AGENDA

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

Tuesday, November 09, 2021
6:30 PM

REVISED AGENDA
The meeting will be held in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California 94561.
NOTE: Councilmember Williams will join via teleconference. Her location is Hyatt Regency Orlando, 9801 International Drive, Orlando, FL 32819, Room 407.
Public participation is welcome and available at both locations.
Per the Health Officer of the County of Contra Costa, ORDER NO. HO-COVID19-51 dated August 2, 2021, mandates the wearing of face coverings in indoor public setting by all persons.
We highly recommend all visitors do a self-administered temperature check before entering the Council Chambers. A touchless temperature kiosk is located in the City Hall Administrative 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.

Agendas may be picked up at the Oakley City Hall located at 3231 Main Street, Oakley, CA 94561 for no charge. To request information regarding placement on the City's agenda e-mail distribution list, please contact us at (925) 625-7000.

We provide social media options to stay connected to City Hall through Facebook, Twitter, Next Door and Instagram. Other opportunities to connect with City Hall include Engage In Oakley, Oakley OnDemand on the city's website; and by emailing info@ci.oakley.ca.us. Constant Contacts. Please contact us at (925) 625-7000 for additional information or at www.oakleyinfo.com.

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

Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority

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

1.2 Pledge of Allegiance to the Flag (Mayor Higgins)

1.3 Proclamation Recognizing Law Enforcement Records and Support Staff Appreciation Day
Proclamation

1.4 Proclamation Proclaiming the Month of November as Epilepsy Awareness Month
Proclamation

1.5 Proclamation Supporting United Against Hate Week November 14-20, 2021
Proclamation

1.6 Update by Zain Mehmood, Contra Costa Transportation Authority Citizen Advisory Committee

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 Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency and Special Public Financing Authority Meeting held October 26, 2021 (Libby Vreonis, City Clerk)
Minutes 10-26-21 Reg

3.2 Approve Minutes from the Special City Council Meeting held November 2, 2021 (Libby Vreonis, City Clerk)
Minutes 11-02-21

3.3 Accept Report out of Closed Session Memo from October 26, 2021 Special Meeting (Derek Cole, City Attorney)
Memo

3.4 Accept Report out of Closed Session Memo from October 26, 2021 Regular Meeting (Derek Cole, City Attorney)
Memo

3.5 Accept Report out of Closed Session Memo from November 2, 2021 Special Meeting (Derek Cole, City Attorney)

Memo

3.6 Authorize the City Manager to Execute a Consulting Services Agreement with BKF Engineers Inc., to Provide Preliminary Engineering Design Services for Capital Improvement Project Number 270 – Hall Street Extension Project (Kevin Rohani, P.E., Public Works Director/City Engineer)

Staff Report
1. Resolution
2. Proposal

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

3.8 City of Oakley Investment Report (1st Quarter FY 2021/22) (Tim Przybyla, Finance Director)

Staff Report
1. City of Oakley Investment Report for the Quarter Ended September 30, 2021

3.9 City of Oakley as Successor Agency to the Oakley Redevelopment Agency Quarterly Investment Report (1st Quarter FY 2021/22) (Tim Przybyla, Finance Director)

Staff Report
1. City of Oakley as Successor Agency to the Redevelopment Agency Investment Report for the quarter ended September 30, 2021.

3.10 Acceptance of Subdivision Improvements Associated with the Stonewood Unit 1B Subdivision 8760, Subdivision 8807, and Subdivision 9534 for the Carpenter Road extension Improvements between Cinnamon Ridge Drive to Rose Avenue (Kevin Rohani, P.E., Public Works Director/City Engineer)
Staff Report
1. Resolution
2. Exhibit
3. Grant Deed 1
4. Grant Deed 2
5. Grant Deed 3

3.11 Accepting a portion of Subdivision Improvements Associated with the Gilbert Property (Delaney Ranch) Phase 1 Subdivision 9473 located at the southeast corner of Sellers Avenue and Golden State Parkway (Kevin Rohani, P.E., Public

Works Director/City Engineer)
Staff Report
1. Resolution
2. Exhibit

3.12 Accepting a portion of Subdivision Improvements Associated with the Gilbert Property (Delaney Ranch) Phase 2B Subdivision 9481 located at the northeast corner of Sellers Avenue and Golden State Parkway (Kevin Rohani, P.E., Public Works Director/City Engineer)
Staff Report
1. Resolution
2. Exhibit

3.13 Approving the Agreement with Bridgehead Gas & Oil Corporation for "Stormwater Management Facility Operations and Maintenance Agreement and Right of Entry" for the 5433 Neroly Road Chevron (DR 01-18) project located at 5433 Neroly Road and authorizing the City Manager to execute the agreement (Kevin Rohani, P.E., Public Works Director/City Engineer)
Staff Report
1. Resolution
2. Exhibit
3. Agreement

3.14 Adopt the Resolution that would authorize the City Manager to submit a grant application to Sacramento-San Joaquin Delta Conservancy for approximately $2M to fund the implementation of restoration of Marsh Creek upstream of Oakley Creekside Park. (Joshua McMurray, Interim City Manager)
Staff Report
1. Resolution

4.PUBLIC HEARINGS

4.1 Introduction of An Ordinance of the City Council of Oakley Enacting Section 2.7.003 of the Oakley Municipal Code Adopting a By-District System for (i) Electing Five Members of the City Council, or (ii) Electing Four Member of the City Council and an Elected Mayor (TIMED ITEM AT 7:00 PM OR AS SOON THEREAFTER) (Derek Cole, City Attorney)

***THOSE WISHING TO LISTEN IN/OR PARTICIPATE IN THE PUBLIC HEARING MAY DO SO BY CALLING: 1 (669) 900-9128 AND USING ID# 858 0900 5401. CALLERS ARE ASKED TO MUTE PHONES UNLESS SPEAKING.**
Staff Report
1. Ordinance Adopting 5 Council Districts
2. Ordinance Adopting 4 Council Districts, with 1 Elected Mayor

3. Final Map for 5-Member Council Districts
4. Final Map for 4-Member Council Districts

4.2 Oakley Village Subdivision 9577 (TM 05-20) - request for Approval of a Vesting Tentative Map to Subdivide an Approximately 14.75-Acre Site into 42 Single Family Residential Lots of Minimum 10,000 sf lot size. APNs 033-150-011 and 033-150-018 (Ken Strelo, Principal Planner)

Suggested Action: Staff Recommendation: 1) Receive the Staff Report, 2) Receive Questions from the City Council, 3) Open the Public Hearing, 4) Receive 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. Applicants Plans (received April 20, 2021)
4. Proposed Resolution

5.REGULAR CALENDAR

5.1 Adoption of a Resolution of the City Council of the City of Oakley Appointing Joshua McMurray as City Manager and Authorizing the Mayor to Execute an Employment Agreement with Mr. McMurray for City-Manager Services (Derek Cole, City Attorney)
Staff Report
1. Resolution
2. Exhibit A - Employment Agreement

5.2 Administer Oath of Office to Newly Appointed City Manager Joshua McMurray (Libby Vreonis, City Clerk)

5.3 Hearing for Special Assessment Regarding 87 Concannon Court, Oakley, California (APN 037-234-033) (Libby Vreonis, City Clerk)
Staff Report
1. Photo taken June 15, 2020
2. Notice of Violation dated June 16, 2020
3. Photos taken July 16, 2020
4. Notice of Violation dated July 16, 2020
5. Photos taken August 13, 2020
6. Administrative Citation dated August 18, 2020
7. Photos taken September 23, 2020
8. Administrative Citation dated September 23, 2020
9. Final Demand dated September 24, 2020

10. Photos taken October 8, 2020
11. Administrative Citation dated October 8, 2020
12. Notice of Violation dated October 8, 2020
13. Receipt of Payment ($200.00)
14. Photo taken November 12, 2020
15. Administrative Citation dated January 25, 2021
16. Notice of Violation dated January 25, 2021
17. Photos taken January 26, 2021
18. Notice of Violation and Order to Abate dated February 22, 2021
19. Photos taken February 25, 2021
20. Photos taken March 31, 2021
21. Photo taken April 21, 2021
22. Photos taken May 4, 2021
23. Photos taken May 5, 2021 (pre-abatement and post-abatement)
24. Report of Costs (Revised)
25. Notice of Hearing of Special Assessment of Costs dated October 14, 2021 and Report of Costs
26. Revised Notice of Hearing of Special Assessment of Costs dated October 21, 2021 and Report of Costs
27. Resolution

5.4 American Rescue Plan Act (ARPA) Update (Tim Przybyla, Finance Manager)
Staff Report
1. Business Needs Survey

5.5 Ordinance to Amend Chapter 20 of Title 4 of the Oakley Municipal Code Dealing with Solid Waste and Recycling (Joshua McMurray, Interim City Manager)
Staff Report
1. Draft Ordinance
2. Draft Municipal Code Amendment, Tracked from Current

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 SESSIONS

8.CLOSED SESSION

9.ADJOURN

OAKLEY
CALIFORNIA

Law Enforcement Records and Support Personnel Appreciation Day November 9, 2021

WHEREAS, the City Council of the City of Oakley appreciates the valuable contributions of our employees to the community; and

WHEREAS, the City Council wishes to specifically recognize and commend Police Records Assistants and Police Service Assistants for their outstanding dedication, hard work, and team effort in their roles as police support personnel; and

WHEREAS, the administrative professionals consistently demonstrate exemplary communication with community members, as well as with local, state and country-wide broadcasting of high-priority law enforcement information; and

WHEREAS, also demonstrated is excellent attention to detail with quality control, inventory, disposition of evidence and effective communication with the court community that is crucial to the successful completion of criminal cases; and

WHEREAS, dedication to the accuracy and efficient processing of police reports, property and evidence, court paperwork, and possess effective organizational skills which provide staff with assistance in the areas of data entry, filing, and report releases, along with positive and energetic attitudes make for a productive and pleasant workplace;

NOW, THEREFORE, BE IT PROCLAIMED that I, Sue Higgins, on behalf of the Oakley City Council, do hereby proclaim November 9, 2021 as LAW ENFORCEMENT RECORDS AND SUPPORT PERSONNEL DAY in the City of Oakley, and extend our gratitude to the Oakley Police Department Records staff and support personnel for their dedicated service to our community, their diligence, and their commitment to keeping our City and citizens safe.

November 9, 2021

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Sue Higgins, Mayor

OAKLEY
CALIFORNIA

Proclamation

Epilepsy Awareness Month
November 2021

WHEREAS, epilepsy is a neurological condition characterized by recurrent, unprovoked seizures; and

WHEREAS, epilepsy and seizures affect three million people across the United States, including many children and adults in the state of California diagnosed with recurring seizures; and

WHEREAS, epilepsy can affect anyone no matter what their gender, race, age, religion, education background or socioeconomic status; and

WHEREAS, epilepsy is the third most common neurological disorder among adults in the United States, behind Alzheimer's disease and stroke; and

WHEREAS, ten percent of the American population will experience a seizure in their lifetime; three percent will develop epilepsy by age 75; and

WHEREAS, while epilepsy cannot currently be cured, many of those diagnosed with epilepsy can control their seizures with modern medicine and surgical techniques; and

WHEREAS, people with epilepsy continue to face social stigmatization and discrimination; and

WHEREAS, National Epilepsy Awareness Month is designed to increase the awareness of the disorder in an effort to encourage more Americans to understand the effects of epilepsy.

NOW, THEREFORE, BE IT RESOLVED that I, Sue Higgins, Mayor of the City of Oakley, and on behalf of the Oakley City Council do hereby proclaim the month of November as Epilepsy Awareness Month and encourage all citizens to join me in recognizing the importance of this month.

November 9, 2021

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Sue Higgins, Mayor

OAKLEY
CALIFORNIA

Proclamation

Supporting

United Against Hate Week

November 14-20, 2021

WHEREAS, the United States is a nation of immigrants, whose strength comes from its diversity; and

WHEREAS, the Constitution enshrines equality on all individuals, regardless of race, gender, orientation, religion, or political views; and

WHEREAS, recent federal policies and rhetoric have generated a toxic environment that encourages the propagation of racist, xenophobic, anti-Semitic, sexist, homophobic, and other bigoted views by emboldened hate groups and individuals; and

WHEREAS, deep divisions within our country are the result of extreme ideology, further strengthening a cycle of mistrust and suspicion fueled by fear, anxiety, and insecurity. The number of hate crimes across the United States has increased dramatically over the past couple of years; and

WHEREAS, the City of Oakley is dedicated to preventing and opposing hate and intolerance in our communities; and

WHEREAS, education, compassion, and cooperation are key to unlocking understanding and embracing differences between people, and

WHEREAS, we seek to join other Bay Area, California and communities across the country in United Against Hate Week as an important step in bridging divisions and Strengthening our communities.

NOW, THEREFORE, BE IT RESOLVED that I, Sue Higgins, Mayor of the City of Oakley, and on behalf of the Oakley City Council, declares its support of United Against Hate Week in our community November 14-20, 2021 and each and every day beyond.

November 9, 2021

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Sue Higgins, Mayor

Minutes of Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority held October 26, 2021

1) OPENING MATTERS

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

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

1.2 Pledge of Allegiance to the Flag (Danny Melton, Freedom High School Student)

Danny Melton was not in attendance. Vice Mayor Pope led the Pledge of Allegiance.

1.3 Update from Brian Helmick, Fire Chief, East Contra Costa Fire Protection District

Fire Chief Brian Helmick presented an update including the District's background, historical challenges (serving the existing population and preparing to serve projected future growth), staffing needs, its path to increased services, and progress on its consolidation feasibility study. He addressed the District’s current status and its next steps.

Councilmember Meadows thanked him for his presentation and his work over the past five years. He commented he believes it is going in the right direction. He inquired if the training facility with Ironhouse could be a joint facility with Oakley Police or other Police agencies.

Chief Helmick responded that they always envisioned it as a regional training facility. He mentioned the more agencies involved increases complexity. He indicated the intent is to have an Ironhouse and East Contra Costa training facility; however, the way it is sustainable is to have it as a regional training facility, not just for law enforcement, but also for EMS and industry, where it can be multi-faceted. He mentioned timing and transition are important and it is not off the table, there is just some complexity right now and there is another party at the table, CCCFPD, which will continue to have conversations with Ironhouse. He mentioned the project is complex, but not meant to be exclusive.

Councilmember Williams commented she appreciates his work, the sacrifices made to consolidate, and transparency along the way.

Mayor Higgins and Vice Mayor Pope thanked Chief Helmick.

Mayor Higgins indicated the Council may need to pause to allow staff to set up for the public hearing item on districting (Item 4.1) to begin at 7 p.m.

City Attorney Derek Cole advised Public Comments and the Consent Calendar can be heard; the public hearing can start soon after 7 p.m.

2) PUBLIC COMMENTS

None.

3) CONSENT CALENDAR

3.1 Approve Minutes from Special Oakley City Council Meeting held October 5, 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/Public Financing Authority Meeting held October 12, 2021 (Libby Vreonis, City Clerk)

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

3.4 Waive the Second Reading and Adopt an Ordinance Updating the Mitigation Fees Imposed to Implement the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (Ken Strelo, Principal Planner)

3.5 Acceptance of Subdivision Improvements Associated with Bella Estates Minor Subdivision MS 14-978 (Located on west side of Daniel Drive) (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.6 Approving the Agreement with Main Street 108, LLC for "Agreement of Property Owner for Provision of Landscaping in the Public Right of Way" for Subdivision 9498 Acacia and authorizing the Interim City Manager to execute the agreement (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.7 Adopt a Resolution for the Abandoned Vehicle Abatement Fee Reauthorization and Election (Joshua McMurray, Interim City Manager)

3.8 Creating Zone 182 within the Oakley Special Police Tax Area consisting of the Ranchettes at Neroly project located east of Neroly Road and south of Oakley Road (APNs 041-080-001 and 041-080-002) (Kevin Rohani, P.E., Public Works Director/City Engineer)

3.9 Consideration of a Resolution Authorizing the Interim City Manager or his Designee to Execute any Necessary Amendments to the Master Equity Lease Agreement between the City of Oakley and Enterprise Fleet Management, Inc. for the Lease of Ten (10) Additional Vehicles and Adopting a Budget Amendment Allowing for the Sale of Fleet Vehicle Number 101 and the Purchase of a New Vehicle to Replace Vehicle Number 101 (Tim Przybyla, Finance Director)

Items 3.5, 3.7 and 3.9 were pulled by Councilmember Fuller.

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

Item 3.5

Councilmember Fuller commented he is interested in hearing more.

Interim City Manager Joshua McMurray responded that he can share the exhibit and the developer is present and available for any questions.

James Arellano, developer of the property, commented it has been a long journey, he is glad to get it finished, and he hopes the City will accept it.

Councilmember Fuller expressed concern regarding where Arellano's property line ends and the City's property line begins.

Mr. Arellano mentioned Daniel Drive and Nutmeg will be the City's street and the other half of the project is a private road.

Mr. McMurray pulled up an exhibit on the screen. He mentioned the area in yellow is a portion of Daniel Drive where right-of-way improvements have been installed and inspected; the remainder road in purple is private and the 4 retention basins in blue and offsite improvements are not part of the City's acceptance.

Councilmember Fuller commented the basin is on Arellano's land and flooding is happening in that area. He mentioned there is a civil suit. He inquired who is responsible to take the water off of the street.

Mr. Arellano commented there is an agreement between him and the property owners. He mentioned there is excess flooding coming from the bio soil and the recent excess rain caused some flooding and run off on the private area.

Sean Ross, an owner of one of the properties of Arellano's development, commented they have an agreement how to remedy the situation and that Mr. Arellano will take care of it by November 12th. He mentioned he supports acceptance and expressed appreciation of the Council's consideration.

Councilmember Fuller commented he is happy to hear that, but wants to move the item to the first meeting in December once that has been taken care of so it is not a hanging matter.

City Attorney Derek Cole mentioned the City doesn't have discretion not to accept these; it does not have authority to do that.

Councilmember Fuller commented if both parties are happy with the settlement, he will not move it, but he doesn't see any reason to stop it.

Mr. Arellano commented there is an agreement to address these issues which is separate from the acceptance of the Daniel Drive widening. He mentioned the project is basically complete with the exception of some fine things.

Lindsay Waters, an owner of one of the parcels of Arellano's development, commented there have been water drainage issues in one area in particular. She mentioned the last rain was the first rain since the road was put in and they noticed water drainage issues with The Ross' bio swell (her neighbors) and the private toad. She mentioned they spoke with the developer and

came to an agreement in which improvements will be made for full function of drainage and they are asking that the development be approved with the condition that these improvements be completed by November 12th. She mentioned they do not want to have the development approved "as- is" and then have the property owners responsible for it. She mentioned on the private portion of the road, the developer had to improve it, and if it is approved in its entirety and then given to the property owners and it is not draining properly, then the property owners incur the cost to get it to drain properly. She restated they are asking for a condition of approval for the work to be performed by November 12th to resolve drainage issue to ensure that if the drainage is not working properly, the City doesn't get to back out of it.

Councilmember Fuller inquired if Ms. Waters is content with this agreement.

Ms. Waters responded yes, that they all came to an agreement and it works if everyone keeps their word; if Mr. Arellano does what he says, then she is fine with it. She urged him to complete it as it has been a 3-year battle for everyone.

Councilmember Fuller requested the minutes reflect that Ms. Waters, Mr. Ross and Mr. Arellano have stated they have an agreement to resolve drainage issues by November 12th.

Councilmember Fuller moved to approve item 3.5 as the parties have expressed they have come to an agreement to resolve drainage issues by November 12th.

Mayor Higgins inquired if it can be inserted into this document for Council approval that Mr. Arellano must complete it by November 12th.

Mr. Cole responded it can be noted in the minutes and although the City supports what the property owners have done, the City does not have the legal means to compel this; it is only accepting the improvements on the yellow part.

It was seconded by Councilmember Meadows to approve item 3.5. Motion was unanimous and so ordered. (5-0)

Item 3.7

Councilmember Fuller commented he is disturbed by the number of times residents are facing tax initiatives. He mentioned residents have provided impact fees, Measure X, and increases. He mentioned this is for abandoned vehicles which is great and is only $1.00, but it is $1.1 million. He mentioned he is trying to create an atmosphere where we are not sending all of these things out to the residents and keep it fair. He mentioned there is an increased garbage fee coming up at the first of the year and while it is not a tax, everyone has to have garbage service. He expressed preference to let this go.

Mr. McMurray explained the staff report reads that if the resolution is approved, it requires a majority of cities in Contra Costa County to approve a resolution similar to this. He mentioned at least 14 are taking it up and it requires a 2/3 vote of the public to get approved so voters will decide whether they want this as a tax or not.

Councilmember Williams commented she thought the staff report made that super clear. She mentioned the staff report also mentioned this tax makes sure the City gets some compensation for removal of abandon vehicles and the City doesn't take on all of that costs which costs the taxpayers money.

Mr. McMurray indicated that is correct.

Vice Mayor Pope commented this is not a new tax or new fee; it has been around for 30 or more years. He mentioned the law changed it from a fee to a tax. He explained it is $1 added to registration when registering a vehicle; it is not a tax on property and helps when a vehicle is abandoned. He shared he is in favor of letting the citizens vote on it.

It was moved by Vice Mayor Pope and seconded by Councilmember Williams to approve item 3.7. AYES: Higgins, Meadows, Pope, Williams. NOES: Fuller (4-1)

Item 4.1 was heard at this time. Item 3.9 was heard after item 4.1.

Item 3.9

Councilmember Fuller commented it would be nice if staff can move leasing vehicles into an electric car situation and he understands there is need for charging posts and infrastructure.

Finance Director Tim Przybyla commented Councilmember Fuller makes a good point and recommendation. He mentioned the one-year lease gives the City more ability to change if it wants to go toward electric vehicles. He added that electric pick-ups are a way of the future and he will watch for government solutions.

It was moved by Councilmember Fuller and seconded by Vice Mayor Pope to approve item 3.9. Motion was unanimous and so ordered. (5-0)

4) PUBLIC HEARINGS

4.1 Receipt of Public Input Regarding the Drafting of a Proposed Map or Maps and the Sequence of Elections for a District-Based System of Electing Oakley City Council Members (TIMED ITEM AT 7:00 PM OR AS SOON THEREAFTER) (Derek Cole, City Attorney)

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

City Attorney Derek Cole mentioned this is the second hearing to discuss the drawing of maps and thus far, the Council has held two meetings regarding communities of interest and an online meeting to draw maps. He paused and inquired if anyone is in need of translation services. Seeing no one, he continued. He mentioned from this point tonight on, the Council will have two meetings; the next meeting on November 9th he will introduce ordinance language to convert the city to a district system and he will present 2 ordinances: one ordinance for a five- member district system and another ordinance for a four-member and one at-large mayor district system. He shared that there must be two readings with ordinances and the ordinance must be same as in the first reading and is in the second reading other than clerical or typographical error changes. He indicated at its next meeting on November 9th, the Council will make a decision which option. He mentioned during the next meeting, they must introduce finalist maps and if there is a decision between two maps, they can make a final decision on a map in December. He mentioned the Council also needs to decide on November 9th which districts will run for

election in 2022. He explained tonight the direction is narrowing it down to get to two final maps for 5 districts and two final maps for 4 districts, or the Council can get it even further narrowed down to one map each.

Jane Hood posted the two draft maps the Council decided upon during it last districting meeting. She shared the districting page, including draft map B (5 districts option) and draft map C (4 districts option). She mentioned the City received five submissions of Communities of Interest (COI) since the last districting meeting; the first four comments indicate that the COI is represented well in district 1B and the fifth comment indicates district 2B represents the COI well but could be improved if the Brownstone corner could be included. She mentioned that corner was addressed in the previous districting meeting, but she can revisit it if the Council prefers. She expressed she is thankful for the public input received and tonight they can do more live mapping and/or pull up other maps.

Councilmember Williams commented she wasn't in attendance during the last meeting, but she feels strongly that the Council should have five districts. She mentioned the spirit of this is to make sure lots of people are represented and what she has seen in neighboring cities and even in Oakley's last City Council election, is that usually the person with the highest campaign financing or how much money is spent in it are the people who get elected. She expressed in the spirit of what the City is trying to accomplish, it could mean that sometimes districts are not represented at all and in a Mayor position, if in a certain district, they are able to provide more money for their campaign and people are just picking them for name recognition, it sort of defeats the purpose of what the Council is trying to do here by giving everyone equal access. She mentioned she likes the maps but has some concern with the deviation; even though within the allowed percentage, she has concern with communities that may be underrepresented. She added she read through the notes and does not see a way to make them more proportional.

Councilmember Fuller requested to review the demographics slide which Ms. Hood pulled up on the screen. He mentioned he doesn't see equal distribution for African Americans and Asians. He indicated map 1C appears more equitable for demographic data.

Mayor Higgins announced there was one online public comment submitted by Jeffrey Bird and it will be entered into the record. His comment indicated that Oakley is too small for districts and it makes no sense. He mentioned separating residents by districts will drive them further apart, it will only serve as a subject of contention and is not the intended goal of representation. He added that he does not think anyone in Oakley is voting based on race and he finds the notion appalling, offensive and disgusting.

Mr. McMurray commented there is one public comment from the phone line.

The caller greeted the Council.

Mayor Higgins greeted Paul Seger.

Mr. Seger commented when Diablo Water District went through this process, it seems there are a large percentage of renters in certain areas and he inquired why that didn't come forward. He mentioned income is not a great modifier, but a COI is certainly people who are renters versus homeowners as they have different values.

Councilmember Meadows inquired if the numbering of the districts can be changed.

Ms. Hood indicated she can do that, but deferred to the City Attorney for confirmation.

Mr. Cole responded it is up to the Council, but when specifying the order, it will need to have numbers, for example, from left to right or north to south.

Councilmember Meadows suggested to move 3 to 1, 1 to 2, 2 to 3, and leave 4 and 5.

Mr. Cole indicated no formal vote is required if there is consensus.

Councilmember Williams inquired if there is any overlay to see with the school district or other districts. She inquired why he wants the numbers changed.

Councilmember Meadows responded that most of the yellow 3B area is in the Antioch school district. He shared he wasn't looking at other agencies or overlay, it just seems to read better.

Mr. Cole commented there is usually some convention and this seems to be a coherent way to number districts.

Ms. Hood explained she started in the middle of the map with numbering to walk through the process.

Mr. Cole clarified that the yellow area will be 1, blue 2, red 3, green 4, and pink 5. He mentioned they will make changes to the numbers.

The Councilmembers nodded in favor.

Vice Mayor Pope requested to see the other map.

Ms. Hood mentioned she does not have an overlay of other agency maps, but would be happy to provide those if the City provides them to her; she mentioned these layers have only been what the City has provided.

Vice Mayor Pope suggested to switch 2 and 3 on this map with numbering.

The Councilmembers nodded in favor.

Councilmember Fuller indicated he could not hear what was said.

Mr. Cole mentioned the numbering will be from left to right.

Mr. Cole indicated they will bring those forward and the Council will have selected a map when it selects 4 or 5 districts. He mentioned they will publish these as finalist maps to the public.

Ms. Hood thanked the Council and indicated she will post the finalist maps to the public.

Councilmember Fuller inquired if the Council will decide tonight whether or not to have an at-large mayor.

Mr. Cole advised that the Council can give direction, but can't make a final decision tonight. He mentioned his preference is to have it agendized so the public is aware of the discussion.

Ms. Hood mentioned they will post for comments and she will share feedback the next time.

5) REGULAR CALENDAR

5.1 Pre-Approved Accessory Dwelling Units (ADU) Program - City Council Consideration to Approve the Program as Finalized, and Direct Staff to Initiate the Program (Ken Strelo, Principal Planner)

Principal Planner Ken Strelo presented the staff report.

Councilmember Williams thanked him for his work and expressed she loves it. She shared she tried to do an ADU several years ago this would make it easier. She inquired if design standards or more review is involved if someone wants a prefab ADU.

