOLIC METAL PANEL (COLOR: RAL 7022)
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  COLOR: WHITE
- C2 ALUMINUM CANOPY SYSTEM
  COLOR: RAL 7022
- C3 ALUMINUM CANOPY TIEBACK
  COLOR: RAL 7022
  GC TO PROVIDE CONTINUOUS BLOCKING ON WALL BEHIND TIEBACKS, WHEN TIEBACKS ARE INSTALLED ON METAL PANELING.
  SEE DETAIL 3/A5.0
- CJ CONTROL JOINT
  1 —TYPE: 1 = STUCCO
- CS OLD COUNTRY FIELDSTONE, COLOR: CHARDONNAY. BY CULTURED STONE.
  CONTACT: KEVIN Reidy, (717) 377–2746
- D HOLLOW METAL DOOR
  "FAIRVIEW TAUPE" HC–85 BY BENJAMIN MOORE
- DE DECAL BY GRAPHICS SUPPLIER
  SURFACE APPLIED, FIELD INSTALLED, PRE CUT, PRE SPACED.
  SUPPLIERS:
  VOMELA (865) 330–7337, ann.bowen@vomela.com
  GFX INTERNATIONAL (847) 543–4600, mcdonaldsdecor@gfxi.com
- FB
  CO2— CO2 = BULK CO2 FILL BOX (EQPM SCHEDULE ITEM 49.00)
  BO = BULK OIL FILL BOX (EQPM SCHEDULE ITEM 700.18)
- GR GUARD RAIL –SEE SITE PLAN FOR EXACT LOCATION AND LENGTH
  PAINT: "FAIRVIEW TAUPE" HC–85 BY BENJAMIN MOORE
- L1 RECESSED DOWN LIGHT FIXTURE – SEE ELECTRICAL
  COLOR: GOLD
- L2 RADIAL SCONCE LIGHT FIXTURE – SEE ELECTRICAL
  C1— COLOR:
  C1= WHITE
  C2= PLATINUM SILVER
- LE ACCENT LIGHTING – SEE ELECTRICAL
  L1—LED LIGHT:
  L1 = SLIM LED (DOWN ONLY)
  L2 = INTEGRAL CANOPY FIXTURE
  L3 = UP ONLY FLOOD FIXTURE
- MF METAL FASCIA
  1 — TYPE:
  C1— 1 = PRE–FAB ANCHOR–TITE FASCIA
  2 = BOTTOM TRIM AT METAL REVEAL PANEL
  3 = VERTICAL TRIM AT METAL REVEAL PANEL CORNERS, CLOSURES
  COLOR:
  C1= WEATHERED ZINC
  C2= RAL 7022
- PB PIPE BOLLARD – PAINTED YELLOW
- PC PRECAST CONCRETE SLOPED CAP
  COLOR: FOUNDATION
- PT (RMHC) COIN COLLECTOR
  MODEL: #WPT STD
  CALL 1–888–743–7435 TO ORDER
- RO ROOF DRAIN OVERFLOW PIPE PAINT TO MATCH SURROUNDING MATERIAL
- S McDONALD'S SIGNAGE BY OTHERS – UNDER SEPARATE PERMIT.
  C1— COLOR:
  C1= WEATHERED ZINC RACEWAY
  C2= RAL 7022 RACEWAY
- SC STUCCO
  C1—COLOR:
  C1 = "FAIRVIEW TAUPE" HC–85 BY BENJAMIN MOORE
  C2 = "NORTHWOOD BROWN" 1000 BY BENJAMIN MOORE
- ST CO2 STROBE/ALARM. SEE MECHANICAL DRAWINGS FOR SPECIFICATION.
- TL TILE (@ BASE OF BATTEN SYSTEM)
  EUROWEST: E–WOOD
  COLOR: R–9 BLACK, SIZE: 6"X24"
  WATERPROOFING SETTING MATERIAL AND GROUT: BY MAPEI
  GROUT COLOR: ULTRA COLOR PLUS – 47 CHARCOAL
  GROUT WIDTH: 1/8" TO 3/16"
  CONTACT: JAN DETER, (714) 937–7500
- UN METAL UNDERSCORE
  COLOR: GOLD
- W1 EXTERIOR WINDOW ASSEMBLY – TEMPERED GLASS
  COLOR: DARK BRONZE
- W2 DRIVE–THRU WINDOW BY READY ACCESS
  XX— MODEL: 600 SERIES, 36" SERVICE HEIGHT WITH TRANSOM, MANUAL OPEN, ELECTRONIC RELEASE
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  SLIDE DIRECTION: RL = RIGHT TO LEFT
  LR = LEFT TO RIGHT
- WP ARCHITECTURAL WALL PANELS BY NICHIHA
  VINTAGE WOOD, AWP–3030. COLOR: BARK.
  NOTE: PANEL PATTERN SHALL BEGIN W/ FULL PANELS ABOVE/BELOW OPENING HEAD ELEVATION (9'–4")
  CONTACT: MATT STEPHENSON mstephenson@nichiha.com, (770)–805–9466 or (770)–789–8228



BY	DESCRIPTION	DATE	REV

PREPARED BY:
CORE STATES GROUP
4240 East Jurupa Street, Suite 402, Ontario, CA 91761
www.corestatesgroup.com