Mr. Strelo responded that potentially there could be more review involved. He mentioned the way state regulations and the ordinance is written, after a certain size, more discretion kicks in so this encourages people to build within the City's guidelines. He mentioned hopefully one of these designs will work and this is cheaper than a prefab building.

Councilmember Williams shared that the fees involved were a great portion of the cost so reducing those costs was a smart decision. She expressed concern of ADUs that may not be subject to the City's design guidelines, but some of that could be eliminated by the lot size requirement. She mentioned she loves the program and believes it will be beneficial to residents.

Councilmember Meadows commented it is a great program. He mentioned Mr. Strelo did a good job putting it together and it will definitely benefit residents, especially if they go with one of these four designs; it will speed up the process and make it a lot cheaper.

Vice Mayor Pope inquired how much discretion there is on the choice of sizes.

Mr. Strelo indicated there is full discretion. He shared staff tried to align it with what the ordinance states in that certain square footage, height and setbacks are allowed, but once someone goes over the allowance, more discretion is required. He mentioned if the size goes under 750, there are no fees. He shared that the consultants did a study of common lot sizes in the City and a smaller unit was needed, but still capable of having a living area, bedroom and bath.

Vice Mayor Pope inquired how married they are to these plans going forward.

Mr. Strelo responded they are pretty married for the program. He explained that TRB were hired as plan check consultants and the plans were approved by them and the City spent money to have an architect design the plans.

Vice Mayor Pope commented they can be changed, but there would be some expense.

Mr. Strelo mentioned plans could be added at additional expense.

Vice Mayor Pope mentioned the intent of an ADU is an in-law living space or studio, not to squeeze another house on a residential lot. He clarified this was not Council initiated, but rather

is state law. He mentioned he is in favor of smaller units to keep in the spirit of the intent of an ADU, but other than that, it is well thought out and well put together. He mentioned he is not crazy about exemption from impact fees because the person in the ADU is still using police, parks, streetlights, etc. He commented that may be a catch-22 in making the ADUs smaller.

Councilmember Meadows inquired if 1,200 square feet is the maximum size.

Mr. Strelo confirmed it is.

Councilmember Meadows mentioned he assumes that is why one of the four options is at 1,200 square feet.

Mr. Strelo mentioned some people want larger ADUs that have larger lots and want to build larger ADUs; 1,200 square feet would accommodate a family.

Councilmember Meadows mentioned an applicant could bring in their own plans for 1,200 square feet or less if they don't choose one of these, but there is cost to that.

Mr. Strelo confirmed that is correct and mentioned a 15,000 square foot lot is required for a 1,200 square foot ADU and is subject to different setbacks than smaller structures.

It was moved by Councilmember Williams and seconded by Councilmember Meadows to approve item 5.1. AYES: Fuller, Higgins, Meadows, Williams. NOES: Pope. (4-1)

6) REPORTS

6.1 INTERIM CITY MANAGER

(a) Interim City Manager

Interim City Manager Joshua McMurray announced the Dia de los Muertos event will be held Saturday, October 30th, beginning at 4:00 p.m. at City Hall.

(b) Discussion Regarding the City of Antioch Proposed Cannabis Business Expansion Areas

Mr. McMurray mentioned the City of Antioch is proposing to expand its cannabis business zones and there are land adjacency issues with the cities of Oakley and Brentwood so the cities met to discuss the issue. He shared that Antioch is open to consider additional buffers afforded to their residents on Oakley and Brentwood borders which would include cannabis business zones 5 and 6 in Antioch. He mentioned zone 5 is more industrial and zone 6 is the Slatten Ranch area which would allow for store-front retail. He shared a list of uses and mentioned uses highlighted in yellow are uses allowed under zone 5 (i.e., cultivation, lab testing, manufacturing, distribution, etc.) and uses highlighted in blue are uses allowed under zone 6 (i.e., store front and delivery). He indicated Antioch has afforded its residents a 600-foot buffer from sensitive uses (residential parcels, childcare facilities, schools, and parks). He recommended sending a letter to Antioch to request the same buffers for Oakley borders in writing and include churches as Oakley usually includes churches in its sensitive uses. He shared the proposed buffer areas would include Magnolia Park and around the parcel west of the Neroly commercial center (area allows for future residential) and Laurel Ridge Church. He mentioned he spoke with the Antioch City Manager and Antioch's Planning Commission will hear this issue November 3rd.

Councilmember Fuller expressed concern that Oakley can send a letter and Antioch can go along with it now, but Antioch can change their General Plan next year and bring it back. He commented that Lamar Thorpe sees Antioch having potential to be the biggest cannabis distribution site in the state and Antioch is Oakley's neighbor so the only protection he sees possible would come from the State. He mentioned the State needs to examine it and determine if cities can have cannabis businesses, they need to maintain buffers with adjacent cities. He suggested splitting the cost with Brentwood for a lobbyist. He indicated the letter needs to be sent, but how long it will be honored is undetermined. He suggested looking at the Federal level to see if Oakley can have buffers. He commented it is still illegal on the Federal level to grow marijuana.

Councilmember Williams expressed concern regarding what obligation Antioch has to Oakley. She shared she is pro-cannabis and wants Oakley to reap tax benefits, but it is no good for it to be adjacent to Oakley because there are no benefits and Oakley could inherit negative impacts. She mentioned the County doesn't seem to give a lot of support to cities that have issues with it as the County dismissed what Brentwood said about it.

Mr. McMurray commented that Antioch may not agree to the ordinance, but they seemed willing to discuss it and it didn't seem like the answer was "no". He mentioned the Antioch Planning Commission has to make a recommendation to its Council and at least the letter will get it on record. He mentioned the letter will have more weight if signed by the Mayor.

Councilmember Meadows commented he is in support of the letter to Antioch requesting a 600-foot buffer and including churches as a sensitive use.

Vice Mayor Pope shared he was on the call with Antioch and they were not opposed to ask. He mentioned they asked them to give the same protection as their residents. He explained in Antioch there is a freeway between homes and these businesses. He requested the girls dance studio next to the Diamond Hills gym be included as a sensitive use. He noted prevailing winds blow odors from these businesses from Antioch into Oakley. He shared he drove on Wilbur Avenue with windows up and the smell was like a skunk so it is a quality of life issue. He expressed he is fully in support and suggested staff may want to research other avenues if Antioch chooses not to be a good neighbor.

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 Meadows reported he attended the Harvest Festival and it was well-attended. He mentioned some people ran out of food early. He expressed Lindsey did a good job. He also reported he attended a Transplan meeting last week and it had a joint meeting with Transpac in Central County. He shared he thought the purpose of the meeting was to hear a presentation regarding the Naval Weapons Station but it was postponed. He shared a CCTA presentation was provided instead.

Councilmember Williams reported the Harvest Festival was awesome and well-attended. She thanked the team for putting it on. She mentioned Ironhouse Sanitary District (ISD) has had a

couple of meetings. She reported there was an annexation discussion and discussion regarding the fire facility training ground. She mentioned Ironhouse still needs to approve it, but it is nice that it will be located in East County rather than driving to Concord which is great. She shared there was a discussion regarding returning to in-person meetings which will happen. She mentioned there was discussion regarding the emergency drought barrier in place at West Falls River and there was an amendment needed to the lease agreement to keep the barrier in place until November 30, 2022. She shared the current drought is the worst since 1976 and storage is under 22% reserve in most reservoirs. She mentioned there were 120 new connections. She announced a special meeting tomorrow will be held regarding next steps of land use at Jersey Island which is an amazing proposed project and will include residential, commercial, and a wildlife sanctuary component and bring people out here. She also reported that during the OUESD meeting a union representative for the teachers indicated there is a big gap in social-emotional educational learning and with COVID-19 SR3 money, the District received additional PPE funding and funding for communication and care situations where quarantine is required due to exposure. She mentioned funding was used for materials during quarantine and/or for large gaps due to quarantine. She also mentioned the District received additional funds for data tracking, 1st through 8th grades now have Chrome books for all students, and they received a $500k grant (out of 301 schools that applied) which helped facilitated Chrome books and hot spots for students. She shared the District also received a $177k grant to use for wireless upgrades which it needed. She mentioned the District approved a contract for virtual tutors and a contract for online resources for elementary and pre-K online learning.

Vice Mayor Pope reported he attended an HCP meeting yesterday where the big topics of discussion included the impact of rain on the restoration projects and a dozer line fire that cut across one of the wetland projects, He mentioned another big topic was approval of a solar farm near the Byron airport, not far from the Byron Hot Springs.

Mayor Higgins reported she buzzed around the Harvest Festival and enjoyed it.

(b) Requests for Future Agendas

Mayor Higgins requested an update regarding the City's communication with Brentwood regarding potential dispatch.

7) WORK SESSION

None.

8) CLOSED SESSIONS

Mayor Higgins announced the closed session item.

8.1 CITY ATTORNEY PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957

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

9) ADJOURN

There being no further business, the meeting was adjourned at 8:25 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk

Minutes of Special Meeting of the Oakley City Council held November 2, 2021

1) Call to Order and Roll Call

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

2) Closed Session

2.1 PUBLIC EMPLOYEE APPOINTMENT
Title: City Manager
Pursuant to Government Code Section 54954.5(e)

Mayor Higgins announced the Closed Session item.

The Council held its discussion in the antechamber.

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

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

3) Adjourn

There being no further business, the meeting was adjourned at 7:38 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk

OAKLEY
CALIFORNIA

MEMORANDUM

Office of the City Attorney

Date: October 28, 2021

To: Mayor and Members of City Council

From: Derek P. Cole, City Attorney

Subject: Closed Session Report-Out Memo

FOR CONSIDERATION AT THE CITY COUNCIL MEETING OF NOVEMBER 9, 2021

Background and Analysis

The City Council considered the following closed session item during its special meeting held October 26, 2021:

PUBLIC EMPLOYEE APPOINTMENT
Title: City Manager
Pursuant to Government Code Section 54954.5(e)

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

Fiscal Impact

None.

Recommendation

Receive and file this report.

Attachments

None.

OAKLEY
CALIFORNIA

MEMORANDUM

Office of the City Attorney

Date:	October 27, 2021
To:	Mayor and Members of City Council
From:	Derek P. Cole, City Attorney
Cc:	Joshua McMurray, Interim City Manager
Subject:	Closed Session Report-Out Memo

FOR CONSIDERATION AT THE CITY COUNCIL MEETING OF NOVEMBER 9, 2021

Background and Analysis

The City Council considered the following closed session item during its meeting held October 26, 2021:

CITY ATTORNEY PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957

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

Fiscal Impact

None.

Recommendation

Receive and file this report.

Attachments

None.

OAKLEY
CALIFORNIA

MEMORANDUM

Office of the City Attorney

Date: November 2, 2021

To: Mayor and Members of City Council

From: Derek P. Cole, City Attorney

Subject: Closed Session Report-Out Memo

FOR CONSIDERATION AT THE CITY COUNCIL MEETING OF NOVEMBER 9, 2021

Background and Analysis

The City Council considered the following closed session item during its special meeting held November 2, 2021:

PUBLIC EMPLOYEE APPOINTMENT
Title: City Manager
Pursuant to Government Code Section 54954.5(e)

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: November 9, 2021

Approved and Forwarded to the City Council

To: Joshua McMurray, Interim City Manager

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

Subject: Authorize the Interim City Manager to Execute a Consulting Services Agreement with BKF Engineers Inc., to Provide Preliminary Engineering Design Services for Capital Improvement Project Number 270 – Hall Street Extension Project

Background and Analysis

The City's Capital Improvement Program for Fiscal Year 2021/22 includes a project to design and construct the Hall Street Extension improvements from Main Street to the parking lot associated with the roadway infrastructure that will be constructed by the City of Oakley; and in coordination with the new Train Platform station that will be constructed by the railroad agencies.

The first phase of this project is performing the preliminary design of the Hall Street Extension in a northerly direction; as well as the connection to the new downtown parking lot and associated roadway infrastructure. There are some unique design elements that have to be analyzed for both the horizontal and vertical alignments related to the site before final design of the project can start later in 2022.

Staff requested a proposal from BKF Engineers, Inc. to perform the preliminary engineering design for the Hall Street Extension. BKF Engineers, Inc. is the premiere civil and transportation engineering firm in the bay area with in-depth expertise in the design and development of municipal downtown projects. They were involved in the downtown Oakley "Visioning" project and the design of the downtown Oakley improvements, and are best suited to design this project as well.

This preliminary design work will involve investigation of the existing topography and site conditions and will evaluate various options for the roadway extension; both horizontally and vertically, especially as this roadway extension connects to the new downtown parking lot.

The project schedule is to have all design work completed by the fall of 2022, and construction of the improvements to start by the spring of 2023.

Fiscal Impact
The funding for this design is allocated from the City's Traffic Impact Fee Fund.

Staff Recommendation
Staff recommends that the City Council adopt the resolution approving the proposal with BKF Engineers, Inc., for providing engineering design services associated with CIP Number 270 – Hall Street Extension Project and to authorize the Interim City Manager to enter into an agreement for a not to exceed amount of $47,000.00.

Attachments
1) Resolution
2) BKF Engineers Inc., Proposal

RESOLUTION NO.___-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING THE INTERIM CITY MANAGER TO SIGN A CONSULTING SERVICES AGREEMENT WITH BKF ENGINEERS INC., FOR PRELIMINARY DESIGN SERVICES FOR THE HALL STREET EXTENSION PROJECT – CAPITAL IMPROVEMENT PROJECT NUMBER 270

WHEREAS, as part of the Fiscal Year 2021/22 Budget the City of Oakley approved a 5-Year Capital improvement Program (CIP); and

WHEREAS, Project Number 270 is to extend Hall Street to connect to the new parking lot associated with the future train platform; and

WHEREAS, staff solicited a proposal from BKF Engineers Inc., for the design of this project; and

WHEREAS, BKF Engineers Inc., has submitted a comprehensive proposal at a very competitive cost for preliminary engineering design services for CIP Project Number 270 for an amount not to exceed $47,000; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the City Council of the City of Oakley hereby approves the proposal from BKF Engineers Inc., for engineering design services for CIP Project Number 270 for an amount not to exceed $47,000.00, in the form attached hereto as Exhibit A, and authorizing the Interim City Manager to execute this into an Agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th of November, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

10/27/2021
BKF No: P20211392-01

Kevin Rohani
City of Oakley
3231 Main Street
Oakley, CA 94561
Transmitted Via Email

Subject: CIP 270 – Downtown Oakley Hall Street Extension Project
Preliminary Design

Dear Mr. Rohani:

BKF Engineers welcomes the opportunity to submit this proposal for civil engineering services associated with the Hall Street Extension Project located in the City of Oakley, California. To arrive at the estimated effort required by our office for this project, we have outlined a proposed scope of services, identified assumptions, and determined a level of effort fee based on our understanding of the project.

I. PROJECT UNDERSTANDING

Based on your proposal request and information obtained from our last call, our understanding of the project is as follows:

> *The project proposes to extend Hall street in downtown Oakley from Main Street into the Norcross Parking Lot. The first phase of this project is performing the preliminary design of Hall Street Extension in a northerly direction and connection to the new downtown parking lot and associated roadway infrastructure. Design elements will be evaluated for the horizontal and vertical alignments related to the site before final design of the project can start later in 2022.*

II. BASIS OF DESIGN

This preliminary design work will involve investigation of the existing topography and site conditions and evaluate various options for the roadway extension, both horizontally and vertically especially as this roadway extension connects to the new downtown parking lot and associated roadway infrastructure.

III. SCOPE OF SERVICES

TASK 1: PRELIMINARY DESIGN AND SUPPORT

1. Project Management and Meetings: BKF will coordinate with the City to develop a timeline for the overall project, hold monthly meetings including preparation of agenda and minutes and review invoices. Anticipated meetings include internal coordination and coordination meetings with City staff.

2. Utility Research: BKF will evaluate existing utilities based on our history in developing downtown Main Street. We will contact utility owners including Diablo Water District (DWD), Ironhouse Sanitary District (ISD), Cablecom, AT&T, and PG&E, that serve the site or have utilities within the adjacent streets. We will gather the available record drawings and/or block maps to depict the record location of the utilities superimposed onto the existing topographic survey. BKF will also confirm any known (to the City and/or utility companies) deficiencies with the existing utilities serving the property and identify any planned upgrades that could impact the development.

3. Existing Conditions Review: BKF will visit the site to review the existing site constraints and conditions. We will note any potential challenges to development and confirm our scope of survey services to support the planning and permit processes.

4. Stormwater Programming: BKF will work with the City to identify a preferred strategy to achieve local and state stormwater quality compliance. Stormwater treatment facilities will be conceptually programmed into the development and coordinated with the City to confirm general feasibility.

5. Alternatives Development: BKF will prepare up to two alternatives and preliminary design documents as required for the City Review process. The following plans will be prepared for the preliminary design submittal:

    a. Existing Site Plan – topographic survey, existing site improvements, and record project boundary
    b. Roadway Typical Section – Including roadway width with sidewalk and lane line dimensions.
    c. Geometric Alignment Plan – Showing the alignment plan and profile of the roadway and how it ties into the existing roadway infrastructure.
    d. Grading and Drainage Plan – showing preliminary drainage plan and connections to existing drainage infrastructure. We will evaluate tie-in elevations at the roadway limits. The plan will also identify if retaining walls will be necessary for the project.
    e. Utility Plan – showing new connections to the buildings, relocated services and new utility infrastructure.

6. Preliminary Design Calculations: BKF will perform preliminary water quality C.3 calculations (i.e. impervious areas, tributary drainage areas, storm outfall flows, BMP sizing, etc.) necessary to confirm the preliminary planning design proposed for Design Review. We will also calculate the preliminary earthwork quantities relative to the proposed grading plan.

7. Submittals: We have budgeted to provide one (1) formal submittal package for the alternative selection and up to two (2) resubmittals to address City comments.

IV. SCOPE QUALIFICATIONS AND ASSUMPTIONS

BKF Engineers' services are limited to those expressly set forth in the scope. We understand that BKF will have no other obligations or responsibilities for the project except as provided in this proposal letter, or as otherwise agreed to in writing. BKF will provide the scope of services consistent with, and limited to, the standard of care applicable to such services. Any participation in non-adversarial procedures, or other right to repair items, is considered as additional services. For the scope of work identified, we have assumed the following:

1) Basis of Design and Site Information
    a) Topographic Survey: A current design topographic base map at a scale of 1"=20' using ground surveying methods will be provided prior to the start of schematic design. This survey will include the location, rim, and invert of gravity utilities and location only 'dry' utilities within the project area along with evidence of other buried utilities. A record boundary for the project for use in design and building permit will be part of the survey. Survey will be based on existing established control on Main Street.

    b) Title Report: If necessary, current title reports for impacted properties will be provided by the City.

    c) Geotechnical Report: A geotechnical report for the project will not be provided at this phase.

d) Existing Utilities: Unless otherwise indicated or provided by others, any existing utilities identified on BKF's drawings/plans are based on information obtained by BKF, or provided to BKF, and may not be accurately documented in their horizontal location or vertical profile. Other utilities may be present that were not disclosed. BKF highly recommends that critical facilities be underground service alert (USA) located and potholed during design or prior to construction.

e) Potholing: Potholing services are not included in this proposal unless specifically identified. BKF can provide a separate scope of work and fee estimate for potholing services at the City's request.

V. SCHEDULE

We understand that the Preliminary Design and Support phase will commence at the end of 2021. Thought the final design is not yet approved, we understand that the City's schedule is to have all design work completed by fall 2022 and construction of the improvements to start by spring 2023.

VI. COMPENSATION

1. BASE SCOPE OF WORK
   BKF proposes to provide the services on a time and materials basis. We will invoice for our services on monthly basis per task summarized as follows:

Task	Description	Fee
1	Preliminary Design and Support	$ 45,760
RE	Reimbursable Expenses	$ 1,240
	Total Labor Fee	$47,000

Reimbursable expenses are anticipated for reproduction, mileage, express and messenger deliveries, and computer deliverable plots. Reimbursable expenses will be billed on a cost plus 10-percent markup basis.

For tasks requested by the owner or architect not defined in this scope of services, BKF will identify them as potential extra work. We can provide a scope and fee for these items or they may be tracked separately as extra work and billed on a time and materials per our attached rate schedule.

Thank you for the opportunity to present this proposal. We look forward to assisting in developing this project. Please contact me at (408) 706-4036 or mcosentino@bkf.com if you have any questions regarding our scope of services.

Respectfully,
BKF Engineers

Marcelo H. Cosentino, PE
Associate

BKF ENGINEERS
PROFESSIONAL SERVICES RATE SCHEDULE

JANUARY 1, 2021 – DECEMBER 31, 2021

CLASSIFICATION	HOURLY RATE
PROJECT MANAGEMENT	
Principal/Vice President	$251.00
Senior Associate/Vice President	$225.00
Associate	$219.00
Senior Project Manager | Senior Technical Manager	$218.00
Project Manager | Technical Manager	$213.00
Engineering Manager | Surveying Manager | Planning Manager	$197.00
TECHNICAL STAFF	
Senior Project Engineer | Senior Project Surveyor | Senior Project Planner	$183.00
Project Engineer | Project Surveyor | Project Planner	$160.00
Design Engineer | Staff Surveyor | Staff Planner	$140.00
BIM Specialist I, II, III	$140.00 - $160.00 - $183.00
Technician I, II, III, IV	$133.00 - $142.00 - $155.00 - $167.00
Drafter I, II, III, IV	$104.00 - $114.00 - $123.00 - $138.00
FIELD SURVEYING	
Survey Party Chief	$182.00
Instrumentman	$157.00
Survey Chainman	$117.00
Utility Locator I, II, III, IV	$95.00 - $135.00 - $161.00 - $184.00
Apprentice I, II, III, IV	$72.00 - $97.00 - $107.00 - $113.00
CONSTRUCTION ADMINISTRATION	
Senior Consultant	$239.00
Senior Construction Administrator	$207.00
Resident Engineer	$154.00
Field Engineer I, II, III	$140.00 - $160.00 - $183.00
ASSISTANTS	
Project Assistant	$88.00
Engineering Assistant | Surveying Assistant | Planning Assistant	$86.00
Clerical | Administrative Assistant	$74.00

Expert witness rates are available upon request.

Subject to the terms of a professional services agreement:

- Charges for outside services, equipment, materials, and facilities not furnished directly by BKF Engineers will be billed as reimbursable expenses at cost plus 10%. Such charges may include, but shall not be limited to: printing and reproduction services; shipping, delivery, and courier charges; subconsultant fees and expenses; agency fees; insurance; transportation on public carriers; meals and lodging; and consumable materials.
- Allowable mileage will be charged at the prevailing IRS rate per mile.
- Monthly invoices are due within 30 days from invoice date. Interest will be charged at 1.5% per month on past due accounts.

CITY OF OAKLEY
Downtown Oakley - Hall Street Extension Project
CIP 270

Updated 10/28/2021

TASK	SCOPE DESCRIPTION	2021 Rates PIC (Gordon Sweet)	PM (Marcelo Cosentino	Walter Stemberga (Survey Manager)	Jeff Wang (Traffic Engineer)	QA/QC (Carmelo Cecilio)	Engineering/ Surveying Manager	Senior Project Engineer/ Surveyor	Project Engineer/ Surveyor	Design Engineer/ Staff Surveyor	Technician III	Survey Party Chief	Survey Chain Man	Admin	Total Hrs	EST FEE
		$251.00	**$219.00**	**$219.00**	**$219.00**	**$213.00**	**$197.00**	**$183.00**	**$160.00**	**$140.00**	**$155.00**	**$182.00**	**$117.00**	**$74.00**		
TASK 1	Preliminary Design															
1.1	Project Management and Meetings	4	24												28	$ 6,260.00
1.2	Utility Research		2				2	4		8	8				24	$ 3,924.00
1.3	Existing Conditions Review		2	2				4	8		16	16	16		64	$ 10,152.00
1.4	Stormwater Programming		4			2	2	4	6	12	12				42	$ 6,928.00
1.5	Alternatives Development		6		4	2	4	8	12	24	32				92	$ 15,108.00
1.6	Preliminary Design Calculations		4			2	2	4	6						18	$ 3,388.00
	Subtotals	4	42	2	4	6	10	24	32	44	68	16	16	-	268	$ 45,760.00

	PIC (Natalina Bernardi)	PM (Marcelo Cosentino	Associate (Davis Thresh)	Jeff Wang (Traffic Engineer)	QA/QC (Carmelo Cecilio)	Engineer IV/ Survey IV	Engineer III/ Survey III	Engineer II/ Survey II	Engineer I/ Survey I	Drafter III	Survey Party Chief	Survey Chain Man	Admin	Total	Total Labor
Totals By Classifications	4	42	2	4	6	10	24	32	44	68	16	16	-	268	$ 45,760.00
Total Direct Labor	$ 1,004.00	$ 9,198.00	$ 438.00	$ 876.00	$ 1,278.00	$ 1,970.00	$ 4,392.00	$ 5,120.00	$ 6,160.00	$ 10,540.00	$ 2,912.00	$ 1,872.00	$ -	$ 45,760.00	

Reimbursables	
Printing, Deliver, Mileage, Postage, Parking	$ 1,240.00
Reimbursable	$ 1,240.00

PROJECT TOTAL	$ 47,000.00

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 9, 2021

Approved and Forwarded to the City Council

TO: Joshua McMurray, Interim City Manager

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

SUBJECT: **Fiscal Year (FY) 2021/22 First Quarter Report on the Capital Improvement Program**

Background and Analysis

This report summarizes the status of the various projects in the City of Oakley Capital Improvement Program (CIP) at the end of the First Quarter for FY 2021/22.

The City's CIP is a multi-year forecast of capital needs that include new construction projects and planned improvements of existing facilities. The CIP establishes structure by identifying, prioritizing, approving, and the funding of capital improvement projects. Since the demand for capital projects typically exceeds the amount of available funds, projects are prioritized based on the City Council's strategic goals.

The following highlights some of the more high profile projects and their progress in the First Quarter of FY 2021/22 (July-September 2021):

1. Laurel Road Resurfacing Project (Empire Avenue to O'Hara Avenue)

Project # 250
Schedule: Complete
Budget: $3,800,000
Funding Source: Street Maintenance & Rehabilitation Fund

Laurel Road is a major arterial roadway in Oakley and a direct connection to Highway 4. Laurel Road carries tens of thousands of vehicles each day and is the primary truck route that is used to bring materials and supplies to various construction sites in Oakley. This project will remove and replace the deteriorated asphalt and base materials, and after the preparation of the new base, a new asphalt surfacing will be placed on this section of Laurel Road followed by new striping. The new striping of Laurel Road will include protected

Bike Lanes which will provide space that is exclusively for bicyclists and separated from motor vehicle travel lanes. The construction of this project has been successfully completed.

2. Oakley Regional Community Park Project

Project # 176
Schedule: Grant funding is in process
Budget: $3,547,859 Local Fund, Grant Amount to be determined in future
Funding Source: State Grant, Community Park Fund, and Park Impact Fee

This project transforms a 55-acre site at the end of Sellers Avenue that was given to the City as part of the development agreements with the Emerson and Gilbert Ranch development projects. This 55-acre site had a number of older structures related to a dairy farm that has been closed for decades. The first phase of this project was to demolish the old and abandoned structures, which were a safety concern, and to clean up the site. This task was accomplished in the summer of 2019. In March of 2021, the City applied for a State Proposition 68 grant to fund the first phase of this project and expects to hear the results by end of 2021. The construction of the Oakley Regional Park will span several years as funding is secured through a combination of Grants and local funds.

3. Police Department Parking Lot Expansion Project

Project # 253
Schedule: Construction is underway
Budget: $900,000
Funding Source: General Capital Fund

The existing Police Department parking lot does not have adequate space for all of the vehicles and equipment that are used by Police Department staff. This problem has necessitated the utilization of off-site locations for parking and equipment storage. This approach is neither efficient nor safe. The scope of work includes the grading and paving of a new parking lot that will connect the existing Police Department parking lot to West Ruby Street. The new parking lot will have landscaping and lights similar to the rest of the parking lots at the Civic Center, and will complement the parking facilities that are currently in use. This new parking lot will provide Police Officers direct access to West Ruby Street and other major streets in Oakley without having to navigate the busy parking lot that is used by Black Bear Diner Restaurant customers. This will be a significant safety improvement. The construction of the project is currently underway and it is anticipated that the construction work will be completed by spring 2022.

4. Civic Center Roof Replacement Project

Project # 256
Schedule: Construction is complete
Budget: $375,000
Funding Source: Facility Fund

The Civic Center buildings are divided into 4 sections with differing roof architecture. The roofs for these buildings are a combination of concrete tiles and composition shingles and have deteriorated over the years. The roofs have sustained multiple failures including damage from water leakage during the rainy seasons. The major components of this project include: replacement of the composition shingles with a uniform membrane roof, replacement of sealants at all roof penetrations, adjusting and securing concrete tiles with new adhesive, replacing failed flashing components, replacing all failed fiber cement used on the parapet wall with a uniform membrane, and removal of the composition shingles from vertical walls and replacement with a uniform membrane system. The construction of this project has been successfully completed.

5. Civic Center Park Renovation Project

Project # 254
Schedule: Construction is complete
Budget: $450,000
Funding Source: Park Impact Fee Fund

The Oakley's Civic Center is a beautiful campus that includes the City Hall facilities and an Amphitheater with a Park that has been used by the community for public events and gatherings throughout the year. The renovation of the Civic Center Park includes: Amphitheater concrete seats, children's playground, playground surfacing, picnic area, Sequoia tree planting, and perimeter fencing. This park and playground has become a favorite spot for residents to visit and enjoy its features. The construction of this project has been successfully completed.

6. Downtown Gateway Plaza Roadway and Parking Lot Project

Project # 205
Schedule: Design is underway
Budget: $813,613 for Design & $700,000 for Construction
Funding Source: Main Street Fund

The Downtown Gateway Plaza Roadway and Parking Lot Project will complement a new San Joaquin Joint Power Authorities train platform station located north of Main Street in the general area between 2nd Street and O'Hara Avenue. The San Joaquin Joint Power Authorities has secured the grant funding for the design and construction of the new platform station and will operate the train platform station after its construction. This train platform station is strategically located in downtown, adjacent to the Main Street Gateway Plaza and its associated parking lot. The roadway improvements and parking lot are designed and will be constructed by the City. The new parking lot is anticipated to provide over 300 parking spaces, and is a big part of the future for Downtown Oakley. It is anticipated that the respective design efforts by the San Joaquin Joint Power Authorities and the City will continue into 2022 followed by the construction of the project starting in 2023.

7. FY 2021/22 Curb, Gutter and Sidewalk Reconstruction Project

Project # 257
Schedule: Bidding is underway
Budget: $115,059
Funding Source: General Capital Projects

This project will repair and replace damaged concrete curb, gutter and sidewalk in the community as part of the 50-50 cost sharing program between the City and property owners. This project has been successfully implemented for the past few years, and will continue into FY 2021/22. This project has helped to provide safe pedestrian facilities and reduce liability and claims for trip and fall accidents. The construction of this project is anticipated to start in early 2022.

8. East Cypress Road Widening (Knightsen Avenue to Jersey Island Road) Project

Project # 247
Schedule: Design is underway
Budget: $6,280,000
Funding Source: Traffic Impact Fee (TIF)

The growth and development of new subdivision projects along the East Cypress Road corridor has necessitated various infrastructure improvements to accommodate the increased traffic volumes on this road. This project will widen and improve East Cypress Road to east of Knightsen Avenue to Jersey Island Road. The improvements will include curb and gutter, sidewalks and a median island. The widening will stop short of the Contra Costa Canal where the developer to the east of the canal will be responsible to continue the widening and improvement of East Cypress Road. The design of this project is currently underway and construction is anticipated to start in fall 2022.

9. Downtown Parking Lot Construction Project

Project # 215
Schedule: Construction is underway
Budget: $3,625,000
Funding Source: Main Street Fund, General Capital Fund

This project, in continuing the implementation of the Strategic Goals of the City Council to improve and enhance Downtown Oakley; will construct a new parking lot and associated street infrastructure on the north side of Main Street and the Norcross Lane intersection. This new parking lot will be located behind the Entrepreneur Center and the new Oakley Mercantile Building and will serve the greater downtown merchants and their customers. The construction of the project is currently underway, and it is anticipated that the construction work will be completed by spring 2022.

10. Oakley Civic Center Emergency Generator Project

Project # 228
Schedule: Construction is underway
Budget: $197,500
Funding Source: General Capital Fund

The Civic Center facility is the center of government in Oakley which handles all critical functions for the community residents, including Police services. The current facility does not have a standby emergency generator to address the frequent PG&E power outages that take place in this region. This project will install an emergency generator which will provide electricity to the entire Civic Center facility in times of power emergencies. The new generator has been delivered and installed and the City is currently working with PG&E to coordinate the power transfer to the new generator prior to the start-up operations. Once this PG&E task has been completed, the generator will be on standby and ready to supply electricity during future power outages. It is anticipated that the construction work will be completed by early 2022.

11. Holly Creek Restroom Construction Project

Project # 248
Schedule: Construction is underway
Budget: $350,000
Funding Source: Park Impact Fee Fund

This project will construct a permanent restroom facility at Holly Creek Park. The demand for City of Oakley recreational fields continues to grow, particularly

for organized sports such as Baseball and Soccer leagues. The field at Holly Creek Park is one of the favorite and much desired fields in Oakley for leagues to play their sporting activities. This park does not have any restroom facilities which necessitates the placement of portable toilets at this park. This approach has created many operational and sanitary issues and is not a sustainable solution to address the need for a public restroom facility. This project will construct a permanent restroom facility at this park similar to the restroom facility that was recently constructed at the Koda Dog Park. The construction of the project is currently underway and it is anticipated that the construction work to be completed by spring 2022.

Fiscal Impact

Each project listed in this report has a budgeted source of funds which have been approved by the City Council. These sources include Grants, Gas Tax, Measure J Sales Tax, Traffic Impact Fees, General Fund, Main Street Fund, and other Special Use funds. There is no fiscal impact associated with this CIP Update, this report is solely for informational purposes.

Staff Recommendation

The Oakley City Council should provide comments and input to staff on the CIP report for the First Quarter of FY 2021/22.

STAFF REPORT

DATE: November 9, 2021

TO: Joshua McMurray, Interim City Manager

Approved and Forwarded to the City Council

FROM: Tim Przybyla, Finance Director

SUBJECT: **City of Oakley Quarterly Investment Report (1st Quarter FY 2021/22)**

Background and Analysis

California law and the City's Investment Policy require the City's fiscal officer to submit a quarterly investment report to the City Council at the end of each quarter. The report should contain information on all securities held, and include a statement denoting the ability of the local agency to meet its expenditure requirements for the next six months.

Fiscal Impact

City resources are organized and accounted for on a fund basis with some of those funds being restricted for specified uses and others that are unrestricted. For investment purposes, however, the funds are invested as a pool. The Investment Report for the Period Ending September 30, 2021 attached shows a combined pool balance of $78,017,587.03. In addition, the pool had combined 1st Quarter accrued interest earnings of $44,530.92. Interest for the period continues to reflect the lower rates currently being offered on safe, short-term investments.

The City is in compliance with the adopted investment policy and able to meet its expenditure requirements for the next six months.

Staff Recommendation

Staff recommends the City Council accept the investment report for the 1st Quarter of Fiscal Year 2021/22.

Attachments

City of Oakley Investment Report for the quarter ended September 30, 2021.

OAKLEY
CALIFORNIA

Quarterly Investment Report

For the Quarter Ended September 30, 2021

Type*	Name of Institution	Rate	Maturity****	Cost Amount	Market Value**
Investments in Wells Fargo Bank Account					
12	Overnight Sweep Investment	0.000%	9/30/2021	$ 2,681,499.87	$ 2,681,499.87
Investments with Wells Fargo Investment Advisors:					
9	Institutional Money Market	0.010%	N/A	1,814,348.13	1,814,348.13
Investments with State of California:					
3	Local Agency Investment Fund (LAIF)-City	0.240%	N/A	72,756,853.63	72,747,661.60
Investments with CalTRUST					
11	Short-Term Investment Account-City	0.012%	N/A	274,126.10	274,126.10
Total Investments Other than Bond Proceeds				**77,526,827.73**	**77,517,635.70**
Investments with Wells Fargo Trust (bond proceeds): * **					
	2021 Refunding Revenue Bonds				
9	***Government Money Market***				
	Wells Fargo Advantage Gov MM Svc	0.003%	N/A	139,570.98	139,570.98
4	***Certificates of Deposit (3)***				
	2014 Refunding Revenue Bonds				
9	***Government Money Market***				
	Wells Fargo Advantage Gov MM Svc	0.003%	N/A	350,867.05	350,867.05
Investments with USBank Trust (bond proceeds): * **					
	2016 Lease Revenue Bonds				
9	***Government Money Market***				
	USBank - First American Government Obligation	0.000%	N/A	321.27	321.27
Total Investments of Bond Proceeds				**490,759.30**	**490,759.30**
	Total All City Investments			**$ 78,017,587.03**	**$ 78,008,395.00**

Accrued Interest of Investments other than Bond Proceeds:

Wells Fargo Investment Advisors	14.91
Local Agency Investment Fund	44,516.01
Accrued Interest as of 03/31/21	$ 44,530.92

* **Type of investment** as described in Authorized Investments section of the City's adopted Investment Policy

1. U.S Government Securities	5. Bankers Acceptance	9. Money market funds
2. U.S. Government Agency Securities	6. Commercial Paper	10. Repurchase agreements
3. Local Agency Investment Fund	7. Medium term notes	11. CalTRUST Short Term Account
4. Certificates of Deposit	8. Mutual funds	12. Overnight Sweep

** **Market Valuation** for LAIF was obtained at https://www.treasurer.ca.gov/pmia-laif/mktvalue/2021/202109.pdf
Market value for all other investments was obtained from FT Interactive Data. As the City holds its investments to maturity, market value fluctuations are not significant.

*** **Investment of bond proceeds** is governed by each bond's Trust Agreement. All of the amounts with Wells Fargo Trust are debt service reserve funds. Investment income remains with the individual bond accounts.

**** With the exception of CD's, all accounts have same day or next day liquidity

The City of Oakley is in compliance with the City's annually adopted investment policy and is able to meet its operating expenditure requirements for the next six months.

Approved by Tim Przybyla
Finance Director

10/18/21
Date

STAFF REPORT

DATE: November 9, 2021

TO: Joshua McMurray, Interim City Manager Approved and Forwarded to the City Council

FROM: Tim Przybyla, Finance Director

SUBJECT: **City of Oakley as Successor Agency to the Oakley Redevelopment Agency – Quarterly Investment Report (1st Quarter FY 2021/22)**

Background and Analysis

California law and the City's Investment Policy require the Agency's fiscal officer to submit a quarterly investment report to the Agency's governing board. The report should contain information on all securities held, and include a statement denoting the ability of the local agency to meet its expenditure requirements for the next six months.

Fiscal Impact

The Investment Report for the Period Ending September 30, 2021 attached shows a balance of $25,069.95 in cash for operations. To increase annual cash flow savings of refunding bonds, cash reserves were applied to bond insurance with Build America Mutual (BAM). The Reserve Requirements are satisfied in face amounts of $571,000 for 2015 Bonds and $1,827,318.76 for 2018 Bonds.

The Agency is in compliance with the City's annually adopted investment policy. The tax revenues distributed to the Agency is sufficient to make the Agency's enforceable obligation payments as approved by the Department of Finance.

Staff Recommendation

Staff recommends the City Council, as the Board of the Successor Agency, accept the investment report for the 1st Quarter of Fiscal Year 2021/22.

Attachments

City of Oakley as Successor Agency to the Redevelopment Agency Investment Report for the quarter ended September 30, 2021.

OAKLEY
CALIFORNIA

City of Oakley as Successor Agency to the Oakley Redevelopment Agency

Quarterly Investment Report

For the Quarter Ended September 30, 2021

Type*	Name of Institution	Rate	Maturity***	Cost Amount	Market Value
Investments in Wells Fargo Bank Account					
	Successor Agency Checking	0.160%	N/A	$ 25,069.95	$ 25,069.95
Total Investments Other than Bond Proceeds				**25,069.95**	**25,069.95**
Investments with US Bank Trust (bond proceeds): **					
	20015 A&B Tax Allocation Refunding Bonds			-	-
	2018 Tax Allocation Refunding Bonds			-	-
Total Investments of Bond Proceeds				-	-
	Total Agency Investments			**$ 25,069.95**	**$ 25,069.95**

* **Type of investment** as described in Authorized Investments section of the City's adopted Investment Policy

1. U.S Government Securities	5. Bankers Acceptance	9. Money market funds
2. U.S. Government Agency Securities	6. Commercial Paper	10. Repurchase agreements
3. Local Agency Investment Fund	7. Medium term notes	11. CalTRUST Short Term Account
4. Certificates of Deposit	8. Mutual funds	12. Overnight Sweep

** **Investment of bond proceeds** is governed by each bond's Trust Agreement. Reserve Requirements are satisfied by BAM surety policy in face amounts equal to $571,000 for 2015 Bonds and $1,827,318.76 for 2018 Bonds.

*** All Successor Agency accounts have same day or next day liquidity

The City of Oakley, as Successor Agency to the Oakley Redevelopment Agency, is in compliance with the City's annually adopted investment policy.

Approved by Tim Przybyla
Finance Director

10/13/21
Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 9, 2021

Approved and Forwarded to the City Council

TO: Joshua McMurray, Interim City Manager

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

SUBJECT: Acceptance of Subdivision Improvements Associated with the Stonewood Unit 1B Subdivision 8760, Subdivision 8807, and Subdivision 9534 for the Carpenter Road extension Improvements between Cinnamon Ridge Drive to Rose Avenue

---

Background and Analysis

On August 8, 1993, the Contra Costa County Community Development Department approved the Vesting Tentative Map for Subdivision 7662 for the Stonewood Development. Stonewood Unit 1B Subdivision 8760 is Phase 1B of the Stonewood development. Condition 30A requires the construction of the half width of Carpenter Road along the subdivision frontage.

On March 26, 2007, Resolution 37-07, the City of Oakley City Council approved the Vesting Tentative Map for Subdivision 8807 for the Villa Grove Subdivision. Condition of Approval 56 requires the construction of the half width of Carpenter Road along the project frontage.

On June 9, 2009, Resolution 82-09, the City of Oakley City Council approved the Vesting Tentative Map for Subdivision 9183 for the Stonewood 3 Subdivision. Stonewood 3 Unit 2 Subdivision 9534 is Phase 2 of the Stonewood 3 development. Condition of Approval 40 requires the construction of the half width of Carpenter Road along the project frontage.

Stonewood Oakley, LLC, Discovery Builders, Inc. and West Coast Home Builders, Inc, are the developers of these three subdivisions and have constructed the Carpenter Road extension per the approved improvement plans, “Carpenter Road Improvements Subdivision 8760”.

The developer has offered the Grant Deed for the associated right of way for this section of Carpenter Road and has requested for the acceptance of these deeds from the City. At this time, the Developer has requested that the City accept the improvements as public right of way and for maintenance. The Public Works and

Engineering staff has completed a final inspection of all public improvements and has found them to be in substantial compliance with the approved plans.

Fiscal Impact

Upon acceptance of the improvements, the City will be obligated to maintain the Public Infrastructure. Preventative street maintenance for public roadway are currently funded using Gas Tax.

Staff Recommendation

Staff recommends that the City Council adopt the Resolution accepting the subdivision improvements associated with the "Carpenter Road Improvements Subdivision 8760" and for the City to begin the maintenance obligation for the public infrastructure.

The Developer is responsible for a one year warranty period as outlined in the executed Subdivision Improvement Agreement related to design or material defects covered in the warranty period.

Attachments

1) Resolution
2) Vicinity Map
3) Grant Deed from Stonewood Oakley, LLC
4) Grant Deed from West Coast Home Builders, Inc.
5) Grant Deed from Discovery Builders, Inc.

RESOLUTION NO. __-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, ACCEPTING THE SUBDIVISION IMPROVEMENTS ASSOCIATED WITH THE CARPENTER ROAD EXTENSION FOR SUBDIVISION 8760, 8807, AND 9534 AND BEGINNING THE ONE YEAR WARRANTY PERIOD

WHEREAS, On August 8, 1993, the Contra Costa County Community Development Department approved the Vesting Tentative Map for Subdivision 7662 for the Stonewood Development. Stonewood Unit 1B Subdivision 8760 is Phase 1B of the Stonewood development. Condition 30A requires the construction of the half width of Carpenter Road along the subdivision frontage; and,

WHEREAS, On March 26, 2007, Resolution 37-07, the City of Oakley City Council approved the Vesting Tentative Map for Subdivision 8807 for the Villa Grove Subdivision. Condition of Approval 56 requires the construction of the half width of Carpenter Road along the project frontage; and,

WHEREAS, On June 9, 2009, Resolution 82-09, the City of Oakley City Council approved the Vesting Tentative Map for Subdivision 9183 for the Stonewood 3 Subdivision. Stonewood 3 Unit 2 Subdivision 9534 is Phase 2 of the Stonewood 3 development. Condition of Approval 40 requires the construction of the half width of Carpenter Road along the project frontage; and,

WHEREAS, Stonewood Oakley, LLC, Discovery Builders, Inc. and West Coast Home Builders, Inc, are the developers of these three subdivisions and have constructed the Carpenter Road extension per the approved improvement plans, “Carpenter Road Improvements Subdivision 8760”; and,

WHEREAS, the developer has offered the Grant Deed for the associated right of way for this section of Carpenter Road and has requested for the acceptance of these deeds from the City; and,

WHEREAS, the City of Oakley Public Works and Engineering staff has inspected the Subdivision Improvements and have determined that said improvements have been constructed in substantial compliance with the approved improvement plans titled “CARPENTER ROAD IMPROVEMENTS SUBDIVISION 8760”, prepared by Isakson & Associates, Inc.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley as follows:

a) Authorize the City Engineer to accept the Grant Deeds offered by Stonewood Oakley, LLC, West Coast Home Builders, Inc. and Discovery Builders, Inc. for this section of Carpenter Road, and

b) The roadway improvements for Carpenter Road are accepted and will begin the maintenance by the City, and

c) The one-year warranty period required by the agreement for Subdivision Improvements has begun as of the date of adoption of this resolution, and the developer shall repair any defective roadway improvements as identified by City personnel, so long as the defective improvements are identified within one-year of the date of the adoption of this resolution.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th of November, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

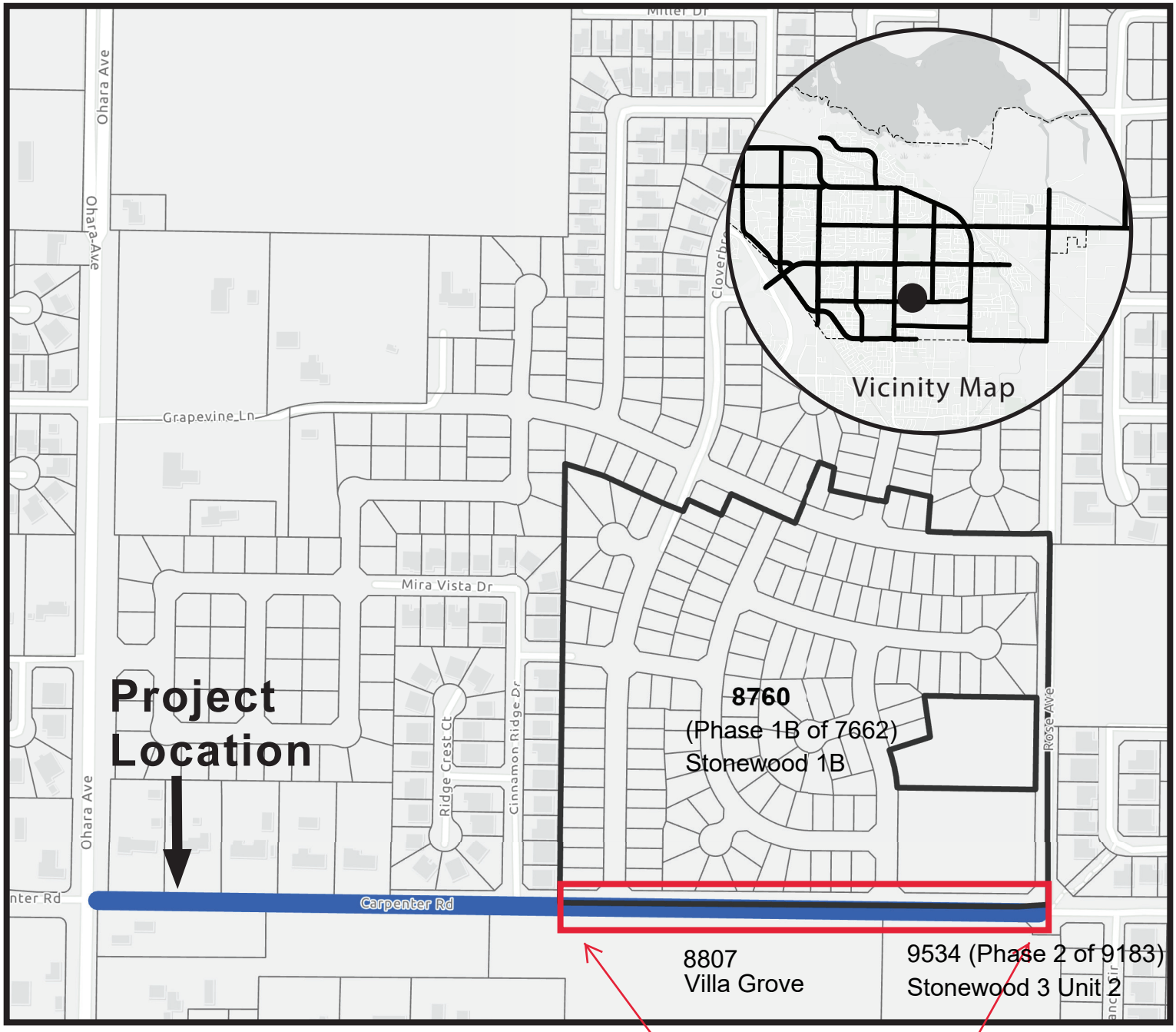
APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date



OAKLEY
CALIFORNIA

Carpenter Road Extension

Subdivision 8760
Attachment 2

APN 034-057-061

RECORDED AT THE REQUEST OF:
City of Oakley

WHEN RECORDED RETURN TO:
City Clerk
City of Oakley
32131 Main Street
Oakley, CA 94561

GRANT DEED

The undersigned grantor(s) declare(s):
Documentary Transfer Tax:____0____

( ) computed on full value of property conveyed
( ) computed on full value less value of encumbrances
( ) unincorporated area, and
(X) realty not sold

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

STONEWOOD OAKLEY, LLC.
a California Limited Liability Company

hereby **GRANTS** to the **CITY OF OAKLEY** a political subdivision of the State of California (hereinafter CITY), and its successors or assigns, for the purposes of a public road together with all necessary utilities and appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, the real property situated in the City of Oakley, County of Contra Costa, State of California, described in Exhibit "A" and shown in Exhibit "B" attached thereto.

Stonewood Oakley, LLC.
a California Limited Liability Company

Dated: 10/27/21

By_____
Albert D. Seeno, III
Authorized Agent

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT
(Civil Code §1189)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

On October 27, 2021, before me, CHRISTINE A. SARDELICH, a Notary Public, personally appeared **ALBERT D. SEENO III**, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that he~~/she/they~~ executed the same in his~~/her/their~~ authorized capacity~~(ies)~~, and that by his~~/her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

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

WITNESS my hand and official seal.

CHRISTINE A. SARDELICH
Notary Public - California
Contra Costa County
Commission # 2279368
My Comm. Expires Mar 8, 2023

SIGNATURE OF NOTARY

********** OPTIONAL **********

Title or Type of Document: Grant Deed

Signer~~(s)~~ are Representing: Authorized Agent for Stonewood Oakley, LLC.

Document Date: October 27, 2021

EXHIBIT A

LEGAL DESCRIPTION

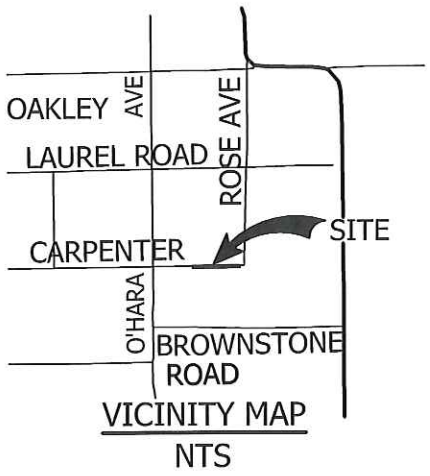
All that real property situated in the City of Oakley, County of Contra Costa, State of California, described as follows:

A strip of land designated as Carpenter Road located within the Subdivision Boundary shown on the Subdivision Map for Subdivision 8760, "Stonewood Unit 1B", filed on March 27, 2006 in Book 489 of Maps at Page 22 in the Office of the County Recorder of Contra Costa County, more particularly described as follows:

Beginning at the most southwest corner of said Subdivision 8760 (489 M 22) also being the centerline of Carpenter Road; thence from such Point of Beginning along the westerly boundary of said Subdivision 8760 North 00° 46' 04" East a distance of 35.00 feet; thence North 89° 30' 47" East a distance of 1,270.10 feet; thence North 45° 37' 38" East a distance of 28.21 feet to a point on the westerly boundary of Rose Avenue; thence South 00° 46' 04" West a distance of 54.90 feet to a point on the centerline of Carpenter Road; thence North 89° 30' 47" West a distance of 1,290.00 feet along the southerly boundary of Subdivision 8760 which coincides with the centerline of Carpenter Road to the Point of Beginning.

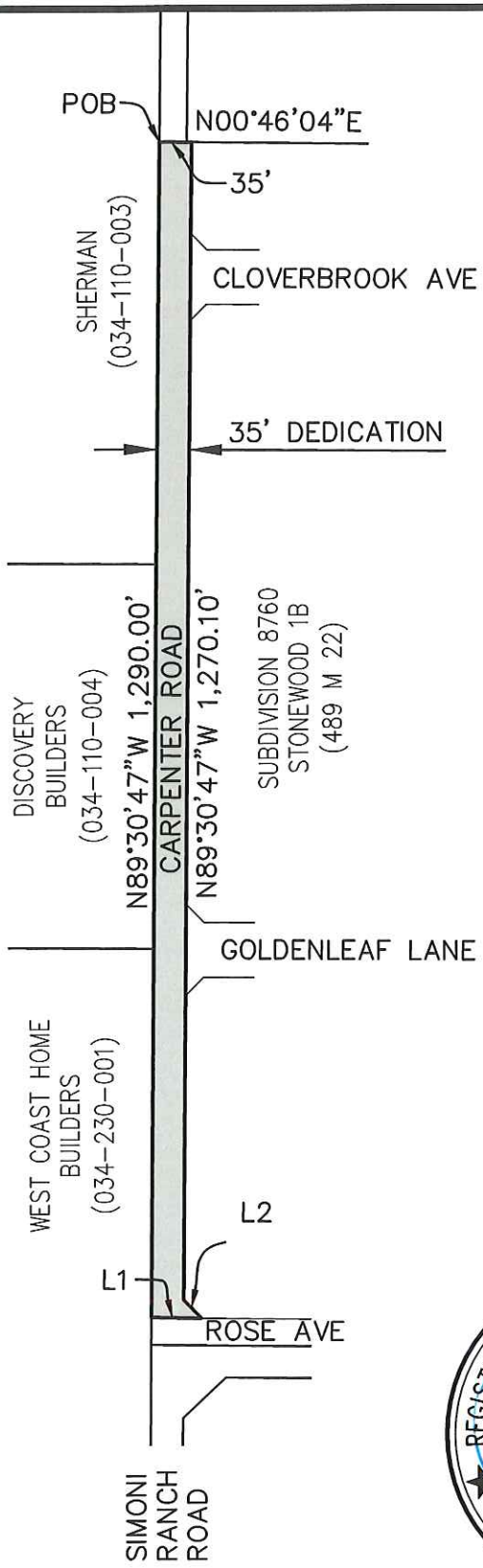
Containing an area of 45,348 square feet , more or less.