PREPARED FOR:
McDonald's USA, LLC

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DRAWN BY: B.ABDALLA	STD ISSUE DATE: 2018_10	REVIEWED BY: M.PELINI	DATE ISSUED: 03/05/2021	C.S.G. PROJECT #: MCD.26879

SHEET NO.	TITLE	DESCRIPTION	SITE ADDRESS	SITE ID
A2.1	McDONALD'S DRIVE–THROUGH SERVE RESTAURANT AT LAUREL PLAZA (CUP 03–20, DR 09–20)	2017 STANDARD BUILDING – BB20 4597 – WOOD/WOOD WOOD BEARING WALLS W/HARDIE EXTERIOR FINISH WOOD ROOF TRUSS FRAMING BATTEN/STUCCO WITH STONE ACCENT EXTERIOR	1070 LAUREL ROAD OAKLEY, CA	004–5010

004–5010.00
A2.1
ELEVATIONS



Front Elevation



Rear Elevation



Non-Drive-Thru Side Elevation



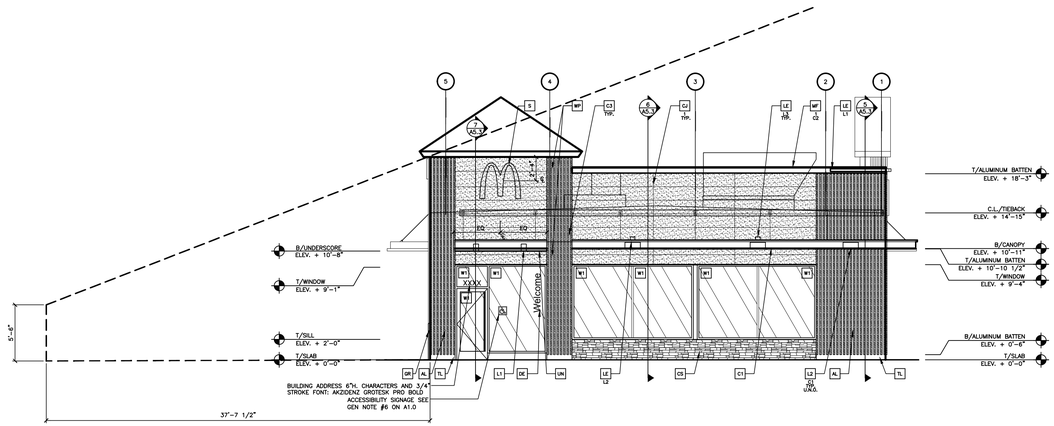
Drive-Thru Side Elevation

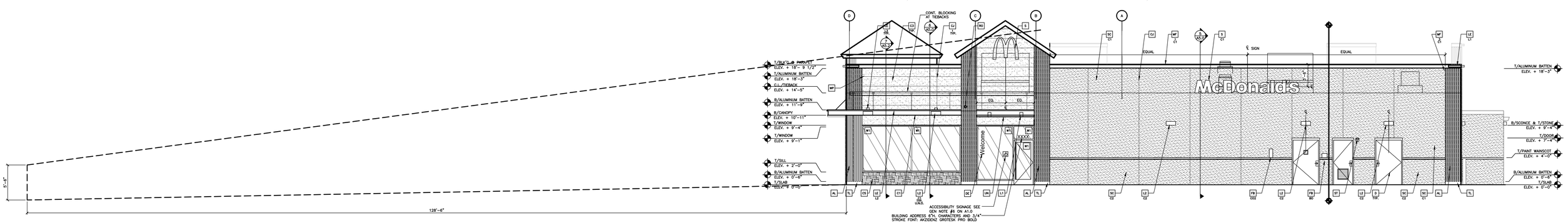
Materials Legend

- Stucco (Main Building) *"Fairview Taupe" by Benjamin Moore*
- Stucco (Wall Accent) *"Northwood Brown" by Benjamin Moore*
- Old Country Fieldstone (Wall Accent) *"Chardonnay" by Cultured Stone*
- Wall Panel (Accent) *"Bark" Vintage Wood by Nichiha*
- Exterior Window Assembly *"Dark Bronze"*
- Glazing (Windows & Storefront) *1" Insulated Clear Glass*
- Metal Fascia *"RAL 7022"*
- Aluminum Canopy (Prefinished Metal) *"White"*
- Aluminum Underscore (Prefinished) *"Gold"*
- Cornice *"Weathered Zinc"*
- Paint *"Fairview Taupe" by Benjamin Moore*
- Aluminum Canopy (Prefinished Metal) *"RAL 7022"*
- Battens (Aluminum) *B+N Industries Color: Wood Grain*
- *Standing Seam Metal Roof "RAL 7022"*
- *Tile at Base of Batten Eurowest E-Wod R-9 black*

CORE STATES GROUP

Proposed McDonald's Restaurant #004-5010
1070 Laurel Rd.
Oakley, CA
16 September 2021


5
4
3
2
1
T/ALUMINUM BATTEN
ELEV. + 18'-3"
C.L./TIEBACK
ELEV. + 14'-15"
B/CANOPY
ELEV. + 10'-11"
T/ALUMINUM BATTEN
ELEV. + 10'-10 1/2"
T/WINDOW
ELEV. + 9'-4"
B/ALUMINUM BATTEN
ELEV. + 0'-6"
T/SLAB
ELEV. + 0'-0"
B/UNDERSCORE
ELEV. + 10'-8"
T/WINDOW
ELEV. + 9'-1"
T/SILL
ELEV. + 2'-0"
T/SLAB
ELEV. + 0'-0"
5'-4"
37'-7 1/2"
Welcome
XXXX
EQ.
EQUAL
BUILDING ADDRESS 6"HL CHARACTERS AND 3/4" STROKE FONT: AKZIDENZ GROTESK PRO BOLD
ACCESSIBILITY SIGNAGE SEE GEN NOTE #6 ON A1.0