VICINITY MAP
NTS





LINE TABLE		
L1	N00°46'04"E	54.90'
L2	N45°37'38"E	28.21'

LEGEND:
POB = POINT OF BEGINNING



10/27/21

ISAKSON & ASSOCIATES INC.
1164 MOCCASIN COURT CLAYTON, CA. 94517
PHONE (925) 876-0889

EXHIBIT 'B'	SCALE: 1" = 200'	DATE: 10/27/2021	SHEET 1 OF 1
	CHECKED BY: DOI	DRAWN BY: RLB	

M:\Land Development\Rachel Booth\DWG\200303\DWG\PLAT\200303 CARPENTER RD PLAT_01.dwg

APN 034-047-046

RECORDED AT THE REQUEST OF:
City of Oakley

WHEN RECORDED RETURN TO:
City Clerk
City of Oakley
32131 Main Street
Oakley, CA 94561

GRANT DEED

The undersigned grantor(s) declare(s):
Documentary Transfer Tax:_____0_____

( ) computed on full value of property conveyed
( ) computed on full value less value of encumbrances
( ) unincorporated area, and
(X) realty not sold

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

WEST COAST HOME BUILDERS, INC.
a California Corporation

hereby **GRANTS** to the **CITY OF OAKLEY** a political subdivision of the State of California (hereinafter CITY), and its successors or assigns, for the purposes of a public road together with all necessary utilities and appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, the real property situated in the City of Oakley, County of Contra Costa, State of California, described in Exhibit "A" and shown in Exhibit "B" attached thereto.

West Coast Home Builders, Inc.
a California Corporation

Dated: 10/27/21

By_____
Albert D. Seeno, III
Chief Executive Officer

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

On October 27, 2021, before me CHRISTINE A. SARDELICH, a Notary Public, personally appeared Albert D. Seeno III, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(~~ies~~), and that by his/~~her~~/their signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Christine A. Sardelich

CHRISTINE A. SARDELICH
Notary Public - California
Contra Costa County
Commission # 2279368
My Comm. Expires Mar 8, 2023

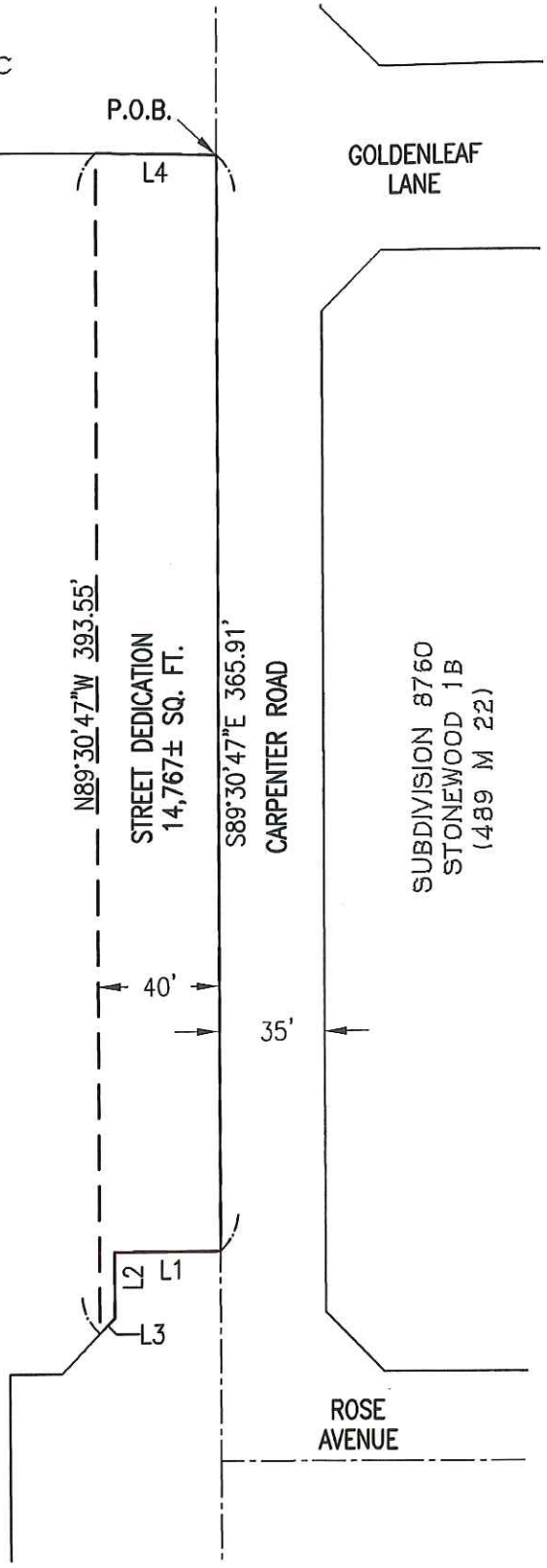
DISCOVERY BUILDERS INC
05-4808



SCALE 1"= 60'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S0°28'42"W	35.01'
L2	S89°31'18"E	22.13'
L3	S45°32'43"E	7.19'
L4	N0°57'49"E	40.00'

SUBDIVISION 9183
STONEWOOD 3 UNIT 1
DESIGNATED REMAINDER
(531 M 24)



LEGEND

P.O.B.	POINT OF BEGINNING
———	BOUNDARY LINE
—·—·—	CENTERLINE
— — —	EASEMENT LINE



10/27/21

Bellecci & Associates, inc.
Civil Engineering • Land Surveying
2290 Diamond Boulevard, Suite 100 Concord, CA 94520
Phone (925) 686-4569 Fax (925) 686-4838

DATE: 10/27/2021 | SCALE: 1" = 60'
PROJECT NO.: 17025 | SHEET 1 OF 1

EXHIBIT B

EXHIBIT A
LEGAL DESCRIPTION

Carpenter Road Street Dedication

All that real property situate in the City of Oakley, County of Contra Costa, State of California, described as follows:

A portion of that Designated Remainder parcel of land as shown on the map entitled *Subdivision 9183 "Stonewood 3 – Unit 1"*, recorded December 23, 2016 in Book 531 of Maps, at Page 24, Contra Costa County Recorder, further described as follows:

Beginning at the most northwest corner of last said Designated Remainder parcel *(531 M 24)*, also being the centerline of Carpenter Road; thence along the northerly boundary line of said Designated Remainder Parcel and the centerline of Carpenter Road South 89°30'47" East, 365.91 feet to a point on last said centerline of Carpenter Road; thence leaving last said centerline and continuing along last said Designated Remainder parcel boundary line South 0°28'42" West, 35.01 feet; thence South 89°31'18" East, 22.13 feet; thence South 45°32'43" East, 7.19 feet to a line parallel with and 40 feet southerly of the centerline of Carpenter Road; thence along said parallel line North 89°30'47" West, 393.55 feet to a point on the westerly boundary line of last said Designated Remainder parcel *(531 M 24)*; thence along said westerly boundary line North 0°57'49" East, 40.00 feet to the **Point of Beginning** of this description.

Containing an area of 14,767 square feet, more or less.



10/27/21

APN 034-110-007

RECORDED AT THE REQUEST OF:
City of Oakley

WHEN RECORDED RETURN TO:
City Clerk
City of Oakley
32131 Main Street
Oakley, CA 94561

GRANT DEED

The undersigned grantor(s) declare(s):
Documentary Transfer Tax: 0

( ) computed on full value of property conveyed
( ) computed on full value less value of encumbrances
( ) unincorporated area, and
(X) realty not sold

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

DISCOVERY BUILDERS, INC.
a California Corporation

hereby **GRANTS** to the **CITY OF OAKLEY** a political subdivision of the State of California (hereinafter CITY), and its successors or assigns, for the purposes of a public road together with all necessary utilities and appurtenances pertaining thereto, including construction access or maintenance of works, improvements and structures, whether covered or open, the real property situated in the City of Oakley, County of Contra Costa, State of California, described in Exhibit "A" and shown in Exhibit "B" attached thereto.

Discovery Builders, Inc.
a California Corporation

Dated: 10/27/21

By _____
Albert D. Seeno, III
Chief Executive Officer

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

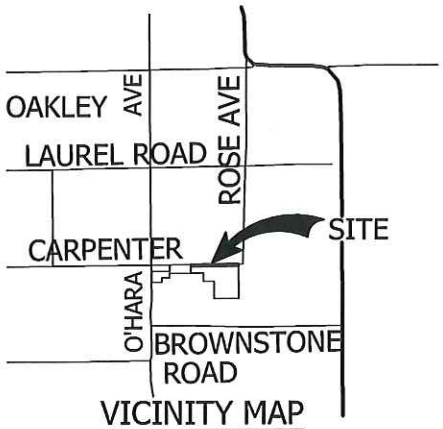
On October 27, 2021, before me CHRISTINE A. SARDELICH, a Notary Public, personally appeared Albert D. Seeno III, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: Christine A. Sardelich

CHRISTINE A. SARDELICH
Notary Public - California
Contra Costa County
Commission # 2279368
My Comm. Expires Mar 8, 2023

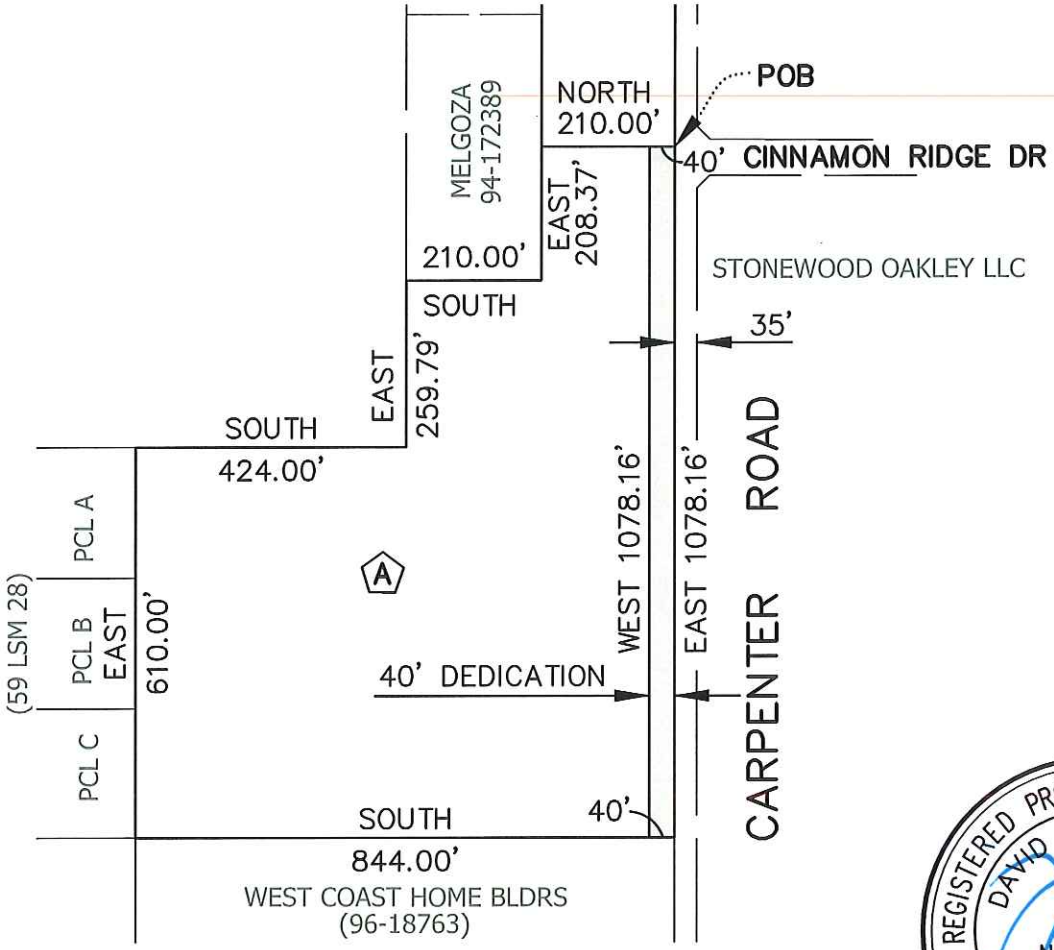


VICINITY MAP
NTS

Ⓐ PC 2, LLADJ 95-06
(2006-41560)

POB POINT OF BEGINNING

1"=300'



REGISTERED PROFESSIONAL ENGINEER
DAVID O. ISAKSON
NO. 21764
CIVIL
STATE OF CALIFORNIA

10/28/21

ISAKSON & ASSOCIATES INC.
1164 MOCCASIN COURT CLAYTON, CA. 94517
PHONE (925) 876-0889

EXHIBIT 'B'	SCALE: 1" = 300'	DATE: 10/27/2021	SHEET 1 OF 1
	CHECKED BY: DOI	DRAWN BY: RLB	

M:\Land Development\Rochel Booth\DWG\200338\DWG\PLAT MAP\200338-CARPENTER RD DEDICATION_02.dwg

EXHIBIT A
LEGAL DESCRIPTION
PORTION OF CARPENTER ROAD

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF OAKLEY, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, COMMONLY KNOWN AS CARPENTER ROAD DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE NEW PARCEL 2 AS SHOWN ON THE LOT LINE ADJUSTMENT LLA 05-06 RECORDED FEBRUARY 8, 2006 UNDER RECORDERS SERIAL NUMBER 2006-41560 IN THE OFFICE OF THE COUNTY RECORDER, CONTRA COSTA COUNTY, STATE OF CALIFORNIA.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH WEST CORNER OF SAID NEW PARCEL 2 (LLA 05-06), SAID POINT ALSO BEING A POINT ON THE CENTERLINE OF CARPENTER ROAD, THENCE ALONG SAID CENTERLINE EAST 1,078.16 FEET TO THE NORTHEAST CORNER OF SAID NEW PARCEL 2 (LLA 05-06), THENCE LEAVING SAID CENTERLINE SOUTH 40.00 FEET, THENCE PARALLEL TO SAID CENTERLINE WEST 1,078.16 FEET TO THE WEST PROPERTY LINE OF SAID NEW PARCEL 2 (LLA 05-06), THENCE NORTH ALONG SAID WEST PROPERTY LINE, NORTH 40.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 43,126.40 SQUARE FEET OR 0.99 ACRES OF LAND MORE OR LESS



OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 9, 2021

Approved and Forwarded to the City Council

TO: Joshua McMurray, Interim City Manager

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

SUBJECT: Accepting a portion of Subdivision Improvements Associated with the Gilbert Property (Delaney Ranch) Phase 1 Subdivision 9473 located at the southeast corner of Sellers Avenue and Golden State Parkway

Background and Analysis

On March 13, 2018, the City Council approved the final map for Gilbert Property Subdivision 9473 and the Subdivision Improvement Agreement with Contra Costa County Communities, LLC, a California Limited Liability Company, hereinafter referred to as the (Developer), to construct the necessary public infrastructure for this community.

The Developer has since completed all of the required improvements for Golden State Parkway (Sellers Avenue to Stickney Way), Marathon Drive (Golden State Parkway to Longmont Drive), McClelland Way, Davisco Drive, Avanti Way (Golden State Parkway to Longmont Drive), Longmont Drive, Delaney Parkway (Davisco Drive to Stickney Way), Stickney Way (Golden State Parkway to Delaney Parkway), and Delaney Parkway (entrance). At this time, the Developer has requested that the City accept the improvements for maintenance. The Public Works and Engineering staff has completed a final inspection of all public improvements and has found them to be in substantial compliance with the approved plans.

Fiscal Impact

Upon acceptance of the improvements, the City will be obligated to maintain the Public Infrastructure. Preventative street maintenance for public roadway is currently funded using Gas Tax and the Street Maintenance and Rehab Fund. Storm drains, lighting, and landscaping are funded through the Community Facilities District (CFD 2015-2).

Staff Recommendation

Staff recommends that the City Council adopt the Resolution accepting the subdivision improvements associated with Gilbert Property (Delaney Ranch) Phase 1 Subdivision 9473 and for the City to begin the maintenance of the public infrastructure for this subdivision.

Attachments

1) Resolution
2) Subdivision Acceptance Exhibit

RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, ACCEPTING A PORTION OF THE SUBDIVISION IMPROVEMENTS ASSOCIATED WITH THE GILBERT PROPERTY (DELANEY RANCH) PHASE 1 SUBDIVISION 9473 LOCATED AT THE SOUTHEAST CORNER OF SELLERS AVENUE AND GOLDEN STATE PARKWAY

WHEREAS, On March 13, 2018, the City Council approved the final map for Gilbert Property Subdivision 9473 and the Subdivision Improvement Agreement with Contra Costa County Communities, LLC, a California Limited Liability Company, hereinafter referred to as the (Developer), to construct the necessary public infrastructure for this community.

WHEREAS, the City of Oakley Public Works and Engineering staff has inspected the Subdivision Improvements and have determined the Developer has since completed all of the required improvements for Golden State Parkway (Sellers Avenue to Stickney Way), Marathon Drive (Golden State Parkway to Longmont Drive), McClelland Way, Davisco Drive, Avanti Way (Golden State Parkway to Longmont Drive), Longmont Drive, Delaney Parkway (Davisco Drive to Stickney Way), Stickney Way (Golden State Parkway to Delaney Parkway), and Delaney Parkway (entrance). At this time, the Developer has requested that the City accept the improvements for maintenance. The Public Works and Engineering staff has completed a final inspection of all public improvements and has found them to be in substantial compliance with the approved plans.

WHEREAS, staff recommends that the City Council adopt the Resolution accepting the subdivision improvements associated with Gilbert Property (Delaney Ranch) Phase 1 Subdivision 9473 and for the City to begin the maintenance of the public infrastructure for this subdivision.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley as follows:

a) Accept the dedication for Golden State Parkway (Sellers Avenue to Stickney Way), Marathon Drive (Golden State Parkway to Longmont Drive), McClelland Way, Davisco Drive, Avanti Way (Golden State Parkway to Longmont Drive), Longmont Drive, Delaney Parkway (Davisco Drive to Stickney Way), Stickney Way (Golden State Parkway to Delaney Parkway), and Delaney Parkway (entrance), for public use as recorded in Subdivision 9473 in Map Book 536, Page 1, and

b) The roadway improvements for Golden State Parkway (Sellers Avenue to Stickney Way), Marathon Drive (Golden State Parkway to Longmont Drive), McClelland Way, Davisco Drive, Avanti Way (Golden State Parkway to Longmont Drive), Longmont Drive, Delaney Parkway (Davisco Drive to Stickney Way), Stickney Way (Golden State Parkway to Delaney Parkway),

and Delaney Parkway (entrance) are accepted and begin the maintenance by the City, and

c) In accordance with the City Clerk's Statement on the Subdivision 9473 Final Map, this portion of the map related to these roads, avenues, drives, or easements and right of way dedications shown on the map as dedicated to public use are accepted.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th of November, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

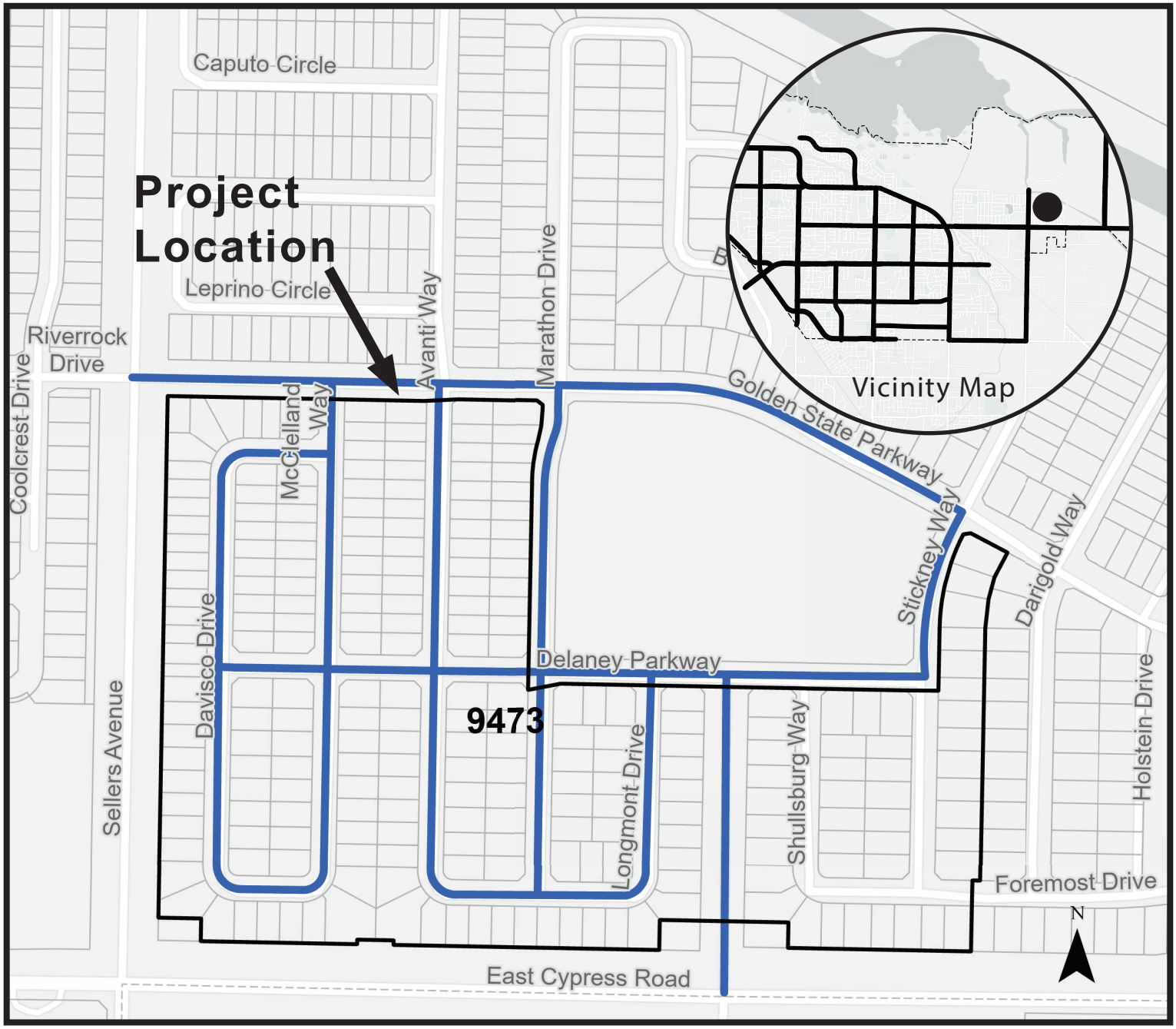
APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date



OAKLEY
CALIFORNIA

Subdivision Acceptance

Delaney Ranch (Subdivision 9473)

Attachment C

STAFF REPORT

DATE: November 9, 2021

Approved and Forwarded to the City Council

TO: Joshua McMurray, Interim City Manager

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

SUBJECT: Accepting a portion of the Subdivision Improvements Associated with the Gilbert Property (Delaney Ranch) Phase 2B Subdivision 9481 Located at the northeast corner of Sellers Avenue and Golden State Parkway

Background and Analysis

On May 8, 2018, the City Council approved the final map for Gilbert Property Subdivision 9481 and the Subdivision Improvement Agreement with Contra Costa County Communities, LLC, a California Limited Liability Company, hereinafter referred to as the (Developer), to construct the necessary public infrastructure for this community.

The Developer has since completed all of the required improvements for Avanti Way (Golden State Parkway to Caputo Circle), Leprino Circle, and Caputo Circle. At this time, the Developer has requested that the City accept the improvements for maintenance. The Public Works and Engineering staff has completed a final inspection of all improvements and has found them to be in substantial compliance with the approved plans.

Fiscal Impact

Upon acceptance of the improvements, the City will be obligated to maintain the Public Infrastructure. Preventative street maintenance for public roadway are currently funded using Gas Tax. Storm drains, lighting, and landscaping are funded through the Community Facilities District (CFD 2015-2).

Staff Recommendation

Staff recommends that the City Council adopt the Resolution accepting the subdivision improvements associated with Gilbert Property (Delaney Ranch) Phase 2B Subdivision 9481 and for the City to begin the maintenance of the public infrastructure for this subdivision.

Attachments

1) Resolution
2) Subdivision Acceptance Exhibit

RESOLUTION NO. __-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, ACCEPTING A PORTION OF SUBDIVISION IMPROVEMENTS ASSOCIATED WITH THE GILBERT PROPERTY (DELANEY RANCH) PHASE 2B SUBDIVISION 9481 LOCATED AT THE NORTHEAST CORNER OF SELLERS AVENUE AND GOLDEN STATE PARKWAY

WHEREAS, On May 8, 2018, the City Council approved the final map for Gilbert Property Subdivision 9481 and the Subdivision Improvement Agreement with Contra Costa County Communities, LLC, a California Limited Liability Company, hereinafter referred to as the (Developer), to construct the necessary public infrastructure for this community.

WHEREAS, the City of Oakley Public Works and Engineering staff has inspected the Subdivision Improvements and have determined the Developer completed all of the required improvements for Avanti Way (Golden State Parkway to Caputo Circle), Leprino Circle, and Caputo Circle. At this time, the Developer has requested that the City accept the improvements for maintenance. The Public Works and Engineering staff has completed a final inspection of all public improvements and has found them to be in substantial compliance with the approved plans.