D
C
B
A
CONT. BLOCKING AT TIEBACKS
T/BLK'G @ PARAPET
ELEV. + 18'-9 1/2"
T/ALUMINUM BATTEN
ELEV. + 18'-3"
C.L./TIEBACK
ELEV. + 14'-5"
B/ALUMINUM BATTEN
ELEV. + 11'-9"
B/CANOPY
ELEV. + 10'-11"
T/WINDOW
ELEV. + 9'-4"
T/WINDOW
ELEV. + 9'-1"
T/SILL
ELEV. + 2'-0"
B/ALUMINUM BATTEN
ELEV. + 0'-6"
T/SLAB
ELEV. + 0'-0"
5'-6"
128'-6"
Welcome
EQUAL
SIGN
McDonald's
B/SCONCE & T/STONE
ELEV. + 9'-4"
T/DOOR
ELEV. + 7'-4"
T/PAINT WAINSCOT
ELEV. + 4'-0"
B/ALUMINUM BATTEN
ELEV. + 0'-6"
T/SLAB
ELEV. + 0'-0"
ACCESSIBILITY SIGNAGE SEE GEN NOTE #6 ON A1.0
BUILDING ADDRESS 6"HL CHARACTERS AND 3/4" STROKE FONT: AKZIDENZ GROTESK PRO BOLD

T/BLK'G @ PARAPET
ELEV. + 18'- 9 1/2"
T/ALUMINUM BATTEN
ELEV. + 18'-2"
T/WAINSCOT
ELEV. + 2'-0"
T/SLAB
ELEV. + 0'-0"
5'-6"
48'-10 1/2"
T/BLK'G @ PARAPET
ELEV. + 22'- 1 1/2"
T/ALUMINUM BATTEN
ELEV. + 21'-7"
B/CANOPY
ELEV. + 10'-11"
T/WINDOW & T/STONE
ELEV. + 8'-0"
T/DOOR
ELEV. + 7'-4"
T/SILL
ELEV. + 6'-0"
B/ALUMINUM BATTEN
ELEV. + 0'-6"
T/SLAB
ELEV. + 0'-0"
EQUAL
EQUAL
#1
#2

T/BLK'G @ PARAPET
ELEV. + 18'- 9 1/2"
B/UNDERSCORE
ELEV. + 10'-8"
T/WINDOW & T/STONE
ELEV. + 8'-0"
T/PAINT WAINSCOT
ELEV. + 4'-0"
T/SILL
ELEV. + 3'-0"
B/ALUMINUM BATTEN
ELEV. + 0'-6"
T/SLAB
ELEV. + 0'-0"
5'-6"
57'-2"
EQUAL
℄ SIGN
EQUAL
McDonald's
T/BLK'G @ PARAPET
ELEV. + 22'- 1 1/2"
T/ALUMINUM BATTEN
ELEV. + 21'-7"
C.L./TIEBACK
ELEV. + 14'-5"
B/CANOPY
ELEV. + 10'-11"
T/WINDOW
ELEV. + 8'-0"
T/SILL
ELEV. + 3'-0"
T/WAINSCOT
ELEV. + 2'-0"
T/SLAB
ELEV. + 0'-0"

RESOLUTION NO. XX-22

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING THE PROJECT KNOWN AS "MCDONALD'S DRIVE-THROUGH QUICK SERVE RESTAURANT AT LAUREL PLAZA CONDITIONAL USE PERMIT (CUP 03-20) AND DESIGN REVIEW (DR 09-20) LOCATED IN THE LAUREL PLAZA SHOPPING CENTER ON THE NORTHWEST CORNER OF LAUREL ROAD AND O'HARA AVENUE (APN: 035-510-006)

FINDINGS

WHEREAS, on November 23, 2020, Zach Michels of Core States Group ("Applicant") filed an application requesting Design Review (DR 09-20) approval to develop an approximately 1.7-acre parcel within the Laurel Plaza shopping center with a new 4,365 square foot quick serve restaurant with dine-in and drive-through service. Applicant also requests approval of a Conditional Use Permit (CUP 03-20) to operate the drive-through service use ("Project"). The project site consists of an existing parcel fronting on Laurel Road and within the Laurel Plaza Shopping Center, which is located on the northwest corner of Laurel Road and O'Hara Avenue. The site is zoned RB (Retail Business) District. APN 035-510-006; and

WHEREAS, the Applicant's Plans include site plan, grading plan, conceptual landscape plans, building elevations, storm water control plan, truck circulation plan, and water efficient landscape ordinance calculations; ("Plans"); and

WHEREAS, on January 13, 2021 the project application was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, the project site is designated Commercial (CO) on the Oakley 2020 General Plan Land Use Map, and zoned RB (Retail Business) District; and

WHEREAS, the proposed project falls within the scope of the original Laurel Plaza Shopping Center Initial Study/Mitigated Negative Declaration (SCH #2008012068) California Environmental Quality Act (CEQA) analyses; and

WHEREAS, on April 27, 2021, at a duly noticed public hearing for the project, per recommendation from the City Attorney, the City Council announced the item would be continued to a date certain (May 25, 2021). The Mayor then opened the public hearing and received written and oral testimony from the public. Upon conclusion of the public comments, the City Council continued the item to May 25, 2021; and

WHEREAS, on May 25, 2021, the City Council re-opened the public hearing and received a report from City Staff, oral and written testimony from the Applicant and public, and deliberated on the project. At the conclusion of its deliberations, the City Council continued the item to a date uncertain and directed Staff to require an additional traffic analysis that focused on the pedestrian safety and any potential impacts to nearby land uses, specifically the elementary school on Mercedes Lane; and

WHEREAS, the Laurel Plaza Supplemental Traffic Operations Analysis Assessment was completed on January 7, 2022 and made available as a public document; and

WHEREAS, on January 25, 2022, the City Council held a publicly noticed Work Session on the Laurel Plaza Supplemental Traffic Operations Analysis Assessment at which Council Members provided individual feedback, some of which resulted in actions on the part of the Applicant to implement recommended enhancements to their site and work with Staff on solutions to implement recommended off-site improvements; and

WHEREAS, on or before February 11, 2022, 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 emailed/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

WHEREAS, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

WHEREAS, these Findings are based on the City's General Plan, the City's Zoning Ordinance, the Oakley Commercial and Industrial Design Guidelines, the project plans, and the applicable information submitted to the City Council at its April 27, 2021, May 25, 2021, January 25, 2022, and February 22, 2022 meetings, both written and oral, including oral information provided by the Applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the Project (hereafter the "Record").

A. The proposed project falls within the scope of the original Laurel Plaza Shopping Center Initial Study/Mitigated Negative Declaration (SCH #2008012068) California Environmental Quality Act (CEQA) analyses, thereby requiring filing of a CEQA Notice of Determination with the Contra Costa County Clerk and Governor's Office of Planning and Research State Clearinghouse following project approval.

B. Regarding the application requesting approval of a Conditional Use Permit to operate a "Drive-through Restaurant and Services" (CUP 03-20), the City Council finds:

    1. That the site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this title to adapt the use with land and uses in the neighborhood, in that all applicable development standards for the RB District are met and the drive-through

aisle is able to queue up to 12 automobiles, which is the industry standard for similar uses;

2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use, in that the site is accessed from Laurel Road, the City's highest traveled arterial street, which will eventually serve this entire intersection of commercial development;

3. The proposed use will be arranged, designed, constructed, operated and maintained so as to be compatible with the intended character of the area and shall not change the essential character of the area from that intended by the General Plan and the applicable zoning ordinances, in that the General Plan intended the area for commercial uses, including restaurants, and the zoning ordinance allows drive-throughs with approval of a CUP;

4. That the proposed use provides for the continued growth and orderly development of the community and is consistent with the various elements and objectives of the General Plan, in that it is consistent with the Land Use Element by creating a new commercial use in a commercial designation that is compatible with the applicable zoning district on the same site;

5. That the proposed use, including any conditions attached thereto, will be established in compliance with the applicable provisions of the California Environmental Quality Act, in that the proposed use has been found, after additional analysis, to fall within the scope of the original Laurel Plaza Shopping Center Initial Study/Mitigated Negative Declaration (SCH #2008012068), and applicable mitigation measures from that MND will also apply to the proposed project.

C. Regarding the application requesting Design Review approval to develop an approximately 1.7-acre parcel within the Laurel Plaza shopping center with a new 4,365 square foot quick serve restaurant with dine-in and drive-through service (DR 09-20), the City Council finds:

1. Site planning, including building siting (location), setback and orientation; entries, circulation and parking; landscape setbacks and buffers; and location of trash, loading and service areas, and mechanical equipment: The overall site planning meets required setbacks, circulation and parking, landscape, and buffer requirements, and locates the trash enclosure in a manner where it has minimal interference with the proposed use and other nearby uses;

2. Architecture, including massing and grouping; facades, entries and roofs; materials and colors; and screening of trash, loading and service areas, and mechanical equipment: Architecture and massing of the building meets the criteria as found in the adopted Oakley Commercial and

Industrial Design Guidelines. Roof top equipment is screened from public view;

3. Landscaping and site elements, including general landscape areas; entry and plaza enhancements; parking lot landscaping; walls and fences; and lighting: The site is adequately landscaped, including the addition of trees for aesthetic and parking lot shade, and a screen wall to soften the appearance of cars queued in the drive-through. Lighting is sufficient, and as conditioned, will provide additional pedestrian safety; and

4. Streetscapes, including major community entries; highlighted intersections; and district entries: The streetscape is existing and already in compliance with the standards for review.

D. The Project complies with Measure J Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the City Council approves the Applicant's request for approval of the project titled, "McDonald's Drive-Through Quick Serve Restaurant at Laurel Plaza Conditional Use Permit (CUP 03-20) and Design Review (DR 09-20)," subject to the following Conditions of Approval:

Conditions of Approval

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the plans date stamped received by the Planning Division on February 8, 2022, as well as additional information acquired since that time and made a part of the project file.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED (BOLD CONDITIONS ADDED OR AMENDED AT PUBLIC HEARING):

Planning Department Conditions

General:

This Design Review is approved, as shown on the plans, date stamped by the Planning Department on February 8, 2022, and as conditioned herein.