WHEREAS, staff recommends that the City Council adopt the Resolution accepting the subdivision improvements associated with Gilbert Property (Delaney Ranch) Phase 2B Subdivision 9481 and for the City to begin the maintenance of the public infrastructure for this subdivision.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the City Council of the City of Oakley as follows:

a) Accept the dedication for Avanti Way (Golden State Parkway to Caputo Circle), Leprino Circle, and Caputo Circle, for public use as recorded in Subdivision 9481 in Map Book 538, Page 32, and

b) The roadway improvements for Avanti Way (Golden State Parkway to Caputo Circle), Leprino Circle, and Caputo Circle are accepted and begin the maintenance by the City, and

c) In accordance with the City Clerk's Statement on the Subdivision 9481 Final Map, this portion of the map related to these roads, avenues, drives, or easements and right of way dedications shown on the map as dedicated to public use are accepted.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th of November, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

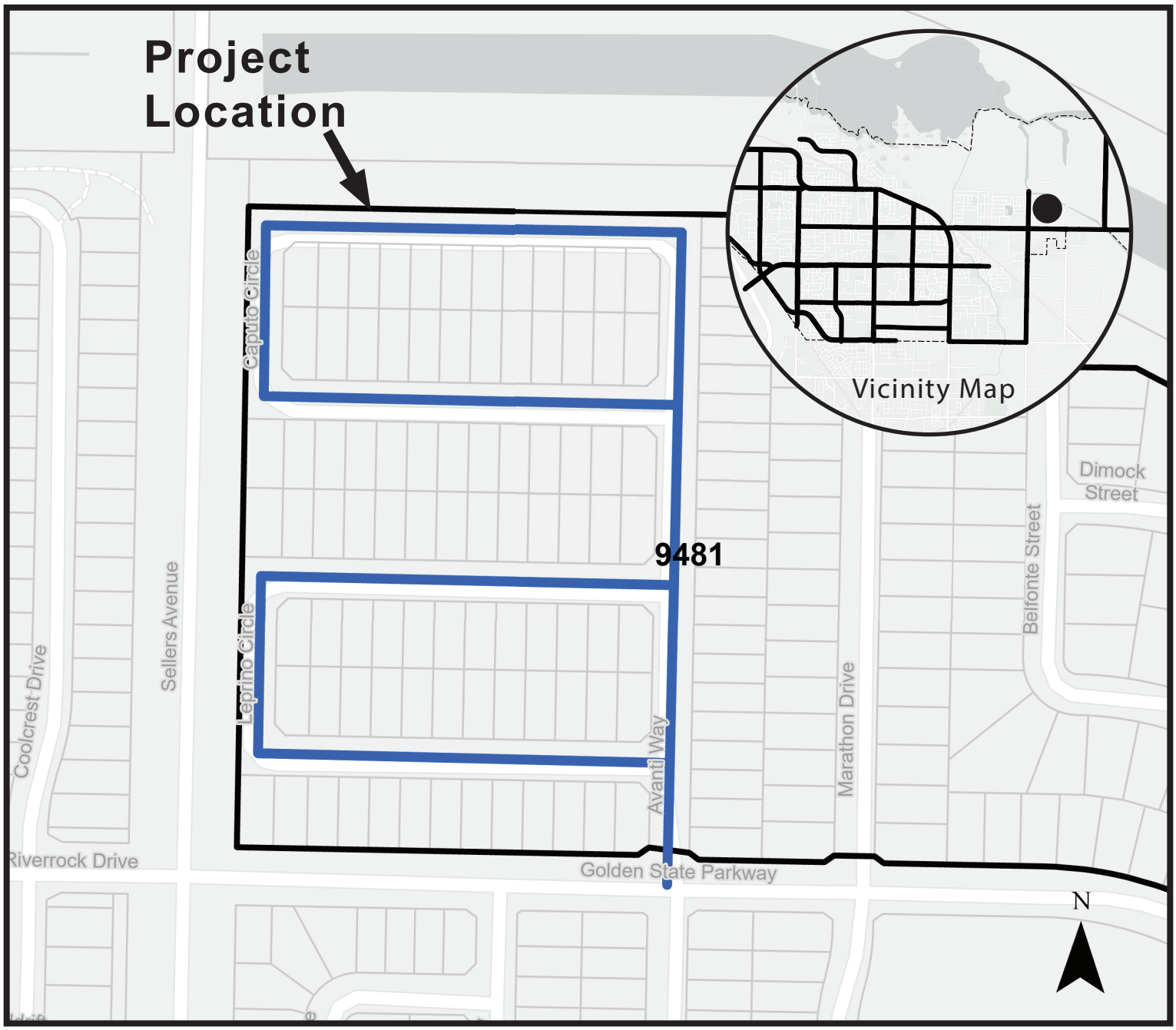
APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date



OAKLEY
CALIFORNIA

Subdivision Acceptance

Delaney Ranch (Subdivision 9481)

Attachment C

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 9, 2021

Approved and Forwarded to the City Council

TO: Joshua McMurray, Interim City Manager

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

SUBJECT: Approving the Agreement with Bridgehead Gas & Oil Corporation for "Stormwater Management Facility Operations and Maintenance Agreement and Right of Entry" for the 5433 Neroly Road Chevron (DR 01-18) project located at 5433 Neroly Road and authorizing the Interim City Manager to execute the agreement

Background and Analysis

The installation of the Permanent Stormwater Pollution Prevention Measures (BMP's) for the 5433 Neroly Road Chevron (DR 01-18) project would be constructed with the improvements associated with the project. The City's Stormwater Management and Discharge Control Ordinance requires proper operation and maintenance of the permanent BMP's by the respective property owners. The "Stormwater Management Facility Operation and Maintenance Agreement and Right of Entry" memorializes the owner's maintenance, operations and inspection obligation under the City's Ordinance and the approved plans.

Under the Contra Costa Countywide National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit, projects "deemed complete" after February 15, 2005 are to comply with the provisions of the Permit. The City adopted an Ordinance, as required by the Permit, to enable this activity within the City of Oakley. A requirement of the permit is that each property implement stormwater treatment devices, fund the perpetual maintenance of those devices, and enter into an agreement with the City stating that the property owner will maintain the devices, grant a right of entry to City staff for inspections, and agree to pay the cost of City inspections.

Fiscal Impact

There is no fiscal impact associated with the agreement since all inspection, operations, and maintenance costs are the responsibility of the property owners.

Staff Recommendation

Staff recommends that the City Council adopt the resolution approving the "Stormwater Management Facility Operations and Maintenance Agreement and Right of Entry" for the 5433 Neroly Road Chevron (DR 01-18) project and authorize the Interim City Manager to sign the agreement on behalf of the City.

Attachments

1) Resolution
2) Exhibit
3) "Stormwater Management Facility Operation and Maintenance Agreement and Right of Entry" for the 5433 Neroly Road Chevron (DR 01-18) project

RESOLUTION NO. __-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY, CALIFORNIA, APPROVING THE AGREEMENT WITH BRIDGEHEAD GAS & OIL CORPORATION (APN 051-220-056) FOR "STORMWATER MANAGEMENT FACILITY OPERATION AND MAINTENANCE AGREEMENT AND RIGHT OF ENTRY" FOR THE 5433 NEROLY ROAD CHEVRON (DR 01-18) PROJECT LOCATED AT 5433 NEROLY ROAD AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Oakley's Stormwater Management and Discharge Control Ordinance requires proper operation and maintenance of the Permanent Stormwater Pollution Prevention Measures installed for the 5433 Neroly Road Chevron (DR 01-18) project; and

WHEREAS, the "Stormwater Management Facility Operation and Maintenance Agreement and Right of Entry" memorializes the owner's maintenance, operations, and inspection obligations under the City's Ordinance and the approved plans; and

WHEREAS, the installation of the Permanent Stormwater Pollution Prevention Measures for the 5433 Neroly Road Chevron (DR 01-18) project will be consistent with the approved improvement plans; and

WHEREAS, Bridgehead Gas & Oil Corporation, the current owner of the parcel described in Exhibit A, desires to execute the "STORMWATER MANAGEMENT FACILITY OPERATION AND MAINTENANCE AGREEMENT AND RIGHT OF ENTRY"; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the City Council of the City of Oakley does hereby approve the "STORMWATER MANAGEMENT FACILITY OPERATION AND MAINTENANCE AGREEMENT AND RIGHT OF ENTRY" for the 5433 Neroly Road Chevron (DR 01-18) project in the form attached hereto as Exhibit A and authorizes the Interim City Manager to execute the agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th of November, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

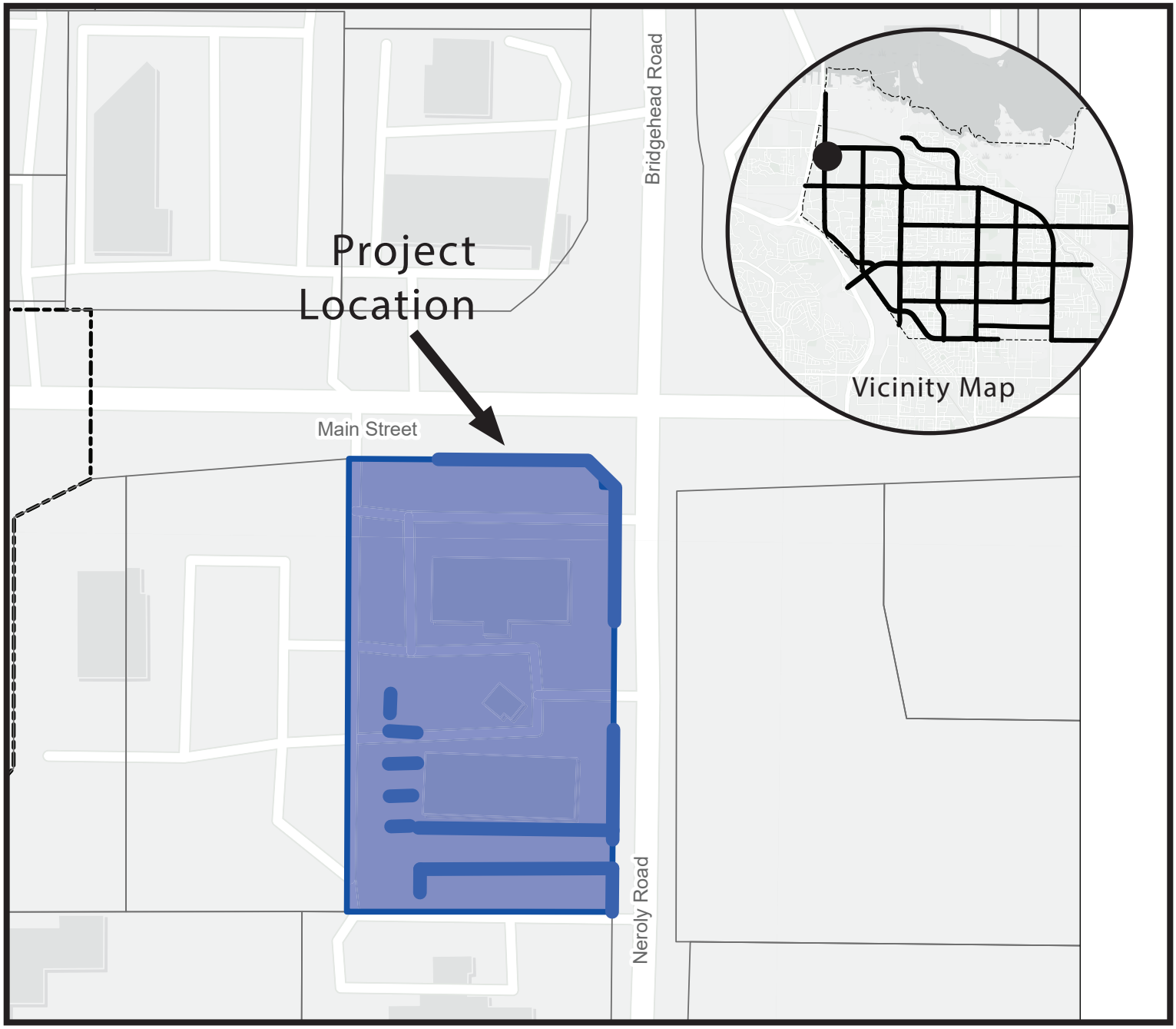
APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date



OAKLEY
CALIFORNIA

Stormwater Bioretention

5433 Neroly Road Chevron (DR 01-18)

Attachment 2

04/29/2021
Recording Requested By:
CITY OF OAKLEY

Return to: **CITY OF OAKLEY**
City Clerk
3231 Main Street
Oakley, CA 94561

Document Title

CITY OF OAKLEY

COVENANT RUNNING WITH THE LAND, STORMWATER MANAGEMENT FACILITY OPERATIONS AND MAINTENANCE AGREEMENT, AND RIGHT OF ENTRY (Single Parcel)

PROJECT: 5433 NEROLY ROAD CHEVRON (DR 01-18)

OWNERS NAMES: BRIDGEHEAD GAS & OIL CORPORATION

ASSESSOR'S PARCEL NUMBER: 051-220-056

COVENANT RUNNING WITH THE LAND,
STORMWATER MANAGEMENT FACILITIES
OPERATION AND MAINTENANCE AGREEMENT,
AND RIGHT OF ENTRY

This Covenant Running with the Land, Stormwater Management Facilities Operation and Maintenance Agreement and Right of Entry ("Agreement") is made and entered into this **9th day of November, 2021**, by and between Bridgehead Gas & Oil Corp, (hereinafter referred to as "Property Owner") and The City of Oakley, a municipal corporation ("City").

The following terms used in this Agreement shall have the meanings specified below:

DEFINITIONS

Maintain: The term "**Maintain**" or "**Maintained**" shall mean taking all actions reasonably necessary to keep the Stormwater Facility in first class operation, condition and repair, which actions include but are not limited to regular inspections, painting, cleaning, maintenance, refinishing, repairing, replacing and reconstructing the Stormwater Facility, and in the case of landscaping, plant replacement, mulch replacement, irrigating, trimming, mowing, and fertilizing the landscaping. The term shall also include the routine maintenance, and the annual inspection and reporting described in the Stormwater Control Operation and Maintenance Plan, and the payment of any applicable City fees.

NPDES Permit: The term "**NPDES Permit**" shall mean the San Francisco Bay Regional Water Quality Control Board's National Pollutant Discharge Elimination System (NPDES) Permit No. CAS0029912 (issued to the City of Oakley) as amended, and as may be superseded by subsequent NPDES permits that are reissued from time to time.

Ordinance: The term "**Ordinance**" shall mean Chapter 11 of Title 6 of the Oakley Municipal Code (Stormwater Management and Discharge Control), as may be amended from time to time.

Property Owner: The term "**Property Owner**" and "**Property Owners**" shall mean Bridgehead Gas & Oil Corp and all heirs, successors, executors, administrators and assigns of interest in the Property, it being the intent of the parties hereto that the obligations undertaken in this Agreement, as provided in Civil Code section 1468, run with the Property described in Exhibit A and constitute a lien against the Property.

Property: The term "**Property**" shall mean that certain real property located at 5433 Neroly Road, Oakley, CA 94561, and more particularly described in Exhibit A which is attached hereto and hereby incorporated herein by reference.

Plan: The term "**Plan**" or "**Operation and Maintenance Plan**" means the City-approved Stormwater Control Operation and Maintenance Plan prepared by GSV Consulting and approved by the City Engineer in writing, which may be subsequently modified from time to time with City Engineer's written approval.

Stormwater Facility: The term "**Stormwater Facility**" means the permanent stormwater management facilities located and constructed on the Property.

RECITALS

This Agreement is made and entered into with reference to the following facts:

A. The Property Owner is the owner of the real property more particularly described on the attached Exhibit A.

B. The City is the owner of Main Street and Neroly Road and its storm drains that are adjacent to the Property, and the City is required to ensure that stormwater run-off from the Property into its storm drains meets the requirements of its NPDES Permit.

C. To meet its obligations under its NPDES Permit the City has required the Property Owner to construct the Stormwater Facility on the Property.

D. To meet its obligations under its NPDES Permit the City has approved the Property Owner's Operation and Maintenance Plan for the Stormwater Facility.

E. To meet its obligations under its NPDES Permit the City's Ordinance requires proper operation and maintenance in perpetuity of the Stormwater Facility constructed on the Property.

F. The Plan includes an annual inspection and reporting requirement for the Stormwater Facility constructed on the Property.

G. This Agreement memorializes the Property Owner's maintenance, operations, and inspection obligations under the City's Ordinance, the City's NPDES Permit and the Plan.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

SECTION 1

Responsibility for Operation and Maintenance: No portion of the Stormwater Facility may be altered, in any way, by the Property Owner without the prior written consent of the City Engineer of the City of Oakley. The Property Owner shall Maintain the Stormwater Facility in first class operating condition, and in compliance with all applicable state, county and city laws and regulations. Applicable regulations include, but are not limited to, the City-approved Stormwater Control Operation and Maintenance Plan, and the provisions of the Ordinance, as they may be amended from time to time.

The Property Owner shall engage a landscape contractor or other licensed contractor to Maintain the Stormwater Facility. The City Engineer, in her or his sole absolute discretion, may approve an alternate method for the maintenance of the Stormwater Facility. The City Engineer, also in her or his sole

absolute discretion, may revoke the approval of a previously approved alternate method for the maintenance of the Stormwater Facility.

SECTION 2

Inspection by Property Owner: The Property Owner shall cause its contractor to conduct annual inspections during the month of September of each year. The annual inspection report shall include completion of the checklist described in the approved Operation and Maintenance Plan. The Property Owner or its contractor must submit the inspection report to the City Engineer within 30 days after the annual inspection. A Management and/or Inspection fee established in the City's standard fee schedule shall accompany the annual inspection report.

SECTION 3

Right of Entry and Stormwater Facility Inspection by the City: The Property Owner hereby grants permission to the City, its authorized agents and employees, and Ironhouse Sanitary District, the East Contra Costa Fire Protection District, County Environmental Health Department, the Contra Costa Mosquito and Vector Control District, and the Regional Water Quality Control Board to enter the portion of the Property where the Stormwater Facility is located, and to inspect the Stormwater Facility whenever any of the forgoing entities deems necessary to enforce provisions of the City's Ordinance. These entities may enter the premises at any reasonable time to inspect the Stormwater Facility's maintenance and operation, to inspect and copy records related to compliance with stormwater regulations, and to collect samples and take measurements. Whenever possible, these entities will provide notice prior to entry.

SECTION 4

Failure to Perform Required Stormwater Facility Repairs or Maintenance by the Property Owner: If the Property Owner or its successors fails to Maintain the Stormwater Facility in good working order and in accordance with the approved Plan and the City's Ordinance, the City, with prior notice, may enter the Property to return the Stormwater Facility to good working order. The City is under no obligation to Maintain or repair the Stormwater Facility, and this Agreement may not be construed to impose any such obligation on the City. If the City, under this section takes any action to return the Stormwater Facility to good working order, the Property Owner shall reimburse the City for all the costs incurred by the City, including administrative costs. The City will provide the Property Owner with an itemized invoice of the City's costs and the Property Owner will have 30 days to pay the invoice. If the Property Owner fails to pay the invoice within 30 days, the City may secure a lien against the real property of the Property Owner in the amount of such costs. In addition the City may make the cost of abatement of the nuisance caused by the failure to Maintain the Stormwater Facility a special assessment against the Property that may be collected at the same time and in the same manner as ordinary municipal taxes are collected as provided in Government Code section 38773.5. This Section 4 does not prohibit the City from pursuing other legal recourse against the Property Owner.

SECTION 5

Indemnity: The Property Owner agrees to defend, indemnify and holds harmless the City, its officials, employees and its authorized agents from any and all damages, accidents, casualties, occurrences, claims, penalties or fines which might arise or be asserted against the City and which are in any way connected with the construction, operation, presence, existence or maintenance of the Stormwater Facility by the Property Owner, or from any personal injury or property damage that may result from the City or other public entities entering the Property under Section 3 or 4.

SECTION 6

Successors and Assigns: The covenants of the Property Owner set forth in numbered Sections 1 through 5 above shall run with the land, and the burdens thereof shall be binding upon each and every part of the Property and upon the Property Owner, its successors and assigns in ownership (or any interest therein), for the benefit of Main Street and Neroly Road and its storm drains and each and every part thereof and said covenants shall inure to the benefit of and be enforceable by the City, its successors and assigns in ownership of each and every part of the Street and storm drains.

SECTION 7

Severability: Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions and all other provisions shall remain in full force and effect.

Recommended for approval:

_____
City Engineer, Kevin Rohani

Reviewed by:

_____
City Attorney, Derek Cole

City of Oakley:

_____
City Manager, Joshua McMurray

Attest:

_____
City Clerk, Libby Vreonis

Property Owners:

_____
Owner's Name

_____
Owner's Name

Attachments: Acknowledgements
Exhibit A

A Notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Contra Costa

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
Witness my hand and official seal.

Signature_____
Signature of Notary Public

EXHIBIT A
Legal description

Agenda Date: _____

Agenda Item: _____

OAKLEY
CALIFORNIA

STAFF REPORT

Date: November 9, 2021

To: City Council

From: Joshua McMurray, Interim City Manager

Subject: **Adopt a Resolution that would authorize the City Manager to submit a grant application to Sacramento-San Joaquin Delta Conservancy for approximately $2 Million Dollars to fund the implementation of restoration of Marsh Creek upstream of Oakley Creekside Park.**

Summary and Background

On December 12, 2018, the City Council approved Resolution No. 160-18 approving the filing of an application with the Sacramento-San Joaquin Delta Conservancy for the planning and permitting of a restoration project on Marsh Creek upstream of Oakley Creekside Park. On December 11, 2020, the City of Oakley signed a contract with the Sacramento-San Joaquin Delta Conservancy, for $436,465 to plan and permit a restoration project on Marsh Creek upstream of Oakley Creekside Park.



The Oakley Creekside Park Restoration Project is a multi-benefit project led by the City of Oakley in partnership with American Rivers and the Contra Costa County Flood

Control and Water Conservation District. The goal of this project is to widen approximately 775 linear feet of the Marsh Creek channel upstream of Oakley Creekside Park and plant California native plants and trees to 1) maintain flood protection, 2) provide shade and a parklike setting for residents using the Marsh Creek Trail and living adjacent to Marsh Creek, and 3) provide a more contiguous corridor for Chinook salmon and other species as they make their way through these urban environments. This project is necessary because the historic alignment of Marsh Creek has been altered, leading to a loss of trees and appropriate habitat for native and sensitive species. This project is adjacent to the Honey Creekside Subdivision being proposed by Nuvera Homes.

This project is consistent with the goals, policies, and programs established in the City's 2020 General Plan. The project is also consistent with the Contra Costa County Flood Control and Water Conservation District's 50 Year Plan to restore the District's aging flood control channels into healthier waterways that will better protect and serve Contra Costa's communities in the 21st century and beyond. The City of Oakley is positioned to benefit from the restoration with the enhancements along the Marsh Creek Trail corridor.

It should be noted that if this grant were awarded, it would include funding for a third party consulting firm to be the project manager. This approach will greatly reduce and almost eliminate the burden on City Staff.

Fiscal Impact

If funded, the capital improvement cost for the project will be funded by the Sacramento-San Joaquin Delta Conservancy. The project area will be maintained by a Community Facilities District funded by the Honey Creekside Subdivision.

Recommendation

Adopt the Resolution that would authorize the City Manager to submit a grant application to Sacramento-San Joaquin Delta Conservancy for approximately $2 Million Dollars to fund the implementation of restoration of Marsh Creek upstream of Oakley Creekside Park.

Attachments

1. Resolution

RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION FOR FUNDING FROM THE SACRAMENTO-SAN JOAQUIN DELTA CONSERVANCY FOR THE RESTORATION OF A PORTION OF MARSH CREEK SOUTH OF CREEKSIDE PARK

WHEREAS, American Rivers and the City of Oakley partnered previously on the restoration of a portion of Marsh Creek alongside Creekside Park; and

WHEREAS, the City of Oakley is partnering with American Rivers on a similar creek restoration project just south of Creekside Park; and

WHEREAS, the City of Oakley currently has grant funding from the Sacramento-San Joaquin Delta Conservancy Proposition 1 Grant Program for planning and permitting such a project by; and

WHEREAS, the City of Oakley desires to continue partnering with American Rivers to implement a creek restoration project just south of Creekside Park; and

WHEREAS, implementation funding for such a project is available from the Sacramento-San Joaquin Delta Conservancy Proposition 1 Grant Program; and

WHEREAS, the Delta Conservancy requires City Council authorization of any grant application; and

WHEREAS, said application contains assurances and certifications that the applicantmust comply with in order to enter into an agreement with the Delta Conservancy.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby:

1. Approves the filing of an application with the Delta Conservancy up to the maximumamount allowed under the Program; and

2. Certifies that the City understands the assurances in the application form; and

3. Certifies that the City has or will have sufficient funds to operate and maintain the project;and

4. Authorizes and directs the City Manager, on behalf of the City, to sign the grant application and act on the City's behalf in all matters pertaining to this application.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2021 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 9, 2021

TO: Joshua McMurray,
Interim City Manager

Approved and Forwarded to the City Council

FROM: Derek P. Cole, City Attorney

SUBJECT: **Introduction of An Ordinance of the City Council of Oakley Enacting Section 2.7.003 of the Oakley Municipal Code Adopting a By-District System for (i) Electing Five Members of the City Council, *or* (ii) Electing Four Members of the City Council and an Elected Mayor**

BACKGROUND

At its meeting on July 13, 2021, and in response from a demand letter threatening legal action against the City, the Council adopted a resolution formally declaring its intention to convert from at-large to by-district City Council elections. The Council's adoption of this resolution started a process that was required to be completed within 180 days and that would culminate with consideration of an ordinance effecting the change in the Council selection system.

At meetings on August 31, 2021 and September 28, 2021, the Council received presentations from its demographer and took public testimony regarding "communities of interest" that should be preserved as part of the creation of councilmember districts. The demographer took that information, along with information received via online submissions, to prepare draft maps for Council consideration.

At a Special City Council meeting on October 5, 2021 and a regular meeting on October 26, 2021, the Council heard public testimony regarding proposed maps for adoption as the City's district maps. At the conclusion of the latter meeting, the City Council narrowed its proposed maps down to two maps—one for a 5-district City Council map, and another for a 4-district City Council map.

The Council will need to adopt its selected map by resolution. That adoption is, however, scheduled to occur at the Council's regular meeting on December 14,

2021. At the November 9, 2021 meeting, the Council must first consider the introduction of an ordinance adopting district elections beginning in 2022. This legislative change to the Oakley Municipal Code is necessary to effect the transition from at-large to by-district elections.

PROPOSED ORDINANCES

As noted in a previous staff report, this matter requires the City Council to consider the legislative change to the City Code that would be required to implement a by-district system for City Council elections.

Two ordinances are attached for the City Council's consideration. The first ordinance proposes that the City Council retain its 5-member composition, and that each of the 5 council seats are elected by district. The second ordinance proposes that the City Council be converted to 4 elected districts, with a Mayor elected at-large.

The Council will need to enact one of these two ordinances. Which it chooses to introduce at the November 9, 2021 will depend on whether the Council prefers to implement a 5-member district scheme, or a 4-district scheme with an elected Mayor.

Before the City Council introduces either ordinance, it will need to first decide which districts will run in the 2022 election cycle, and which will run in the 2024 cycle. (You will see that blanks appear in the draft ordinances where the district numbers will need to be specified.)

Currently, the Council is composed of 3 members whose terms run through 2024. By law, the terms of these members' service on the Council cannot be shortened or abridged. Thus, whether the Council adopts a 4- or 5-district scheme, it can only require that two districts run in the 2022 cycle. To preserve the stagger of elections, the remaining three seats would run in the election that occurs in November 2024.

If the elected Mayor option is chosen, the Mayor would first run in 2024. This is also necessary because of the terms of the 3 members who will serve through that year. The proposal would be to have 2 districts run in 2022, and 2 districts and the Mayor run in 2024. This will preserve the staggering of elections that exists currently.

As noted, the ordinance itself does not adopt the district map that would set the boundaries of the four council districts. The Council would adopt that map separately by resolution. That adoption is scheduled to occur at the Council's regular meeting on December 14, 2021. That is the meeting in which the Council would consider the enactment of the ordinance it chooses to enact at the November 9, 2021 Council meeting.

Fiscal Impact

If by-district elections are implemented, the City may incur less expenses for elections as, in any election cycle, costs would be incurred only for those precincts corresponding to the districts running (as opposed to all City precincts). The City would, however, incur expenses for demographers and other professionals as part of the redistricting that would be required every 10 years, after each decennial census. Because redistricting is not required for cities that use at-large voting systems, the City presently does not incur these expenses.

Attachments

1. Ordinance Adopting 5 Council Districts
2. Ordinance Adopting 4 Council Districts, with 1 Elected Mayor
3. Final Map for 5-Member Council Districts
4. Final Map for 4-Member Council Districts

[*5-DISTRICT OPTION*]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ENACTING SECTION 2.7.003 OF THE OAKLEY MUNICIPAL CODE ADOPTING A BY-DISTRICT SYSTEM FOR ELECTING FIVE MEMBERS OF THE CITY COUNCIL

WHEREAS, the City of Oakley currently elects five Councilmembers using an at-large election system; and

WHEREAS, in response to threatened litigation regarding alleged noncompliance with the California Voting Rights Act ("CVRA"), the City Council has determined that it is in the best interest of the City to shift from its current at-large election system to a by district election system for its five Councilmembers; and

WHEREAS, California Government Code section 34886 permits the City Council to change the City's method of election by ordinance to a "by district" system in which each Councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, in accordance with California Government Code section 34886, it is declared that the purpose of the change in the method of electing members of the City Council is to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Sections 14025 through 14032 of the California Elections Code; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLEY DOES ORDAIN AS FOLLOWS:

Section 1. Section 2.7.003 of the Oakley Municipal Code is enacted to read as follows:

§2.7.003 BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS

a. Pursuant to California Government Code section 34886, Members of the City Council of the City of Oakley shall be elected by-district in five (5) single-member districts.

1) Members of the City Council shall be elected in the electoral districts established by subsection (B) of this Section and subsequently reapportioned as provided by State law. Elections shall take place "by district" as that term is defined in California Government Code section 34871, meaning one Councilmember shall be elected from each district, by the voters of that district alone.

2) A Councilmember elected or appointed to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must reside in, and be a registered voter in, the district in which he or

she seeks election at the time nomination papers are issued.

b. All five Councilmembers shall be elected on a "by-district" basis from the Council districts shown and numbered on a map titled "City of Oakley District Map," as adopted separately by resolution, a copy of which shall be on file in the City Clerk's office.

c. Pursuant to Elections Code section 21601, as it may be amended from time to time, the City Council shall adjust the boundaries of any or all of the districts following each decennial federal census to ensure that the districts are in compliance with all applicable provisions of law.

d. District elections enacted in accordance with this section shall commence in the November 2022 General Election. In the November 2022 General Election, Districts __ and __ shall first be open for election. In the November 2024 General Election, Districts __, __, and __ shall first be open for election. All districts shall have four (4) year terms.

Section 2. CEQA Findings.
This project is exempt from environmental analysis under the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that the proposed amendments will not have a significant effect on the environment.

Section 3. Severability.
In the event any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in force and effect.

Section 4. Effective Date and Publication.
This ordinance pertains to City elections and shall take effect immediately upon its adoption. 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 and 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 adopting, publishing a summary of the ordinance with the names of the Council members voting for and against the ordinance.

*** * * * * * * * * ***

THE FOREGOING ORDINANCE was introduced with the reading waived at a regular meeting of the City Council of the City of Oakley held on the 9th day of November 2021. The ordinance was passed and adopted with the second reading waived at a regular meeting of the City Council of the City of Oakley, held on the 14th day of December 2021, and ordered passed to print by the following vote, to wit.

[*5-DISTRICT OPTION*]

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

[*4-DISTRICT, ELECTED MAYOR OPTION*]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY ENACTING SECTION 2.7.003 OF THE OAKLEY MUNICIPAL CODE ADOPTING A BY-DISTRICT SYSTEM FOR ELECTING FOUR MEMBERS OF THE CITY COUNCIL AND ONE ELECTED MAYOR

WHEREAS, the City of Oakley currently elects five Councilmembers using an at-large election system; and

WHEREAS, in response to threatened litigation regarding alleged noncompliance with the California Voting Rights Act ("CVRA"), the City Council has determined that it is in the best interest of the City to shift from its current at-large election system to a by district election system to elect four Councilmembers and the Mayor; and

WHEREAS, California Government Code section 34886 permits the City Council to change the City's method of election by ordinance to a "by district" system in which each Councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, in accordance with California Government Code section 34886, it is declared that the purpose of the change in the method of electing members of the City Council is to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Sections 14025 through 14032 of the California Elections Code; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLEY DOES ORDAIN AS FOLLOWS:

Section 1. Section 2.7.003 of the Oakley Municipal Code is enacted to read as follows:

§2.7.003 BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS

a. Pursuant to California Government Code section 34886, Members of the City Council of the City of Oakley shall be elected by-district in four (4) single-member Districts and one city-wide Mayoral District

1) Members of the City Council shall be elected in the electoral districts established by subsection (b) of this Section and subsequently reapportioned as provided by State law. Elections for councilmembers shall take place "by district" as that term is defined in California Government Code section 34871, meaning one Councilmember shall be elected from each district, by the voters of that district alone. The Mayor shall be elected in a city-wide single election.

2) A Councilmember elected or appointed to represent a district must reside

in that district and be a registered voter in that district, and any candidate for City Council must reside in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued. The Mayor must reside within the geographic boundaries of the City of Oakley and be a registered voter at the time nomination papers are issued.

b. All four Councilmembers shall be elected on a "by-district" basis from the Council districts shown and numbered on a map titled "City of Oakley District Map," as adopted separately by resolution, a copy of which shall be on file in the City Clerk's office. The Mayor is elected from within the entire geographic boundaries of the City.

c. Pursuant to Elections Code section 21601, as it may be amended from time to time, the City Council shall adjust the boundaries of any or all of the districts following each decennial federal census to ensure that the districts are in compliance with all applicable provisions of law.

d. District elections enacted in accordance with this section shall commence in the November 2022 General Election. In the November 2022 General Election, Districts __ and __ shall first be open for election. In the November 2024 General Election, Districts __and __ shall first be open for election. All districts shall have four (4) year terms.

e. The Mayor elected on an at-large basis shall first be open for election in the November 2024 General Election Cycle. The Mayor shall have a four (4) year term. Prior to the seating of the at-large elected Mayor in the November 2024 General Election Cycle, the City Council shall continue to select a Mayor as provided in section 2.1.005 of this Code.

Section 2. CEQA Findings.
This project is exempt from environmental analysis under the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that the proposed amendments will not have a significant effect on the environment.

Section 4. Severability.
In the event any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in force and effect.

Section 5. Effective Date and Publication.
This ordinance pertains to City elections and shall take effect immediately upon its adoption. 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 and 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 adopting, publishing a summary of the ordinance with the names of the Council members voting for and

against the ordinance.

*** * * * * * * * * ***

THE FOREGOING ORDINANCE was introduced with the reading waived at a regular meeting of the City Council of the City of Oakley held on the 9th day of November 2021. The ordinance was passed and adopted with the second reading waived at a regular meeting of the City Council of the City of Oakley, held on the 14th day of December, 2021, and ordered passed to print by the following vote, to wit.

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

_____
Sue Higgins, Mayor

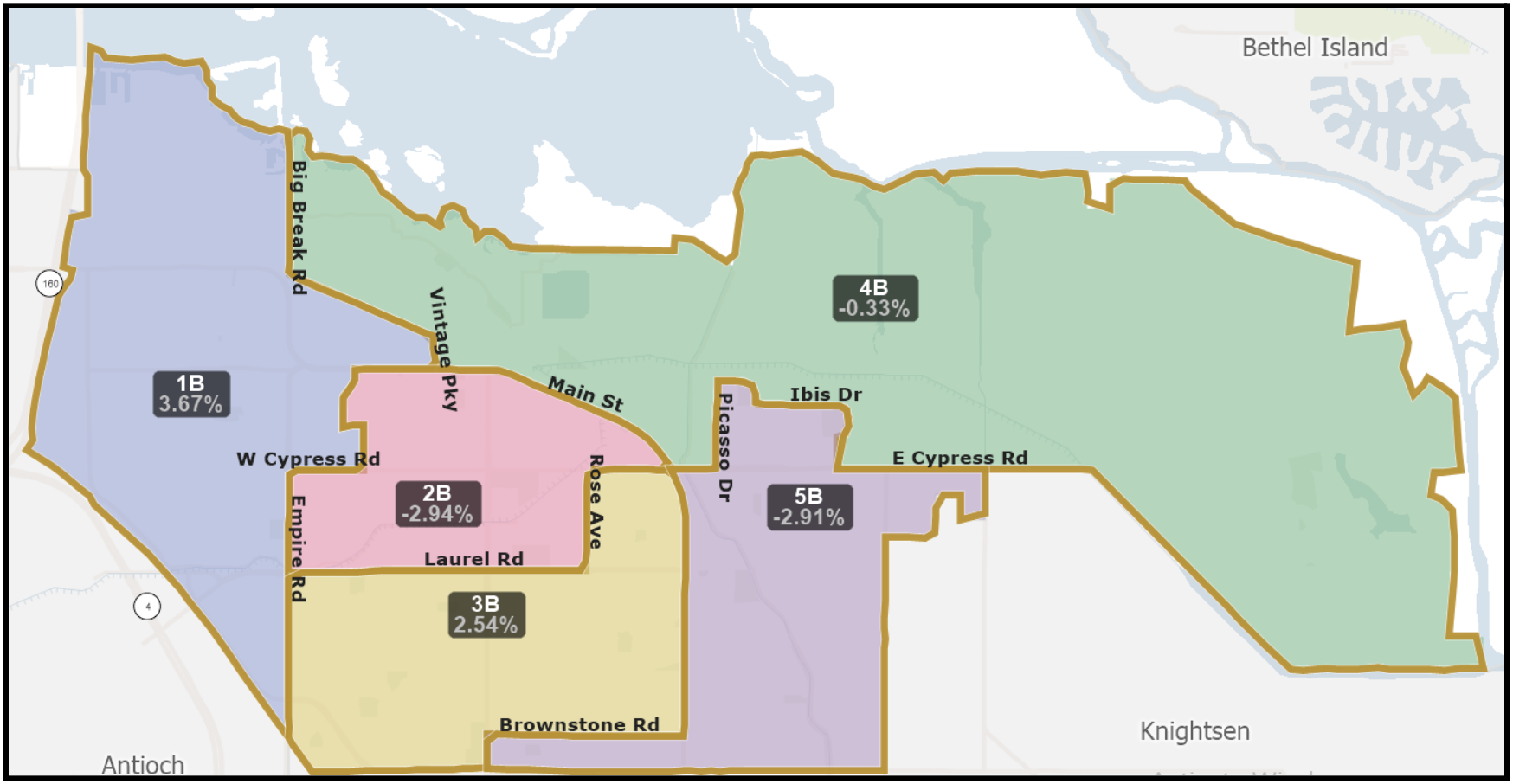
ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

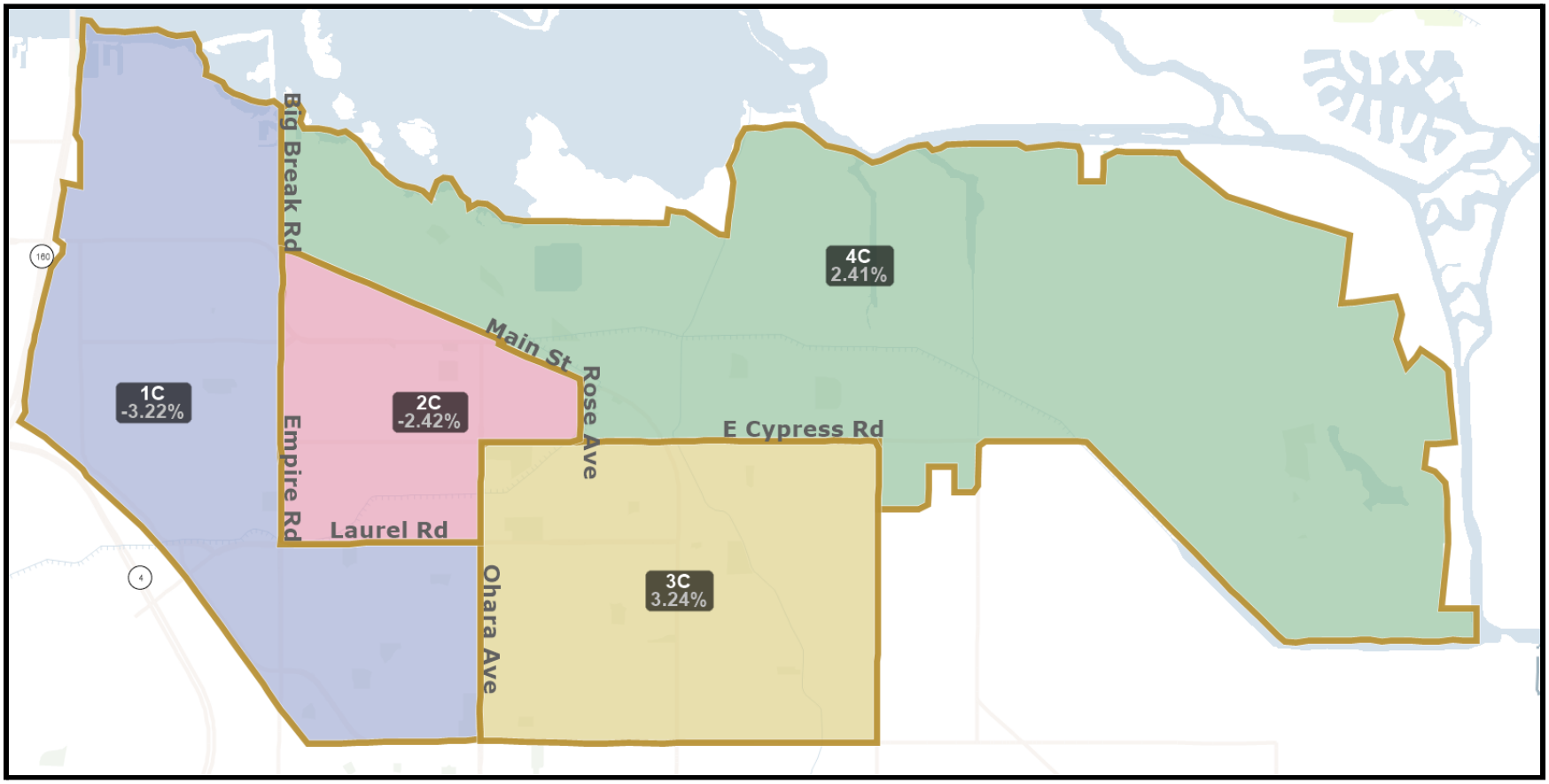
City of Oakley: Finalist Map B

October 29, 2021



City of Oakley: Finalist Map C

October 29, 2021



STAFF REPORT

DATE: November 9, 2021

TO: Joshua McMurray, Interim City Manager *Approved and Forwarded to the City*

FROM: Kenneth W. Strelo, Principal Planner

SUBJECT: **Oakley Village Subdivision 9577 (TM 05-20) – Request for approval of a Vesting Tentative Map to subdivide an approximately 14.75-acre site into 42 single family residential lots of minimum 10,000 square foot lot size. APNs 033-150-011 and 033-150-018**

Summary

This is an application by Edgemont Station, LLC ("Applicant") requesting approval of a Vesting Tentative Map (TM 05-20) to subdivide an approximately 14.75 acre site into 42 single family residential lots (min. lot size of 10,000 sf.), storm water treatment areas, and dedication of right of way, including in-tract streets and frontage for Sellers Avenue ("Project"). Design Review (i.e. home design, landscape design, entrance features, street tree plan, etc.) has not been submitted in conjunction with this Vesting Tentative Map. The project site is located west of the intersection of Sellers Avenue and BNSF Railroad tracks and zoned R-10 (Single Family Residential) District. APNs: 033-150-011 and 033-150-018.

Staff Recommendation

Staff recommends the City Council approve the project titled, "Oakley Village Subdivision 9577 (TM 05-20)," 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

(SM) Single Family Residential, Medium Density - The purpose of the Single-Family Residential, Medium Density (SM) Land Use Designation is to accommodate moderate density, single-family residential development. These neighborhoods will more closely resemble a typical suburban development with spacious yards and little resemblance to a rural neighborhood.

This designation allows for a minimum of 2.3 dwelling units and a maximum of 3.8 dwelling units per acre. Population density generally ranges from 8 to 12 persons per acre. Primary permitted land uses include detached single-family homes and accessory structures. Secondary uses may include home occupations, small residential care and childcare facilities, churches and other places of worship, and other uses and structures incidental to the primary use. (Excerpt from City of Oakley 2020 General Plan).

Zoning

R-10 (Single Family Residential) District - The purpose of the single-family residential district regulations is to allow a designated area for single-family residential district development designed to provide as much compatibility as possible with nearby zoning. Intense agricultural uses which create strong or obnoxious odors, or which might disturb adjacent or nearby residential areas with noise or vibration, are not appropriate for the single-family residential zoning districts. The City of Oakley Residential Design Guidelines should also be referred to as they contain additional information regarding mandatory and suggested guidelines for residentially zoned areas (Excerpt from Oakley Municipal Code section 9.1.404).

Existing Conditions and Surrounding Land Uses

The project generally located west of Sellers Avenue, south of the BNSF railroad track, and just east of existing single family residential development. The site is currently occupied with a residence and other outbuildings, and it shares the vicinity with two existing rural residential parcels that are not a part of the project and will remain in place as they currently exist (see Figure 1). The Reserve residential neighborhood is adjacent to the west with the rear yards of 11 homes bordering the project site. Another five rear yards will border one of the existing residential parcels that will remain. Additional residentially designated land, once entitled as the Parklands Subdivision 8973, lies to the south of the project site. The entitlements for that project have since expired.

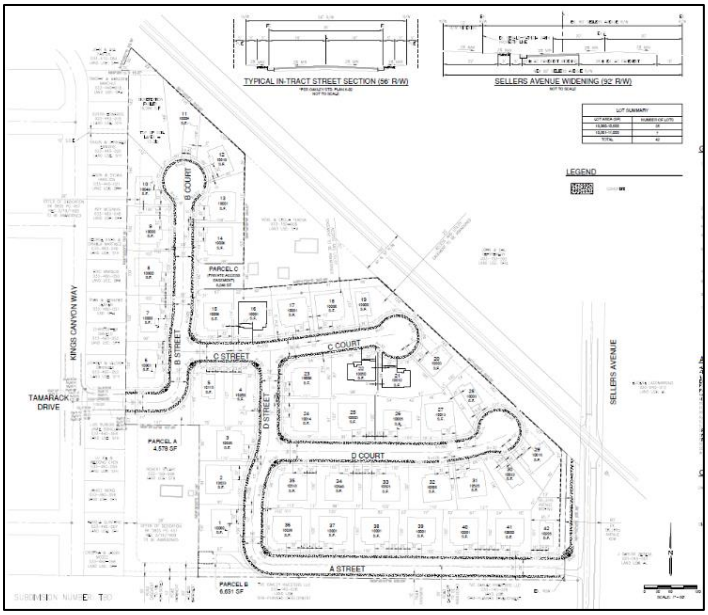
Figure 1. Project site and existing residential parcels



Project Description

Vesting Tentative Map

The proposed project would result in the subdivision of an approximately 14.75-acre site made up of two parcels into a new single-family residential subdivision of 42 lots, including stormwater detention and treatment, and right of way dedication and improvements for in-tract roadways and frontage improvements to Sellers Avenue. As proposed, the density would be approximately 2.8 dwelling units per gross acre (du/ga), with lot sizes ranging between 10,000 and 11,000 square feet (sf). Access would be attained from two locations: along the west side through an existing stubbed public road (Tamarack Drive) off of Kings Canyon Way in the neighboring subdivision; and from Sellers Avenue at the southeast corner of the site. The general layout of the development includes the two entry points and three cul-de-sacs, with each cul-de-sac serving between seven and twelve houses. The remaining houses are arranged along the streets intersecting the cul-de-sacs, and the single-loaded main entry road off of Sellers Avenue. Four other parcels, totaling approximately 0.82 acres, are included in the development and those are stormwater treatment parcel in the northwestern corner, and Parcel A (a common landscape area near the west entrance), Parcel B (the sewer lift station along the south border that also includes an access easement for the home in the southwest corner), and Parcel C (a private access easement for the existing residence along the north eastern property line).



Conceptual Landscape Plan

A conceptual landscape plan has been submitted with the vesting tentative map, and it includes street tree plan, and typical front yard landscaping. It is being noted that Staff is not completing a full review on this conceptual landscape plan because this application it is not accompanied by a design review application with house plans to allow accurate typical front yard landscaping or street tree locations. The conceptual landscape plan does serve to provide a general idea of how the subdivision can be landscaped when developed. Updated conceptual landscape plans will be required at the time of future design review submittal, and those plans will be subject to the regulations in place at that time.

Sellers Avenue Dedication and Improvement

The project will include necessary dedication and infrastructure improvements to the Sellers Avenue frontage. Sellers Avenue is proposed to be an undivided two-lane collector south of the future Laurel Road intersection. Staff and the applicant will continue to look at options for a right turn lane into the project and other traffic safety elements that may be able to be integrated.

Utilities

The project will be served by all major utilities, including water distribution by Diablo Water District ("DWD"), sewer collection and conveyance by Ironhouse Sanitary District ("ISD"), and gas/electric by Pacific Gas and Electric ("PG&E"). Development of the project is subject to the applicable regulations and plan checks/approvals by each respective agency.

Stormwater Collection, Treatment, and Conveyance

The project includes on-site stormwater collection and treatment facility that is required in order to comply with provision C.3 of the City's joint National Pollutant Discharge Elimination System ("NPDES") permit. In addition to onsite stormwater collection and treatment, the project is subject to development impact fees per the Contra Costa County Flood Control and Water Conservation District ("Flood Control District"). The fees are estimated at approximately $565,000 for calendar year 2021, and will be updated to current fees at the time of final map. The Flood Control District has also requested the City condition the developer to submit a hydraulic analysis of Line C3 to the connection point north of Tuolomne Way and Minaret Road intersection, as well as add a hydrology map to an existing analysis, and submit an Operations and Maintenance Manual for the onsite basin. These requests are already covered int eh City's conditions of approval.

Walls and Fences

An existing precast concrete wall is in place along the rear of the lots bordering the project's western boundary. That wall still stay in place except where needed to be removed to punch through the access road. A 10-foot high masonry wall is proposed along the property line adjacent to the railroad tracks and a matching six-foot high masonry wall along the Sellers Avenue frontage and along the property line between lots 12-19 where they border the existing residential parcel along the railroad tracks. Design of the masonry walls has not been finalized. All sound walls are conditioned to be placed completely on the private property and not straddle property lines with public right of way. Good neighbor wooden fences conditioned to have metal posts will be constructed between proposed lots and along interior corner lots, as appropriate.

Environmental Review

California Environmental Quality Act Compliance

An Initial Study ("IS") and Mitigated Negative Declaration ("MND") have been prepared for this project pursuant to the California Environmental Quality Act ("CEQA"). Raney Planning and Management conducted the CEQA analysis survey on behalf of the City of Oakley. The Notice of Intent ("NOI") to Adopt an MND and IS was circulated for public review and comment from October 12, 2021 to November 2, 2021. It was filed with the County Clerk, emailed or mailed out to over 60 public agencies and parties requesting such notice, and mailed to all property owners and current residents of properties contiguous to the project site. The NOI provided a summary of the project as well as methods to access the Draft IS/MND for review and comment.

The IS found five of the 20 impact categories to require mitigation in order to reduce the potential impacts to a less than significant level. All other 15 impact categories were found to have either no impact, or a less than significant impact. The bullet list below summarizes the impact category and mitigation proposed to be adopted in order to reduce any potentially significant impacts to a less than significant level.

- Cultural Resources: Procedures in the event resources or remains are discovered onsite during activities, including immediate halting of activities, and notification of the City and/or Contra Costa County Coroner.

- Geology and Soils: Ensure construction plans adhere to all engineering recommendations in the project's Geotechnical Investigation.

- Hazards and Hazardous Materials: Applicant shall consult with certified Asbestos and/or Lead Risk Assessors to complete and submit asbestos and lead survey prior to demolition of any structures. Additional measures kick in if either material is discovered.

- Noise: Limit construction hours to 7:30 A.M. to 7:00 P.M. Monday through Friday, and 9:00 A.M. to 7:00 P.M. on Saturdays, Sundays, and holidays. Other measures for construction equipment and how it is handled. (Note: The City's standard condition of approval, which is included in the proposed resolution, is stricter that the construction hours allowed by this measure. The standard condition reads as follows: 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.)

- Tribal Cultural Resources: Implement the measures for Cultural Resources.

The City Council must adopt the MND in order to approve the project. Adoption of the MND is included in the proposed resolution for the Vesting Tentative Map approval. The NOI, IS, and MND are included as electronic attachments to this Staff Report and are available under the project title heading at: https://www.ci.oakley.ca.us/ceqa-documents/.

Habitat Conservation Plan/Natural Community Conservation Plan

This project is subject to the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("HCP/NCCP" or "HCP Plan"). Projects that are subject to the HCP Plan are required to submit a Planning Survey Report ("PSR") as part of the project application. The contents of the PSR help guide the project through compliance with both the California and Federal Endangered Species Act by assuming presence of certain plant and animal species, and requiring additional surveys to be done prior to any ground disturbance. In addition, whether species are found or not, the project must pay development impact fees for each acre, or fraction thereof, of disturbed land not already considered "urban" under the HCP Plan. Those development impact fees are used to help create, install, and maintain habitat outside of the Urban Limit Line, as well as administer the HCP Plan. This project would contribute approximately $227,170 in HCP development impact fees,

Analysis

Vesting Tentative Map

The Vesting Tentative Map ("VTM") has been reviewed against all applicable codes including the Subdivision Map Act, General Plan, and the Zoning Ordinance. The VTM's gross density (apx. 2.8 du/ga) falls within the gross density range of the Single Family Medium Density (SM) General Plan Land Use Designation of 2.3-3.8 du/ga. The VTM is designed in a manner that complies with all applicable development regulations, such as minimum lot size (10,000 sf.), minimum lot width (60 ft.), and minimum lot depth (100 ft.) of the R-10 District.

The site is physically suitable for the project in that it is accessible, not physically constrained, and near like uses, and it is also able to accommodate the proposed density of development in a manner consistent with the underlying land use designation. The subdivision is not expected to result in any serious public health problems. Public improvements are proposed and conditioned to occur as a result of the subdivision, which is a benefit to the public and surrounding residents and property owners of the vicinity. Staff recommends approval of the proposed Vesting Tentative Map.

Sound Wall along Railroad Tracks

A condition of approval is included in the proposed resolution that would allow the applicant to modify the sound wall along the railroad tracks to continue through the private parcel adjacent to the tracks rather than remain in the subdivision. With this

modification, the fencing between the newly created lots and existing residential parcel would consist of a wooden good neighbor fence. The applicant would need agreement from the neighboring property owner in order to pursue this option, so it is proposed as an option and not a requirement.

Findings

Draft findings for the Vesting Tentative Map can be found in the proposed resolution.

Staff Recommendation

Staff recommends the City Council approve the project titled, "Oakley Village Subdivision 9577 (TM 05-20)," as conditioned.

Attachments

1. Vicinity Map
2. Notice of Public Hearing
3. Applicant's Plans (received April 20, 2021)
4. Proposed Resolution

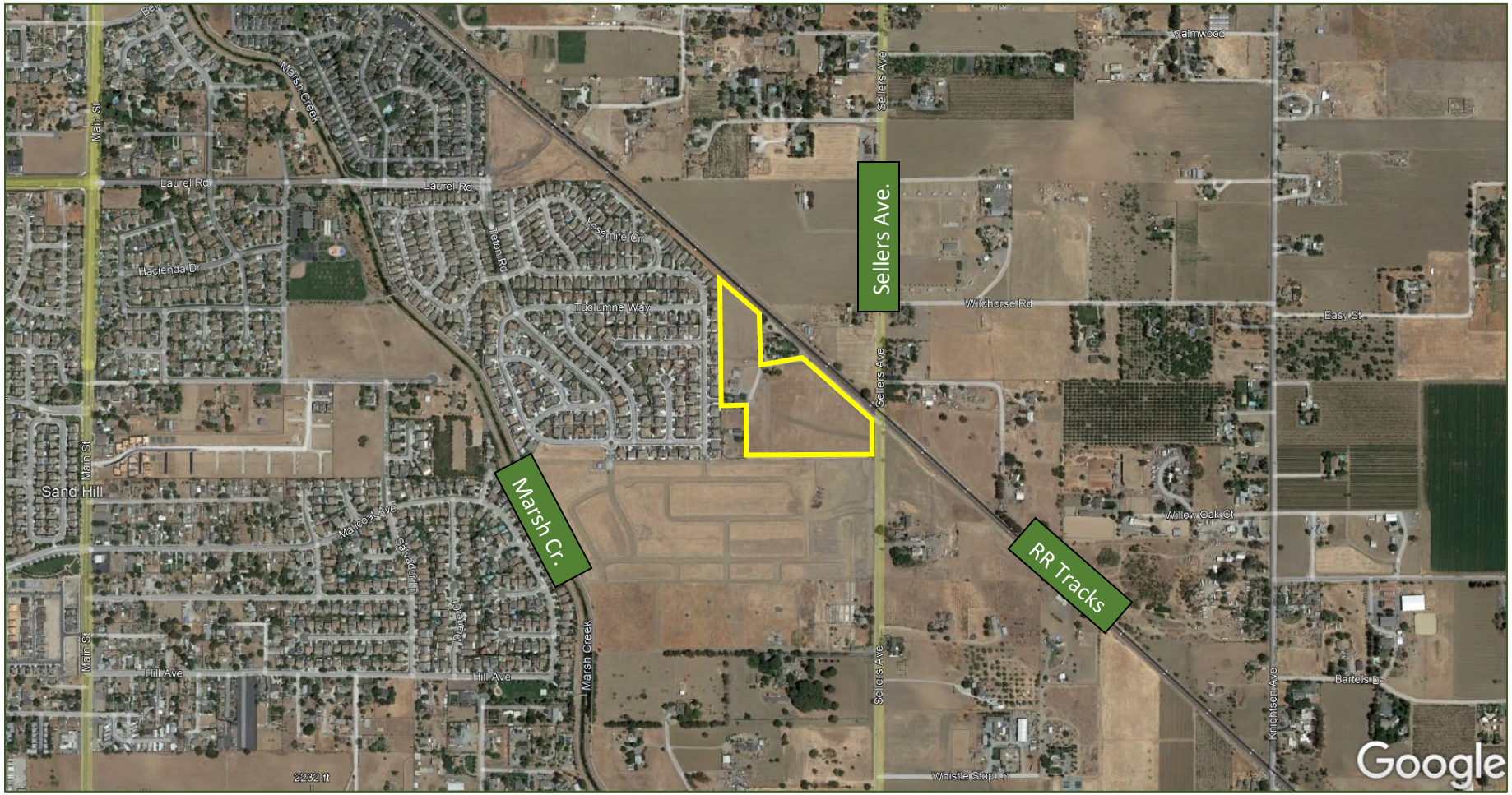
Online Attachments

1. Oakley Village Subdivision 9577 – Notice of Intent to Adopt a Mitigated Negative Declaration
2. Oakley Village Subdivision 9577 – Initial Study

Vicinity Map

Oakley Village Subdivision 9577 (TM 05-20)

(APNs: 033-150-011 and 033-150-018)



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

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **November 9, 2021** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a **Public Hearing** at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering the item as described below:

Project Name: Oakley Village Subdivision 9577 (TM 05-20).