This approval shall be effectuated within a period of one (1) year from the effective date of this resolution by pulling a building or grading permit and if not effectuated shall expire on February 22, 2023. Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Zoning Code.

All construction drawings and plot plans submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on February 22, 2022, and as conditioned herein.

All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.

Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on City, State and Federal Holidays. The restrictions on allowed working days and times may be modified on prior written approval by the Community Development Director.

Should archaeological materials be uncovered during grading, trenching or other on- site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.

All mitigation measures addressed in the environmental document for the original Laurel Plaza Shopping Center (SCH #2008012068) shall be complied with and addressed as outlined in the Mitigation Monitoring Program approved for this project (incorporated as Exhibit A), per the review and approval of the Community Development Director.

The Applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

Site Plan:

All parking stall striping shall be double striped. Parking stalls shall be 9 feet wide by 19 feet deep and all drive aisles shall be a minimum 24 feet in width as reviewed and approved by the Community Development Director.

A lighting and photometric plan shall be submitted prior to the issuance of building permits. The minimum requirement shall be one foot of candle light within public parking areas and pedestrian pathways.

Light poles shall be a maximum height 21 feet and shall provide glare shields where adjacent to existing residences per the review and approval of the Community Development Director.

Trash enclosures shall match Oakley Disposal and City standards and shall provide adequate space to accommodate both trash and recycling. Also, trash

enclosures shall be constructed with a roof to match the building design and materials, have metal gates, and when appropriate be surrounded by landscaping with climbing vines on three sides per the review and approval of the Community Development Director.

Storage shall be contained inside the building. Storage containers are not allowed and pallets, boxes, cardboard etc. shall not be stored outside.

In order to further enhance pedestrian safety the applicant shall include the following on the construction drawings:

a. Provide additional lighting, visibility, and warning signage where the pedestrian access crosses the drive-through aisle between Laurel Road and the building; and

b. The applicant shall design and maintain the landscaping within the pedestrian pathway north of the drive-through entrance to allow for better pedestrian visibility to oncoming vehicles traveling to and from the intersection of Laurel Road and Mercedes Lane.

Architectural Details:

Roof-mounted equipment shall be architecturally screened from view.

All exterior light fixtures shall be of quality design and materials, and parking lot lights shall match existing parking lot lights in the shopping center to the maximum extent possible. Specs for the exterior fixtures, including building lights, shall accompany the construction drawings for building permits, and be subject to the review and approval of the Community Development Director.

Landscaping:

A landscaping and irrigation plan for all front yard, right-of-way, parks, open space, and trail landscaping shall conform to the Oakley Water Efficient Landscape Ordinance ("WELO"), and the Guidelines for Implementation of the City of Oakley Water Efficient Landscape Ordinance and shall be installed prior to final occupancy. The plan shall be prepared by a licensed landscape architect and shall be certified to be in compliance with the City's Water Conservation Ordinance by including the following signed statement on the cover sheet or same sheet as the WELO calculations in a visible text box: "These plans are certified to conform to the Oakley Water Efficiency Landscape Ordinance."

California native drought tolerant plants shall be used as much as possible. All trees shall be a mix of 15-gallon and 24-inch box; all shrubs shall be a minimum five-gallon size, except as otherwise noted.

All landscaped areas not covered by shrubs or groundcover shall be covered with bark or acceptable alternative as reviewed and approved by the Community Development Director. On slopes greater than 3 to 1, the Applicant

shall use an alternative to bark per the review and approval of the Community Development Director. Areas covered with bark shall use a weed barrier.

The Applicant shall maintain all private landscaping until occupancy.

Signage:

All proposed permanent and temporary signage shall meet the requirements of the Laurel Plaza Master Sign Program approved by the City of Oakley on April 21, 2008, as applicable, and with the City's Zoning Ordinance. All proposed signage shall be reviewed by the Planning and Building Divisions.

Waste Management Plan:

The Applicant shall submit a Waste Management Plan that complies with the City of Oakley Construction and Demolition Debris Recycling Ordinance.

Building Division Conditions

Plans shall meet the currently adopted Uniform Codes as well as the newest T-24 Energy requirements from the State of California Energy Commission. To confirm the most recent adopted codes please contact the Building Division at (925) 625-7005.

Prior to requesting a Certificate of Occupancy from the Building Division, all Conditions of Approval required for occupancy must be completed. When the Public Works Division and the Planning Division place Conditions of Approval on the project, those divisions will sign off on the project prior to the request for a Building division final inspection. Similarly, if the Health Department and/or Fire Department reviewed and approved the original plans, those departments must sign off on the project prior to the request for a final inspection by the Building Division.

Public Works and Engineering Conditions

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF AN ENCROACHMENT AND/OR GRADING PERMIT:

GENERAL. All public improvements shall be made according to the latest adopted City Standard Drawings and Specifications. All work shall conform to the applicable City ordinances. The adjacent public right-of-way shall be kept clear of all job-related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the City performing the required maintenance at the developer's expense.

ENCROACHMENT PERMIT. All work in the public right-of-way, including any lockage or partial closure of sidewalks will require an Encroachment Permit. Special provisions such as limitations on works hours, protective enclosures, or other means to facilitate public access in a safe manner may be required.

GRADING PERMIT. All earthwork must comply with the City's Grading Ordinance. A Grading Permit must be issued by the public works department prior to site disturbance.

PUBLIC WORKS INSPECTIONS. The developer or their representative shall notify the Engineering Inspector at least forty-eight (48) hours before starting any work pertaining to on-site drainage facilities, grading or paving, and all improvements in approved plans. Failure to do so will result in rejection of work that was completed without inspection.

PRECONSTRUCTION MEETING. Prior to issuance of any permit or the commencement of any site work, the general contractor shall:

Along with the project applicant, attend a pre-construction meeting with the City Engineer to discuss the project conditions of approval, working hours, site maintenance and other construction matters;

a. Acknowledge in writing that they have read and understand the project conditions of approval and will make certain that all project sub-contractors have read and understand them prior to commencing work and that a copy of the project conditions of approval will be posted on site at all times during construction.

CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed to park on the portion of a street which abuts property in a residential zone without prior approval from the City Engineer.

EROSION CONTROL. Interim and final erosion control plans shall be prepared and submitted to the Public Works Department. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the State SMARTS system for projects disturbing more than one acre and obtain a WDID number. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, City standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the City of Oakley's NPDES Permit.

DUST CONTROL. Blowing dust shall be reduced by timing construction activities so that paving and building construction begin as soon as possible after completion of grading, and by landscaping disturbed soils as soon as possible. Further, water trucks shall be present and in use at the construction site. All portions of the site subject to blowing dust shall be watered as often as deemed necessary by the City, or a minimum of three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites in order to insure proper control of blowing dust for the duration of the project. Watering on public streets shall not occur. Streets will be cleaned by street sweepers or by hand as often as deemed necessary by the City Engineer, or at least once a day. Watering associated with on-site construction activity shall take place between the hours of 8 a.m. and 5 p.m. and shall include at least one late-afternoon watering to minimize the effects of blowing dust. All public streets soiled or littered due to this construction activity shall be cleaned and swept daily during the workweek to the satisfaction of the City. Demolition or earthwork activities shall be halted when wind speeds (instantaneous gusts) exceed 25 MPH. All trucks hauling soil, sand, or other loose debris shall be covered.

SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and homeowner to make sure that all dirt tracked into the public right-of-way is cleaned up daily. Mud, silt, concrete and other construction debris SHALL NOT be washed into the City's storm drains. Construction entrances must be in place per the Erosion Control Plan.

TRAFFIC CONTROL PLAN. The project sponsor will be required to work with the Public Works Department to develop a traffic control plan per the current California MUTCD. This plan will include, but not be limited to, the following measures:

a. Construction activities shall be strategically timed and coordinated to minimize traffic disruption for schools, residents, businesses, and special events. The schools located on the haul route shall be contacted to help with the coordination of the trucking operation to minimize traffic disruption.

b. Flag persons shall be placed at locations necessary to control one-way traffic flow, if required. All flag persons shall have the capability of communicating with each other to coordinate the operation.

c. Prior to construction, advance notification of all affected residents and emergency services shall be made regarding one-way operation, specifying dates and hours of operation and lane closures on main arterial and collector streets and will be permitted only between the hours of 8:30 A.M. to 2:30 P.M. on M, T, TH & F. 8:30 A.M. to 12:00 P.M. on W.

d. The traffic control plan shall be reviewed for compliance to the project's Haul Route, approved by the City of Oakley.

e. A full road closure will require a detour plan and a road closure permit issued by the Public Works Department.

CONSTRUCTION MANAGEMENT PLAN. The Applicant shall submit a construction management plan that shall incorporate at a minimum the Earth Movement Plan, Traffic Control Plan, Project Schedule, site security fencing, employee parking, construction staging area, construction trailer, and proposed outhouse locations. The public street shall not be used for any construction related activities, including parking for workers and storage of vehicles.

RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Public Works & Engineering Inspector and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.

SIDEWALK REPAIR. The developer shall repair and replace to existing City standards any sidewalk damaged now or during construction of this project. Sidewalk repair shall match existing color, texture and design, and shall be constructed per City Standard Details. The limits of sidewalk repair will be determined by the Public Works Inspector during the construction phase of the project.

CURB AND GUTTER. The developer shall repair and replace to existing City standards any curb and gutter damaged now or during construction of this project. New curb and gutter shall be constructed per City Standard Details. The limits of curb and gutter repair will be determined by the Public Works Inspector during the construction phase of the project.

CONSTRUCTION NOISE. Between the hours of 7:30 a.m. to 5:30 p.m., weekdays and 9:00 a.m. to 5:30 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA. Pickup and delivery of materials and equipment is restricted to the hours listed above unless prior written approval is obtained by the Public Works Department.

GOOD HOUSEKEEPING. Good housekeeping practices shall be observed at all times during the course of construction. Superintendence of construction shall be diligently performed by a person or persons authorized to do so at all times during working hours. The storing of goods and/or materials on the sidewalk and/or the street will not be

allowed unless a special permit is issued by the Engineering Division. The adjacent public right-of-way shall be kept clear of all job-related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the City performing the required maintenance at the developer's expense.