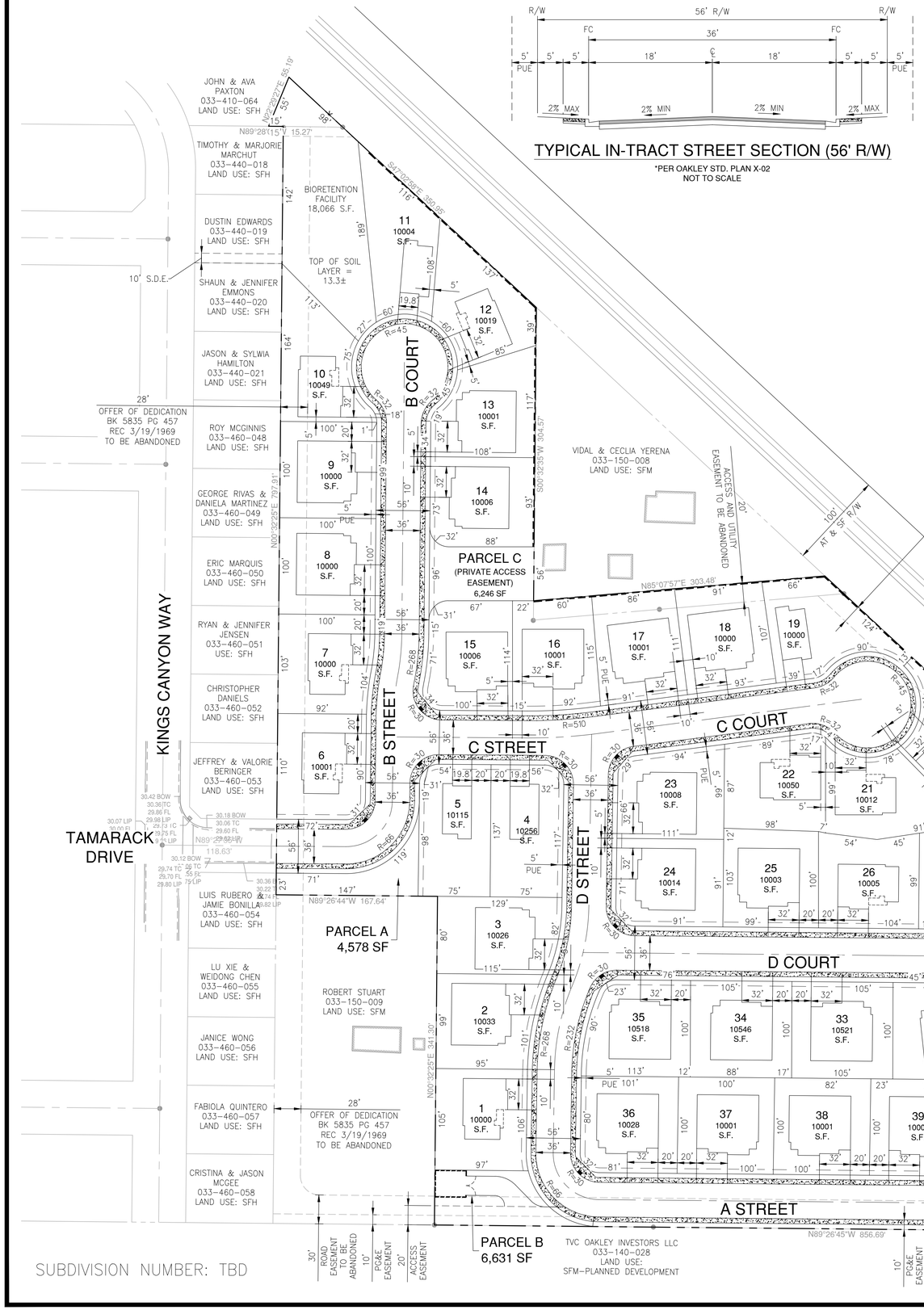
Project Location: West of the intersection of Sellers Avenue and BNSF Railroad tracks. Oakley, CA 94561. Accessor's Parcel Numbers: 033-150-011 and 033-150-018.

Applicant: Edgemont Station, LLC, 8880 Cal Center Drive, Suite 400, Sacramento, CA 958261. Shaw Monfared: smonfared@edgemontstation.com

Request: This is a public hearing on a request by Edgemont Station, LLC. ("Applicant") for approval of a Vesting Tentative Map (TM 05-20) to subdivide an approximately 14.75 acre site into 42 single family residential lots (min. lot size of 10,000 sf.), storm water treatment areas, and dedication of right of way, including in-tract streets and frontage for Sellers Avenue ("Project"). Design Review (i.e. home design, landscape design, entrance features, street tree plan, etc.) has not been submitted in conjunction with this Vesting Tentative Map. The project site is zoned R-10 (Single Family Residential) District. APNs: 033-150-011 and 033-150-018.

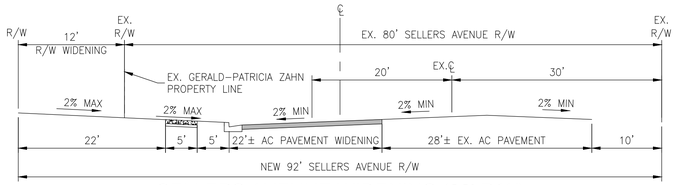
How to Review: The Staff Report and its attachments will be available for public review, on or before November 4, 2021 online at www.ci.oakley.ca.us/agendas-minutes-videos-archive/ by navigating to the November 9, 2021 agenda and clicking the project title link. Interested persons are invited to submit written comments prior to 5:00 P.M. the day of the hearing to Ken Strelo, Principal Planner strelo@ci.oakley.ca.us.

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



TYPICAL IN-TRACT STREET SECTION (56' R/W)

*PER OAKLEY STD. PLAN X-02
NOT TO SCALE



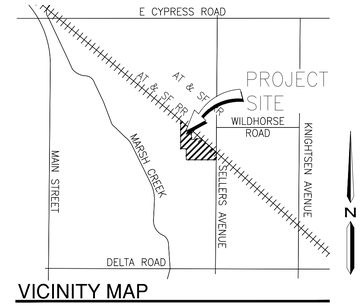
SELLERS AVENUE WIDENING (92' R/W)

NOT TO SCALE

LOT SUMMARY	
LOT AREA (SF)	NUMBER OF LOTS
10,000-10,500	35
10,501-11,000	7
TOTAL	42

LEGEND

CONCRETE



VICINITY MAP

GENERAL NOTES

1. LAND AREA SUMMARY

LOT AREA	11.04 AC
BIORETENTION FACILITY	0.42 AC
PARCEL A	0.11 AC
PARCEL B	0.15 AC
PARCEL C	0.14 AC
SELLERS AVENUE	0.34 AC
IN-TRACT STREETS	2.62 AC
TOTAL AREA	14.82 AC

2. TOTAL NUMBER OF LOTS = 42
3. DENSITY: 2.83 LOTS / ACRE
4. ZONING: R-10 10,000 SF. MIN. LOT AREA
5. GENERAL PLAN DESIGNATION: SINGLE FAMILY MEDIUM (033-150-011 & 033-150-018)
6. UTILITIES:

WATER	DIABLO WATER DISTRICT
SEWER	IRON HOUSE SANITARY DISTRICT
GAS/ELECTRIC	PG&E
TELEPHONE	AT&T CALIFORNIA

7. PROJECT SITE APN'S: 033-150-011 & 033-150-018
8. MULTIPLE FINAL MAPS MAY BE FILED ON THE LAND SHOWN ON THIS MAP
9. ALL TREES, FENCES AND BUILDINGS WITHIN DEVELOPED AREA TO BE REMOVED
10. FLOOD ZONE INFORMATION — ZONE X: ZONE IS OUTSIDE THE 100 YEAR FLOOD PLANE

FLOOD ZONE INFORMATION FROM FEMA FLOOD MAP COMMUNITY PANEL NUMBER 06013C0360G EFFECTIVE 03/21/2017

ABBREVIATION LIST

AL	AGRICULTURAL LANDS
AT & SF	ATCHISON, TOPEKA & SANTA FE
℄	CENTERLINE
EX	EXISTING
FC	FACE OF CURB
FM	FORCE MAIN
MAX	MAXIMUM
MIN	MINIMUM
PG&E	PACIFIC GAS AND ELECTRIC
PUE	PUBLIC UTILITY EASEMENT
RR	RAILROAD
R/W	RIGHT OF WAY
S.D.E.	STORM DRAIN EASEMENT
S.F.	SQUARE FEET
SFH	SINGLE FAMILY HIGH
SFM	SINGLE FAMILY MEDIUM
SFVL	SINGLE FAMILY VERY LOW
SD	STORMDRAIN
SS	SANITARY SEWER
W	WATER

CONTACT INFORMATION

OWNER/APPLICANT: EDGEMONT STATION LLC.
8880 CAL CENTER DRIVE, SUITE 100
SACRAMENTO, CA 95826
CONTACT: SHAHRAIR MONFARED
(916) 267-3861

CIVIL ENGINEER: O'DELL ENGINEERING
1165 SCENIC DRIVE, SUITE A
MODESTO, CA 95350
CONTACT: MIKE PERSAK
(209) 497-4061

City of Oakley
Planning Division

APR 20, 2021

RECEIVED

Know what's below. Call before you dig.

SUBDIVISION NUMBER: TBD

PLAN REVISIONS

NO.	DATE	REVISION

O'DELL ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
odellengineering.com

VESTING TENTATIVE MAP
OAKLEY VILLAGE
OAKLEY, CALIFORNIA

TENTATIVE MAP

APPROVED:

DESIGNED:	MP
DRAWN:	JJB
CHECKED:	MP
SCALE:	1" = 60'
DATE:	4/16/2021
JOB NO.:	JOB NO.:35750
FILE NO.:	TENTATIVE MAP8-1 35750.DWG

SHEET NO.
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OF
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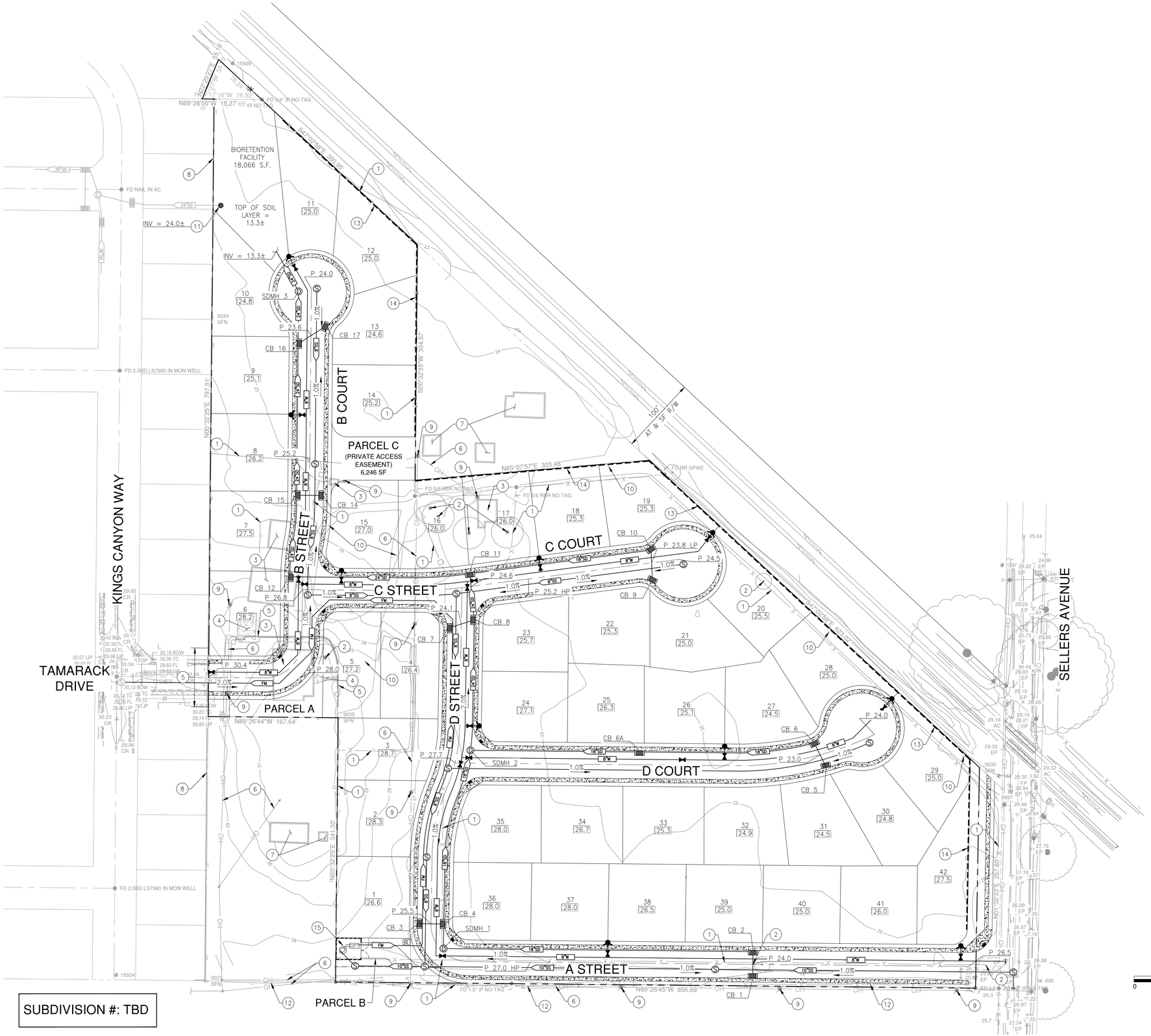

LEGEND

- CATCH BASIN
- STORM DRAIN MANHOLE
- FIRE HYDRANT
- SANITARY SEWER MANHOLE
- WATER VALVE
- XX"UT — UNDERGROUND UTILITY AND DIRECTION
- XX"UT — UNDERGROUND WATER PIPE PIPE AND SIZE
- FM — FORCE MAIN
- XX.X — PAD ELEVATION
- MASONRY SOUND WALL
- XX.X — PAVEMENT ELEVATION
- —X— 6' CHAIN LINK FENCE

SHEET NOTES

1. EX. FENCE TO BE REMOVED
2. EX. TREE TO BE REMOVED
3. EX. STRUCTURE TO BE REMOVED
4. EX. CONCRETE TO BE REMOVED
5. 76 LF OF EX. WALL TO BE REMOVED
6. EX. OVERHEAD UTILITY TO BE REMOVED/UNDERGOUNDED
7. EX. STRUCTURE TO REMAIN
8. EX. WALL TO REMAIN
9. EX. UTILITY POLE TO BE REMOVED/RELOCATED
10. EX. ASPHALT TO BE REMOVED
11. BASIN OVERFLOW RELEASE
12. EX. FENCE TO BE PROTECTED IN PLACE
13. 10' MASONRY SOUND WALL
14. 6' MASONRY SOUND WALL
15. SEWER LIFT STATION

PLAN REVISIONS

NO.	DATE	REVISION

O'DELL ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
odellengineering.com

VESTING TENTATIVE MAP
OAKLEY VILLAGE
OAKLEY, CALIFORNIA

PRELIMINARY GRADING & DRAINAGE

APPROVED:

DESIGNED:	MP
DRAWN:	JJB
CHECKED:	MP
SCALE:	1" = 60'
DATE:	4/16/2021
JOB NO.:	JOB NO.:35750
FILE NO.:	TENATIVE MAP8-1 35750.DWG

SHEET NO.
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OF
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811 Know what's below. Call before you dig.

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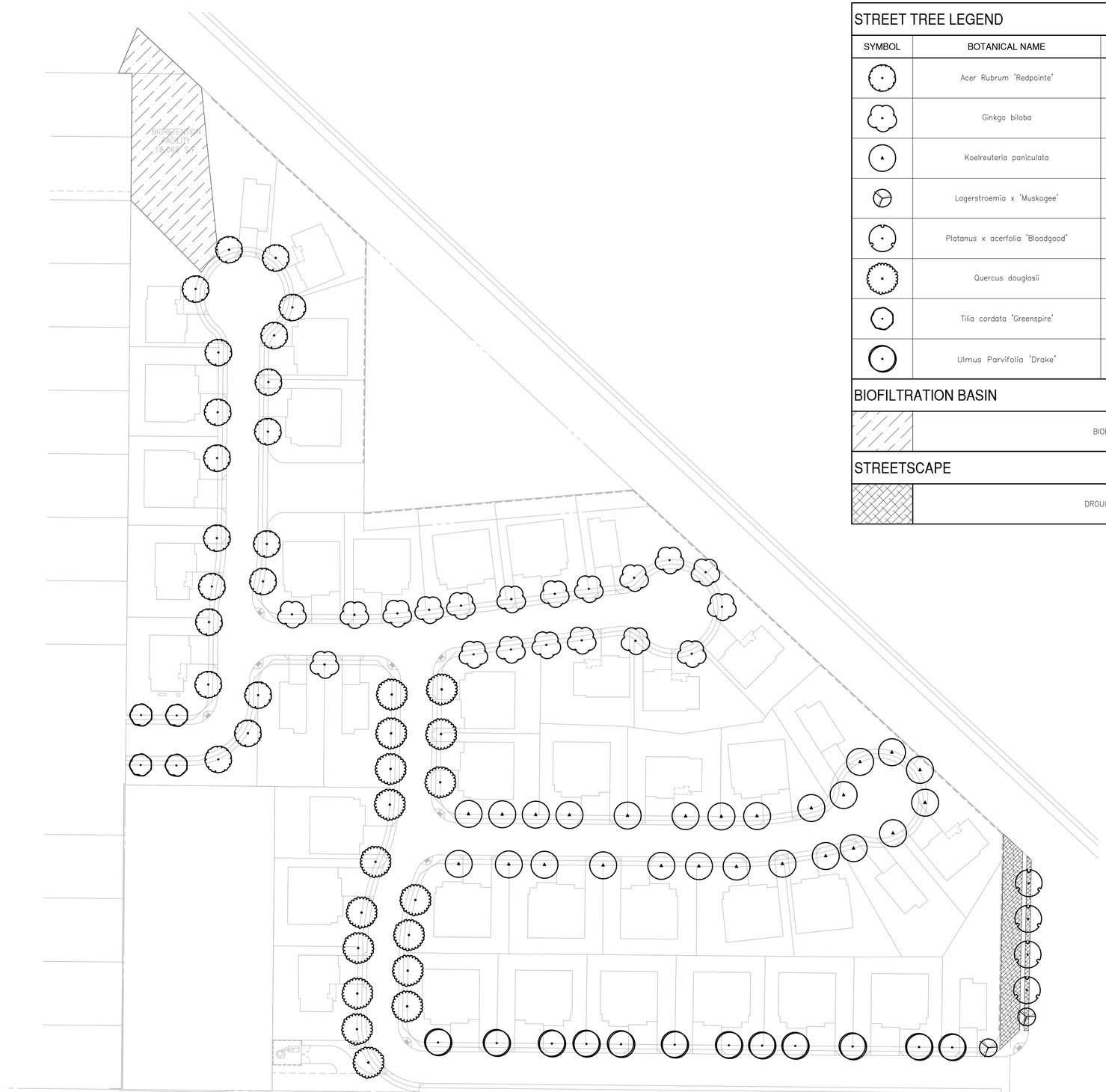

STREET TREE LEGEND

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	WATER USE
	Acer Rubrum 'Redpointe'	Redpointe Maple	15 GAL	MODERATE
	Ginkgo biloba	Maidenhair Tree	15 GAL	MODERATE
	Koelreuteria paniculata	Golden Rain Tree	15 GAL	MODERATE
	Lagerstroemia x 'Muskogee'	Crape Myrtle Light Lavender	15 GAL	LOW
	Platanus x acerfolia 'Bloodgood'	Bloodgood London Plane Tree	15 GAL	MODERATE
	Quercus douglasii	Blue Oak	15 GAL	VERY LOW
	Tilia cordata 'Greenspire'	Greenspire Littleleaf Linden	15 GAL	MODERATE
	Ulmus Parvifolia 'Drake'	Drake Lacebark Elm	15 GAL	LOW

BIOFILTRATION BASIN

	BIOFILTRATION GRASS MIX

STREETSCAPE

	DROUGHT TOLERANT PLANTING

N

0 30 60 120

SCALE: 1" = 60'

811 Know what's **below.** **Call** before you dig.

PLAN REVISIONS

NO.	DATE	REVISION

O'DELL ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
odellengineering.com

LANDSCAPE IMPROVEMENT PLANS

OAKLEY SELLERS VILLAGE

STREET TREE MASTER PLAN AND PRODUCTION HOMES

CITY, CALIFORNIA

STREET TREE MASTER PLAN

LICENSED LANDSCAPE ARCHITECT
JOSHUA S. NASH #5291
Signature
03/31/23
Renewal Date
04/19/2021
Date
STATE OF CALIFORNIA

APPROVED:

DESIGNED:	TH
DRAWN:	TH
CHECKED:	JN
SCALE:	1"=60'
DATE:	04/19/2021
JOB NO.:	35750
FILE NO.:	35750-PT-STREET TREES.DWG

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GENERAL PLANTING NOTES

GENERAL PLANTING NOTES

1. ANY AND ALL PORTIONS OF THIS WORK ARE TO BE CONSTRUCTED IN COMPLIANCE WITH ALL APPLICABLE RULES AND REGULATIONS AS SET FORTH BY LOCAL MUNICIPALITIES, STATE AND NATIONAL AGENCIES. IN THE EVENT THERE IS A CONFLICT WITH THESE PLANS AND THE AGENCIES STATED ABOVE, THE GOVERNING BODY'S REGULATIONS SHALL PREVAIL.
2. PRIOR TO BIDDING AND COMMENCEMENT OF SITE WORK, THE CONTRACTOR SHALL BECOME FAMILIAR WITH AND EXAMINE CONDITIONS OF THE PROJECT SITE, VERIFYING LOCATIONS OF ALL EXISTING UTILITIES, STRUCTURES AND SERVICES. LOCATIONS OF ITEMS SHOWN ON THESE PLANS ARE ONLY APPROXIMATIONS. ANY DISCREPANCIES DISCOVERED SHALL BE REPORTED TO THE LANDSCAPE ARCHITECT. FAILURE TO REPORT DISCREPANCIES TO THE LANDSCAPE ARCHITECT BEFORE COMMENCEMENT OF SITE WORK IMPLIES ACCEPTANCE OF SITE CONDITIONS AND COSTS ASSOCIATED WITH CORRECTING PLANTING RELATED INSTALLATIONS.
3. CONTRACTOR TO PURCHASE AND PROVIDE ALL LABOR, MATERIALS, AND EQUIPMENT NECESSARY TO COMPLETE THE LANDSCAPE WORK (I.E. TREE PLANTING, LAWN HYDROSEEDING, ETC.) AS SHOWN ON THE DRAWINGS AND AS SPECIFIED. THE CONTRACTOR SHALL ALSO BE RESPONSIBLE FOR PROTECTION OF THESE ITEMS UNTIL THE PROJECT IS COMPLETED.
4. ALL SCALED DIMENSIONS ARE APPROXIMATE. BEFORE PROCEEDING WITH ANY WORK, THE CONTRACTOR SHALL CAREFULLY CHECK AND VERIFY ALL DIMENSIONS AND QUANTITIES AND SHALL IMMEDIATELY INFORM THE OWNER'S REPRESENTATIVE OF ANY DISCREPANCY BETWEEN THE INFORMATION. NUMBERS PROVIDED ON THIS PLAN ARE FOR REFERENCE ONLY. THE NUMBER OF SYMBOLS SHOWN ON THE PLANS SHALL HAVE PRIORITY OVER THE NUMBERS GIVEN.

SOIL PREPARATION

1. THE LANDSCAPE CONTRACTOR SHALL INSPECT THE PLANTER AREAS FOR EXTREME COMPACTION PARTICULARLY AROUND CONSTRUCTION AREAS. PROVIDE MEANS FOR RIPPING TO A DEPTH OF TWELVE INCHES (12") ALL COMPACTED AREAS TO INSURE PROPER ROOT GROWTH OF NEW PLANTINGS.
2. CULTIVATE TOP SIX INCHES (6") OF SOIL IN ALL AREAS.
3. NO SOIL SHALL BE HANDLED OR WORKED WHEN IN A MUDDY CONDITION.
4. FINISH GRADE SHALL BE APPROVED BY THE OWNERS REPRESENTATIVE BEFORE ANY PLANTING BEGINS.
5. AN EVEN FINISHED GRADE WITH NO RIDGES OR DEPRESSIONS SHALL BE CAREFULLY MAINTAINED DURING OPERATIONS TO ENSURE PROPER SURFACE DRAINAGE.
6. LAWN AREAS SHALL BE FINE GRADED TO WITHIN ONE INCH (1") BELOW ADJACENT SURFACES.
7. THE CONTRACTOR SHALL PERFORM A SOILS FERTILITY TEST AND SUBMIT SAMPLE TO A REPUTABLE SOILS LABORATORY. CONTRACTOR SHALL SUBMIT RESULTS OF SOILS TEST TO THE LANDSCAPE ARCHITECT FOR APPROVAL OR MODIFICATION.
8. FOR BID PURPOSES ONLY; THE FOLLOWING MINIMUM AMENDMENTS SHALL BE INCORPORATED INTO ALL PLANTED AREAS AND TILLED INTO THE SOIL TO A DEPTH OF SIX TO TWELVE INCHES (6"–12"):
   –6–20–20 FERTILIZER AT 25LBS PER 1,000 S.F.
   –NITRIFIED REDWOOD SHAVINGS AT 4 CUBIC YARDS PER 1,000 S.F.
   –SOIL SULFUR AT 15LBS PER 1,000 S.F.