ACCESS AGREEMENT. Provide copy for City's review of the private joint access agreement and maintenance agreement with adjoining parcels within the project to utilize share access and utilities

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE GRADING PLAN:

GEOLOGY AND SOIL MITIGATION MEASURES. A geotechnical investigation shall be conducted for the project to determine the surface and sub-surface conditions at the site and to determine the potential for surface fault rupture on the site. The geotechnical study shall provide recommendations for site grading as well as the design of foundations, retaining walls, concrete slab-on-grade construction, excavation, drainage, on-site utility trenching and pavement sections. The soils report shall include specific criteria and standards governing site grading, drainage, pavement design, retaining wall design, and erosion control. All recommendations of the investigation shall be incorporated into project plans. One copy of the geologic report shall be submitted with the grading permit and public improvement application. Prior to issuance of any permit, the applicant's soils engineer shall review the final grading and drainage plans to ensure that designs for foundations, retaining walls, site grading, and site drainage are in accordance with their recommendations. The applicant's soils engineer's approval shall then be conveyed to the City either by letter or by signing the plans.

GRADING.

a. Grade any slopes with a vertical height of four (4) feet or more at a slope of 3H to 1V. Retaining walls that may be installed to reduce the slope must be masonry and comply with the City's building code.

b. Retaining wall or other suitable option acceptable by the City Engineer is required where the grade differential between property or adjacent lots are greater than 6". Retaining walls are required to be identified on the grading plans and shall have a note stating a separate building permit is required for retaining wall greater than four (4) feet in height.

c. At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet to the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with the name, title, phone number and area of responsibility. The person

responsible for maintaining the list shall be included. The list shall always be kept current and shall consist of persons with authority to indicate and implement corrective action in their area of responsibility. The names of the individual responsible for noise and litter control shall be expressly identified in the notice. The notice shall be reissued with each phase of major grading activity. A copy of the notice shall be concurrently transmitted to the City Engineer. The notice shall be accompanied by a list of the names and addresses of the property owners noticed, and a map identifying the area noticed.

d. Submit a Haul Route Plan to the City Engineer for review and approval prior to importing or exporting any material from the site. The plan shall include the location of the borrow or fill area, the proposed haul routes, the estimated number and frequency of trips, and the proposed schedule of hauling. Based on this plan, the City Engineering shall determine whether pavement condition surveys must be conducted along the proposed haul routes to determine what impacts the trucking activities may have. The project proponents shall be responsible to repair to their pre-construction condition any roads along the utilized routes.

e. Prior to commencement of any site work that will be result in a land disturbance of one acre or more, the applicant shall provide evidence to the City Engineer that the requirements for obtaining a State General Construction Permit have been met. Such evidence may be a copy of the Notice of Intent Letter sent by the State Water Resources Control Board. The WDID Number shall be shown on the grading plan prior to approval by the City Engineer.

f. The burying of any construction debris is prohibited on construction sites

NPDES – NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM. Comply with all rules, regulations and procedures of the NPDES for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, the Regional Water Quality Control Board (Central Valley – Region IV), including the Stormwater C.3 requirements as detailed in the Guidebook available at www.cccleanwater.org

Compliance shall include developing long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate wherever feasible, the following long-term BMP's in accordance with the Contra Costa Clean Water Program for the site's storm water drainage.

- Offer pavers for household driveways and/or walkways as an option to buyers.
- Minimize the amount of directly connected impervious surface area.

- Delineate all storm drains with “No Dumping, Drains to the Delta” permanent metal markers per City Standards.
- Construct concrete driveway weakened plane joints at angles to assist in directing run-off to landscaped/pervious areas prior to entering the street curb and gutter.
- Distribute public information items regarding the Clean Water Program to buyers.
- Other alternatives as approved by the City Engineer.
- Prepare an Operations and Maintenance Manual for the project’s storm water control measures.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE IMPROVEMENT PLAN:

DRAINAGE IMPROVEMENTS.

a. Collect and convey all stormwater entering and /or originating on this property, without diversion and within an adequate storm drainage facility, to an adequate natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility that conveys the storm waters to an adequate natural watercourse.

b. Submit a final hydrology and hydraulic report including 10-year and 100-year frequency event calculations for the proposed drainage system and stormwater pond to the city Engineer for review and approval. The report shall includes study of the downstream stormdrain facilities to confirm its adequacy and mitigate on-site so that the peak flows of post-project conditions do not exceed the pre-project peak flows.

c. Design and construct all storm drainage facilities in compliance with the Municipal Code and City design standards.

d. Prevent storm drainage from draining across the sidewalk(s) and driveway(s) in a concentrated manner.

e. On-site parking area and driveways shall not surface drain across public sidewalk or driveway aprons.

SIGHT DISTANCE EXHIBIT. For the project driveways’ ingress and egress, provide an exhibit that will analyze the sight distance required for the appropriate speed limit identified with this project as required by the City Engineer.

DESIGN CHANGES. The Applicant's registered Engineer shall notify the City Engineer, in writing, at least 72 hours in advance of all differences between the proposed work and the design indicated on the plans. Any proposed changes shall be subject to the approval of the City before altered work is started. A plan revision must be submitted for approval by the City Engineer.

JOINT TRENCH PLANS. The applicant shall submit Joint Trench Composite Plans to the City for review prior to approval of improvement plans or recordation of the final map. The developer shall provide joint trench composite plans for the underground electrical, gas, telephone, cable television and communication conduits and cables including the size, location and details of all trenches, locations of building utility service stubs and meters and placements or arrangements of junction structures as a part of the improvement Plan submittals for the project. The composite drawings and/or utility improvement plans shall be signed by a licensed civil engineer. The joint trench plans shall include street and/or site lighting and associated photometrics. A letter shall be provided by PG&E stating that public streetlight billing will be per Rule LS2A, and that private lights shall be metered with billing to the owner. Pole numbers, assigned by PG&E, shall be clearly delineated on the plans.

UTILITIES & UNDERGROUNDING.

a. Underground all new and existing utility distribution facilities per City of Oakley code section Title 6 Chapter 8 Underground Utility Districts.

b. All utility boxes shall be installed underground, and all wires and cables must be installed in conduits. Compliance with this condition shall be at the discretion of the City Engineer.

c. Above ground utility boxes shall be camouflaged per the review and approval of the City Engineer.

d. A written approval from Diablo Water District and Iron House Sanitary District must be provided that all underground utility improvements have passed all testing requirements prior to commencement of paving a street.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF THE BUILDING PERMIT:

PAD CERTIFICATION. A letter from a licensed land surveyor stating that the building pad was constructed in accordance with the approved plans shall be provided prior to commencing with foundation construction of the building.

SOILS ENGINEER CONSTRUCTION OBSERVATION. During construction, all excavations and grading shall be inspected by the applicant's soils engineer prior to placement of concrete and/or backfill so they can verify that the actual conditions are as anticipated in the design-level geotechnical report and recommend appropriate changes in the recommendations contained in the report, if necessary. The results of the construction observation and testing should be documented in an "as-built" letter/report prepared by the applicants' soils engineer and submitted to the City before any building permit is granted.

RIGHTS OF ENTRY. Furnish necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.

ACCESS AGREEMENTS. Develop for the City's review and approval and enter into a private joint access agreement that allows the adjacent parcels within the project to utilize common drive aisles.

LANDSSCAPE AGREEMENT. Enter into an agreement with the City that requires the right of way landscaping adjacent to the site to be maintained as part of the on-site landscaping at the property owner's expense to a standard acceptable and agreed upon by the City.

AGREEMENT FOR STORMWATER BEST MANAGEMENT PRACTICES INSPECTION AND MAINTENANCE OBLIGATIONS. The property owner shall enter into an agreement with the City for maintenance of the stormwater filtration devices required to be installed on this project. The agreement will specify that certain routine maintenance shall be performed by the property owner and will specify device maintenance reporting requirements. The agreement will also specify routine inspection requirements, permits and payment of fees. The agreement shall be recorded prior to release of any occupancy permits.

AS-BUILT PLANS. After completion of the construction of all work, the original plans shall have all changes (change orders and field changes) clearly marked. The "as-built" plans shall again be signed and "wet-stamped" by the civil engineer who prepared the plans, attesting to the changes. The original "as-built" plans shall be review and approved the Engineering Inspector. A Mylar and AutoCAD disk of the approved "as-built" plans shall be provided to the City before acceptance of improvements.

IMPACT FEES. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 85-00 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.

a. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);

b. Regional Transportation Development Impact Mitigation Fee or any future alternative regional fee adopted by the City (authorized by Ordinance No. 14-00, adopted by Resolution No. 73-05);

c. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);

d. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);

e. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03);

f. Fire Facilities Impact Fee (adopted by Resolution No. 09-01);

g. General Plan Fee (adopted by Resolution No. 53-03).

h. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. 112-07 & 124-07).

ANNEXATIONS

a. Annex the property to the City of Oakley Community Facilities District No. 2018-1 Fire Protection Services (CFD – Community Facilities District) for funding certain services within the boundaries of the City of Oakley including fire protection services. The applicant/ owner/ developer shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexations shall be paid by the applicant/owner/developer. The assessment shall be the per parcel annual amount set by CFD at the time of the annexation. Annexation shall be completed prior to filing of any map action.

b. Participate in the provision of funding to maintain police services by voting to approve a special tax for new parcels created by a new map or map action. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the final map or map action. If the commercial and office buildings are occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rate share for the remainder of the tax year prior to the City conducting a final inspection.

c. Annex the property to the City of Oakley Community Facilities District No. 2015-2 (CFD) for funding the maintenance and operation costs associated with regional, community and neighborhood parks, public area landscaping, street lights and storm water facilities. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexations shall be paid by Applicant. The assessment shall be the per parcel annual amount set by CFD at the time of annexation. Annexation shall be completed prior to filing of the map creating new parcels or any map action.

Advisory Notes

The following Advisory Notes are provided to the Applicant as a courtesy but are not a part of the conditions of approval. Advisory Notes are provided for the purpose of informing the Applicant of additional ordinance requirements that must be met in order to proceed with development.

A. The Applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.

B. The project will require a grading permit pursuant to the Ordinance Code.

C. Applicant shall comply with the requirements of Ironhouse Sanitary District.

D. The Applicant shall comply with the requirements of the Diablo Water District.

E. Comply with the requirements of the East Contra Costa Fire Protection District.

F. Comply with the requirements of the Building Inspection Division. Building permits are required prior to the construction of most structures.

G. This project may be subject to the requirements of the Department of Fish and Game. It is the Applicant's responsibility to notify the Department of Fish and Game, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.

H. This project may be subject to the requirements of the Army Corps of Engineers. It is the Applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.

I. The Applicant shall obtain an encroachment permit for construction within existing City rights of way.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the February 22, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Randy Pope, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date