PLANT MATERIAL

1. SUBSTITUTIONS WILL NOT BE PERMITTED UNLESS APPROVED BY THE OWNER/LANDSCAPE ARCHITECT.
2. PLANTS SHALL BE SOUND, HEALTHY, VIGOROUS, FREE FROM NOXIOUS WEEDS, PLANT DISEASE, INSECT PESTS, OR THEIR EGGS, AND SHALL HAVE HEALTHY, NORMAL ROOT SYSTEMS AND COMPLY WITH ALL STATE AND LOCAL REGULATIONS.
3. PLANTS SHALL NOT BE PRUNED PRIOR TO DELIVERY EXCEPT AS AUTHORIZED BY THE OWNER'S REPRESENTATIVE. DO NOT "TOP" TREES.
4. ALL PLANT MATERIAL IS SUBJECT TO REVIEW AND APPROVAL BY THE OWNER PRIOR TO INSTALLATION. THE CONTRACTOR WILL BE RESPONSIBLE FOR REPLACING ANY REJECTED MATERIAL.
5. CONTRACTOR TO PROVIDE PLANT MATERIAL DELIVERY TO JOB SITE. CONTRACTOR IS RESPONSIBLE FOR STORAGE, CARE, INSTALLATION, AND GUARANTEE FROM TIME OF DELIVERY. DO NOT STORE PLANT MATERIAL ON CONCRETE OR ASPHALT SURFACES.

WEED CONTROL

1. CONTRACTOR SHALL COMPLETELY REMOVE ALL WEEDS AND REFUSE FROM SITE PRIOR TO PERFORMING ANY SITE IMPROVEMENT.
2. AFTER PLANTING SHRUB BEDS AND PRIOR TO TOPDRESSING, IT IS RECOMMENDED TO, APPLY RONSTAR–G (OR EQUAL) PRE–EMERGENT WEED CONTROL IN THE AMOUNTS SPECIFIED BY THE MANUFACTURER.

PLANTING OPERATIONS

1. ALL PLANTS SHALL BE PLANTED, STAKED, AND TIED ACCORDING TO THESE PLANS.
2. STAKE TREES AT THE LOWEST POINT WHERE THE TREE CAN SUPPORT ITSELF.
3. THOROUGHLY WATER TREES, SHRUBS, AND GROUNDCOVER IMMEDIATELY AFTER PLANTING.
4. RELOCATION OF TREES: IN THE EVENT THAT UNDERGROUND CONSTRUCTION WORK OR OBSTRUCTIONS ARE ENCOUNTERED IN EXCAVATION OF THE TREE HOLES, ALTERNATE LOCATIONS WILL BE SELECTED BY THE OWNER'S REPRESENTATIVE.
5. ALL TREES SHALL BE PRUNED TO REMOVE BROKEN AND DAMAGED LIMBS AND BRANCHES. NO OTHER PRUNING IS APPROVED.
6. INSTALL STREET TREES PER CITY OF MANTECA RESIDENTIAL STREET TREE PLANTING (ST–26).
7. ROOT BARRIERS ARE REQUIRED FOR ALL TREES PLANTED WITHIN 5' OF A PAVED SURFACE. SEE DETAILS FOR MORE INFORMATION.
8. 3" TOP–DRESSING OF 2" CHIP WOOD MULCH (OWNER TO SELECT COLOR) TO BE INSTALLED PER DETAILS.
9. IT IS RECOMMENDED TO ADD FERTILIZER TABLET BEST–PAKS (20–10–5) PLANTER PACKETS, OR EQUAL, PLACED IN ALL PLANTING PITS PER DETAILS.

PLANT ESTABLISHMENT AND MAINTENANCE PERIODS

1. THE LANDSCAPE CONTRACTOR SHALL PROVIDE A PLANT ESTABLISHMENT PERIOD OF FIFTEEN (15) DAYS COMMENCING AT COMPLETION OF PLANT MATERIAL INSTALLATION.
2. APPROXIMATELY 30 DAYS AFTER INITIAL PLANTING, APPLY A BALANCED FERTILIZER TO TURF AND SHRUB AREAS PER MANUFACTURER'S RECOMMENDED RATES.
3. LANDSCAPE SHALL BE MAINTAINED BY THE HOMEOWNER AFTER THE INSTALLATION: INCLUDING MOWING AND MAINTENANCE OF TURF, SHRUBS, TREES, FERTILIZATION, REMOVING CLIPPINGS FROM SITE, EDGING, AND THE CONTROL OF WEEDS. ADJUSTMENTS TO THE IRRIGATION SYSTEM FOR TIME AND DURATION OF FLOWS AND REPLACEMENT AND ADJUSTMENTS TO HEADS AND NOZZLES ARE ALSO REQUIRED.
4. THE HOME OWNER SHALL BE RESPONSIBLE FOR DISEASE AND PEST CONTROL.

ACCEPTANCE

1. COMPLETED WORK WILL BE REVIEWED AND OBSERVED BY OWNER. ANY MODIFICATIONS REQUIRED TO MEET THE STANDARDS AS SET FORTH IN THESE LANDSCAPE DOCUMENTS WILL BE SUBMITTED TO THE LANDSCAPE CONTRACTOR AND CORRECTED AT THE LANDSCAPE CONTRACTOR'S EXPENSE. CORRECTED ITEMS MUST BE APPROVED BY OWNER.
2. UPON FINAL ACCEPTANCE, LANDSCAPE CONTRACTOR SHALL PROVIDE MAINTENANCE PROGRAM AND DOCUMENTATION TO THE OWNER.

GUARANTEE

1. ALL TREES AND SHRUBS SHALL BE GUARANTEED BY THE LANDSCAPE CONTRACTOR TO LIVE AND GROW IN A HEALTHY UPRIGHT POSITION DURING THE ESTABLISHMENT AND MAINTENANCE PERIODS. REPLACEMENT MATERIAL WILL BE AT THE LANDSCAPE CONTRACTOR'S EXPENSE EXCEPT IF VANDALIZED OR STOLEN.

WATER CONSERVATION STATEMENT

1. I HAVE COMPLIED WITH THE CRITERIA OF THE (STATE/CITY WATER CONSERVATION) ORDINANCE AND APPLIED THEM FOR THE EFFICIENT USE OF WATER IN THE LANDSCAPE DESIGN PLAN.
2. CHANGES TO THE APPROVED PLANS OR FIELD SUBSTITUTIONS SHALL NOT BE PERMITTED WITHOUT PRIOR WRITTEN APPROVAL FROM THE OWNER/LANDSCAPE ARCHITECT. IF THE OWNER/CONTRACTOR DEVIATES FROM THE APPROVED PLAN WITHOUT PRIOR WRITTEN APPROVAL THEY WILL BE REQUIRED TO MAKE ANY CORRECTIONS, AT THEIR OWN EXPENSE, TO BRING THE LANDSCAPE AND IRRIGATION INTO COMPLIANCE WITH THE APPROVED PLANS AND THE STATE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE.

CLOSE–OUT DOCUMENTS

1. AT THE COMPLETION OF THE PROJECT THE CONTRACTOR SHALL SUPPLY A "CERTIFICATE OF COMPLETION" DOCUMENT. THE DOCUMENT SHALL INCLUDE:
   A. PROJECT INFORMATION SHEET THAT CONTAINS:
      1. DATE
      2. PROJECT NAME
      3. PROJECT APPLICANT NAME, TELEPHONE NUMBER, AND MAILING ADDRESS.
      4. PROJECT ADDRESS
      5. PROPERTY OWNER NAME, TELEPHONE NUMBER AND MAILING ADDRESS.
   B. CERTIFICATION BY EITHER THE SIGNER OF THE LANDSCAPE DESIGN PLAN, THE DESIGNER OF THE IRRIGATION DESIGN PLAN OR THE LICENSED LANDSCAPE CONTRACTOR THAT THE LANDSCAPE PROJECT HAS BEEN INSTALLED PER THE APPROVED LANDSCAPE DOCUMENTATION PACKAGE.
      1. WHERE THERE HAVE BEEN SIGNIFICANT CHANGES MADE IN THE FIELD DURING CONSTRUCTION THESE "AS–BUILT" OR RECORD DRAWINGS SHALL BE INCLUDED WITH THE CERTIFICATION.
      2. A DIAGRAM OF THE IRRIGATION PLAN SHOWING HYDROZONES SHALL BE KEPT WITH THE IRRIGATION CONTROLLER FOR SUBSEQUENT MANAGEMENT PURPOSES.
   C. IRRIGATION SCHEDULING PARAMETERS USED TO SET THE CONTROLLER.
   D. LANDSCAPE AND IRRIGATION MAINTENANCE SCHEDULE
   E. IRRIGATION AUDIT REPORT.
   F. SOILS ANALYSIS REPORT IF NOT SUBMITTED WITH LANDSCAPE DOCUMENTATION PACKAGE AND DOCUMENTATION VERIFYING IMPLEMENTATION OF SOIL REPORT RECOMMENDATIONS.

GENERAL IRRIGATION NOTES

GENERAL IRRIGATION NOTES

1. ANY AND ALL PORTIONS OF THIS WORK ARE TO BE CONSTRUCTED IN COMPLIANCE WITH ALL APPLICABLE RULES AND REGULATIONS AS SET FORTH BY LOCAL MUNICIPALITIES AND/OR STATE. IN THE EVENT THERE IS A CONFLICT WITH THESE PLANS AND THE AGENCIES STATED ABOVE, THE GOVERNING BODY'S REGULATIONS SHALL PREVAIL.
2. IRRIGATION SHALL BE CONSISTENT WITH THE CITY WATER CONSERVATION REQUIREMENTS AND THE STATE WATER EFFICIENT LANDSCAPE ORDINANCE (AB 1881).
3. PRIOR TO BIDDING AND COMMENCEMENT OF SITE WORK, THE CONTRACTOR SHALL BECOME FAMILIAR WITH AND EXAMINE CONDITIONS OF THE PROJECT SITE, VERIFYING LOCATIONS OF ALL EXISTING UTILITIES, STRUCTURES AND SERVICES. LOCATIONS OF ITEMS SHOWN ON THESE PLANS ARE ONLY APPROXIMATIONS. ANY DISCREPANCIES DISCOVERED SHALL BE REPORTED TO THE LANDSCAPE ARCHITECT. FAILURE TO REPORT DISCREPANCIES TO THE LANDSCAPE ARCHITECT BEFORE COMMENCEMENT OF SITE WORK IMPLIES ACCEPTANCE OF SITE CONDITIONS AND COSTS ASSOCIATED WITH CORRECTING IRRIGATION LAYOUTS.
4. ANY EXISTING SITE FEATURES, GRADE CHANGES, OR SITE PLAN DESIGN CHANGES NOT SPECIFICALLY ADDRESSED ON THESE PLANS, (OR UNKNOWN CONDITIONS THAT WERE NOT APPARENT DURING THE DESIGN PROCESS) THAT WILL IMPACT INSTALLATION OR OPERATING OF IRRIGATION SYSTEMS IN ANY WAY, SHALL BE REPORTED TO THE LANDSCAPE ARCHITECT PRIOR TO COMMENCEMENT OF SITE WORK.
5. CONTRACTOR SHALL INSTALL IRRIGATION EQUIPMENT PER LOCAL AND STATE CODES AND MANUFACTURER'S WRITTEN INSTALLATION RECOMMENDATIONS.
6. CONTRACTOR SHALL OBTAIN ALL REQUIRED PERMITS FOR SUCCESSFUL COMPLETION OF PROJECT PRIOR TO COMMENCEMENT OF WORK.
7. IT IS THE CONTRACTOR'S RESPONSIBILITY TO OBTAIN ANY AND ALL PROJECT RELATED ARCHITECTURAL OR ENGINEERING DRAWINGS PRIOR TO COMMENCEMENT OF WORK.
8. THE CONTRACTOR SHALL REPAIR, REPLACE, OR COMPENSATE OWNER FOR ALL ITEMS DAMAGED BY THEIR WORK.
9. THE CONTRACTOR SHALL COORDINATE AND SCHEDULE INSTALLATION EFFORTS WITH THOSE OF OTHER TRADES TO AVOID COSTLY DELAYS AND ERRORS.

CONTROLLER ASSEMBLY NOTES

1. CONTRACTOR IS TO CONFIRM LOCATION OF CONTROLLER WITH OWNER PRIOR TO CONTROLLER INSTALLATION. THE CONTRACTOR IS RESPONSIBLE FOR ELECTRICAL CONNECTIONS BETWEEN THE 120 VOLT POWER SOURCE TO THE CONTROLLER, VALVES, AND ADDITIONAL IRRIGATION EQUIPMENT. FAILURE TO OBTAIN APPROVAL OF CONTROLLER ASSEMBLY LOCATION PRIOR TO INSTALLATION WILL RESULT IN OWNER DIRECTED REVISIONS AT NO ADDITIONAL COST TO THE OWNER.
2. A LAMINATED, WATERPROOF, LEGIBLE, CHART OF THE IRRIGATION SYSTEM NOT EXCEEDING 11"X17" SHALL BE ADHERED TO THE INSIDE COVER OF THE CONTROLLER. ALL VALVES AND THEIR RESPECTIVE COVERAGE AREAS SHALL BE IDENTIFIED WITH SEPARATE AND DISTINCT COLORS.
3. CONTROLLER SHALL COMPLY WITH ONE OF THE FOLLOWING CONFIGURATIONS:
   A) ET–BASED AUTOMATIC CONTROLLER
   B) AUTOMATIC CONTROLLER WITH RAIN SENSOR AND SOIL MOISTURE SENSOR.

IRRIGATION VALVE NOTES

1. VALVE LOCATIONS SHOWN ON DRAWINGS ARE APPROXIMATE LOCATIONS. CONTRACTOR IS TO STAKE THE LOCATIONS OF VALVES FOR APPROVAL BY OWNER PRIOR TO INSTALLATION.
2. VALVES ARE TO BE GROUPED TOGETHER AND INSTALLED IN SHRUB BEDS, UNLESS OTHERWISE INDICATED.
3. INSTALL ALL VALVES PER MANUFACTURER'S WRITTEN RECOMMENDATIONS.

DRIP AND LOW FLOW EMITTER NOTES

1. INSTALL ALL DRIPLINE AND EMITTERS PER MANUFACTURER'S WRITTEN RECOMMENDATIONS. TUBING TO BE INSTALLED DIRECTLY BENEATH BARK MULCH WITH GALVANIZED TIE–DOWN STAKES AS NEEDED.
2. INSTALL (2) HUNTER HE–20–B (2GPH) PER SHRUB, AND (4) HUNTER HE–20–B (2GPH) EMITTERS FOR ALL TREES IN SHRUB BEDS (OR EQUAL).

OVERHEAD SPRAY AND ROTOR NOTES

1. ALL HEADS SHALL INCLUDE A FACTORY INSTALLED DRAIN CHECK VALVE TO PREVENT LOW HEAD DRAINAGE.
2. ALL HEADS SHALL INCLUDE A FACTORY INSTALLED PRESSURE REGULATOR. SEE LEGEND FOR SPECIFIED PRESSURE LEVELS OF INDIVIDUAL HEADS.
3. AFTER INSTALLATION, ADJUST ALL ARCS AND THROWS FOR EVEN COVERAGE AND TO PREVENT OVERSPRAY ONTO PAVEMENT, BUILDINGS, WALLS, OR EQUIPMENT. THIS INCLUDES BUT IS NOT LIMITED TO ADJUSTMENTS TO THE RADIUS REDUCTION SCREW, SCREEN REPLACEMENTS, AND APPROVED NOZZLE REPLACEMENTS. ANY VERTICAL OBSTRUCTIONS NOT NOTED ON THESE PLANS ARE TO BE REPORTED TO THE LANDSCAPE ARCHITECT PRIOR TO COMMENCING WORK.
4. ALL HEADS SHALL BE INSTALLED FLUSH AND PERPENDICULAR TO FINISH GRADE UNLESS OTHERWISE NOTED OR DETAILED.
5. NO OVERHEAD IRRIGATION SHALL BE INSTALLED IN AREAS LESS THAN 10' WIDE IN ANY DIRECTION.
6. NO OVERHEAD IRRIGATION SHALL BE INSTALLED ADJACENT TO AN IMPERVIOUS SURFACE UNLESS THAT SURFACE DRAINS DIRECTLY INTO AND ADJACENT LANDSCAPE AREA.

ELECTRICAL WIRING NOTES

1. WIRING TO BE INSTALLED IN SAME TRENCH AS MAINLINE WITH 12" OF COVER.
2. CONTRACTOR TO SUPPLY TWO ADDITIONAL WIRES FROM CONTROLLER (STRETCHING ALONG THE ENTIRE MAINLINE) TO THE LAST VALVE OR STUB OF EACH AND EVERY LEG OF MAINLINE.
3. CONTROL WIRE TO BE U.L. LISTED, DIRECT BURIAL #18UF AWG MINIMUM. MULTI–STRAND WIRE. WIRING TO BE COLOR CODED WITH CORRESPONDING STATION AT THE CONTROLLER AND VALVES.
4. WATERPROOF CONNECTORS TO BE USED AT ALL WIRE CONNECTIONS.

PVC PIPING NOTES

1. MAINLINES SHOULD BE LOCATED A MINIMUM OF 12" OFF ADJACENT PAVEMENT OR OTHER OBSTACLES.
2. NON–PRESSURIZED LINES ARE TO BE BURIED WITH A MINIMUM OF 12" COVER. PRESSURIZED MAINLINES ARE TO BE BURIED WITH A MINIMUM OF 18" COVER.
3. SOLVENT WELD FITTINGS FOR MAINLINES 2" AND SMALLER SHALL BE SCHEDULE 40 PVC. ALL THREADED FITTINGS SHALL BE SCHEDULE 40 PVC.

SLEEVING NOTES

1. (2) 3" SCHEDULE 40 PVC SLEEVES SHALL BE PROVIDED ACROSS ALL DRIVEWAYS AND SIDEWALKS.
2. SLEEVES SHALL EXTEND A MINIMUM OF 12" BEYOND PAVED SURFACES.

WATER CONSERVATION STATEMENT

1. I HAVE COMPLIED WITH THE CRITERIA OF THE (STATE/CITY WATER CONSERVATION) ORDINANCE AND APPLIED THEM FOR THE EFFICIENT USE OF WATER IN THE IRRIGATION DESIGN PLAN.
2. AN IRRIGATION AUDIT SHALL BE COMPLETED BY A CERTIFIED LANDSCAPE IRRIGATION AUDITOR, AFTER INSTALLATION AND AT REGULAR INTERVALS PER THE STATE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE. THE AUDIT SHALL BE PROVIDED TO THE CITY OF MERCED FOR REVIEW AND APPROVAL. BUILDING PERMIT WILL NOT BE SIGNED OFF UNTIL AUDIT HAS BEEN PROVIDED, REVIEWED AND APPROVED.
3. CHANGES TO THE APPROVED PLANS OR FIELD SUBSTITUTIONS SHALL NOT BE PERMITTED WITHOUT PRIOR WRITTEN APPROVAL FROM THE LANDSCAPE ARCHITECT AND THE CITY OF MERCED. IF THE OWNER/CONTRACTOR DEVIATES FROM THE APPROVED PLAN WITHOUT PRIOR WRITTEN APPROVAL THEY WILL BE REQUIRED TO MAKE ANY CORRECTIONS, AT THEIR OWN EXPENSE, TO BRING THE LANDSCAPE AND IRRIGATION INTO COMPLIANCE WITH THE APPROVED PLANS AND THE STATE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE.

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PLANT LEGEND

SYMBOL	PALETTE	BOTANICAL NAME	COMMON NAME	SIZE	WATER USE	COMMENTS/NOTES
PARKSTRIP TREES - REFER TO STREET TREE AND FENCING PLAN VILLAGE DD						
	NORTH/SOUTH STREETS	Acer Rubrum 'Redpointe'	Redpointe Maple	15 GAL	LOW	F&B, FGR, HI BR, MATCH, SL
	EAST/WEST STREETS	Ulmus Parvifolia 'Drake'	Drake Lacebark Elm	15 GAL	LOW	F&B, FGR, HI BR, MATCH, SL
LOT TREES						
	PALETTE 1	Lagerstroemia x 'Muskogee'	Crape Myrtle Light Lavender	15 GAL	LOW	F&B, FGR, LAVENDER FLW, HI BR, MATCH, SL
	PALETTE 2	Prunus c. 'Krauter Vesuvius'	Purple Leaf Flowering Plum	15 GAL	MODERATE	F&B, FGR, PINK FLW, HI BR, MATCH, SL
	PALETTE 3	Cercis occidentalis	Western Redbud	15 GAL	LOW	F&B, FGR, PINK FLW, HI BR, MATCH, SL
		ROOT BARRIER – (DEEP ROOT UB–18–2)				
SHRUBS						
	PALETTE 1	Xylosma c. 'Compacta'	Shiny Xylosma	5 GAL	LOW	F&B, FGR, LO BR, MATCH, SL
	PALETTE 2	Dodonea v. 'Purpurea'	Purple Hopseed Bush	5 GAL	LOW	BR GR, F&B, FGR, MATCH, SL
	PALETTE 3	Ligustrum j. 'Texanum'	Wax–Leaf Privet 'Pyramidal'	5 GAL	LOW	BR GR, F&B, FGR, WHITE FLW, MATCH
	PALETTE 1	Olea e. 'Little Ollie'	Little Ollie Olive	5 GAL	LOW	BR GR, F&B, FGR, MATCH
	PALETTE 2	Myrtus c. 'Compacta'	Myrtle	5 GAL	LOW	BR GR, F&B, FGR, MATCH
	PALETTE 3	Rhaphiolepis u. 'Minor'	Yedda Hawthorn	5 GAL	LOW	BR GR, F&B, FGR, WHITE FLW, MATCH
	PALETTE 1	Euryops pectinatus	Golden Daisy shrub	5 GAL	LOW	DV, F&B, FGR, YELLOW FLW, MATCH
	PALETTE 2	Anisodontea x 'Tara's Pink'	Cape Mallow	5 GAL	LOW	DV, F&B, FGR, PRPL FLW, MATCH
	PALETTE 3	Teucrium fruticans	Bush Germander	5 GAL	LOW	BR GR, DV, F&B, FGR, BLUE FLW, MATCH
	PALETTE 1	Lantana m. 'Spreading Sunshine'	Lantana	1 GAL	LOW	F&B, FGR, YLLW FLW, MATCH
	PALETTE 2	Myoporum parvifolium 'Putah Creek'	Myoporum	1 GAL	LOW	F&B, FGR, MATCH
	PALETTE 3	Juniperus sabina 'Arcadia'	Arcadia Juniper	1 GAL	LOW	F&B, FGR, MATCH
	PALETTE 1	Tulbaghia v. 'Silver Lace'	Society Garlic	1 GAL	LOW	PINK/PURPLE FLW, MATCH, VAR
	PALETTE 2	Phormium t. 'Tom Thumb'	Dwarf New Zealand Flax	1 GAL	LOW	YELLOW FLW, MATCH, TRI SP
	PALETTE 3	Dietes iridioides	African Iris	1 GAL	LOW	F&B, FGR, WHITE FLW, MATCH
GRASS						
		TURF – 90/10 DWARF FESCUE	SOD/LAWN	SOD	HIGH	INSTALL PER MAN. RECOMMENDATIONS

LANDSCAPE WATER–EFFICIENCY (MWELO) APPENDIX – D CHECKLIST
(CAN ONLY BE USED WHEN AGGREGATE LANDSCAPE AREAS ARE 2,500 SQUARE FEET OR LESS)

Landscape Parameters	Design Measures	Project Compliance (state Yes or No)
Compost	Incorporate Compost at a rate of at least four (4) cubic yards per 1,000 sq.ft. to a depth of 6 inches into landscape area (unless contra–indicated by a soil test).	Yes
Plant Water Use	Residential: Install climate adapted plants that require occasional, little or no summer water (average WUCOLS plant factor 0.4) for 75% of the plant area excluding edibles and areas using recycled water. Non–residential: Install climate adapted plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for 100% of the plant area excluding edibles and areas using recycled water.	Yes
Mulch	A minimum 3–inch layer of mulch should be applied on all exposed soil surfaces of planting areas, except in areas of turf or creeping or rooting groundcovers.	Yes
Turf	Total turf area shall not exceed 25% of the landscape area. Turf is not allowed in non–residential projects.	Yes
	Turf (if utilized) is limited to slopes not exceeding 25% and is not used in parkways less than 10 feet in width.	
	Turf, if utilized in parkways is irrigated by sub–surface irrigation or other technology that prevents overspray or runoff.	
Irrigation System	Irrigation controllers use evapotranspiration or soil moisture data and utilize a rain sensor.	Yes
	Irrigation controller programming data will not be lost due to an interruption in the primary power source.	
	Areas less than 10 feet in any direction utilize sub–surface irrigation or other technology that prevents overspray or runoff.	
	A private landscape sub–meter is installed at non–residential landscape areas of 1,000 sq.ft. or more.	

I agree to comply with the requirements of the prescriptive compliance option of the MWELO per Appendix D.

Signature of property owner or authorized representative Date

Note:
For the purposes of this for landscape area includes all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non–pervious hardscapes, and other non–irrigated areas designated for non–development (e.g., open spaces and existing native vegetation).

811 Know what's below. Call before you dig.

PLAN REVISIONS

NO.	DATE	REVISION

O'DELL ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
odellengineering.com

LANDSCAPE IMPROVEMENT PLANS
OAKLEY SELLERS VILLAGE
STREET TREE MASTER PLAN AND PRODUCTION HOMES
CITY, CALIFORNIA

PLANTING LEGEND AND NOTES

LICENSED LANDSCAPE ARCHITECT — JOSHUA S. NASH #5249 — Signature 03/31/23 Renewal Date — 04/19/2021 Date — STATE OF CALIFORNIA

APPROVED:

DESIGNED:	TH
DRAWN:	TH
CHECKED:	JN
SCALE:	NO SCALE
DATE:	04/19/2021
JOB NO.:	35750
FILE NO.:	35750–PRODUCTION–PT.DWG

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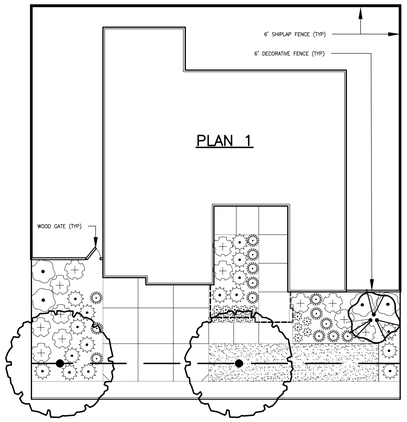

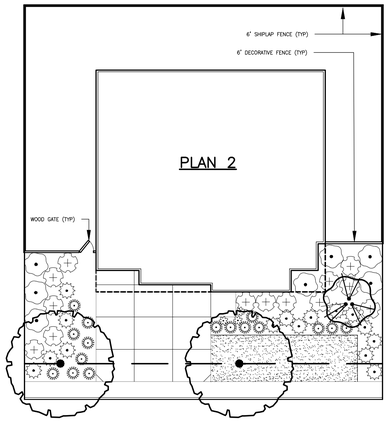

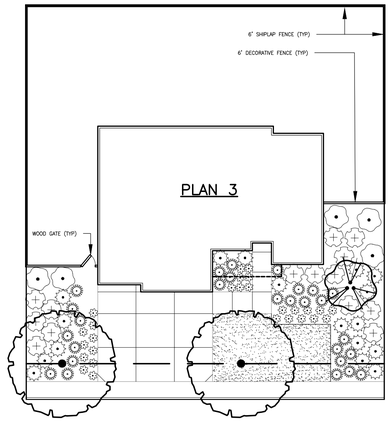

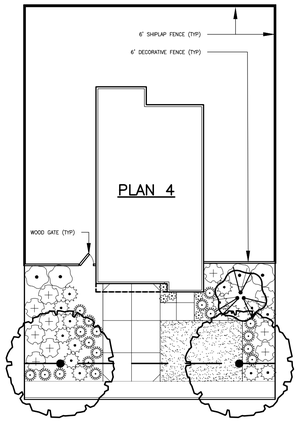

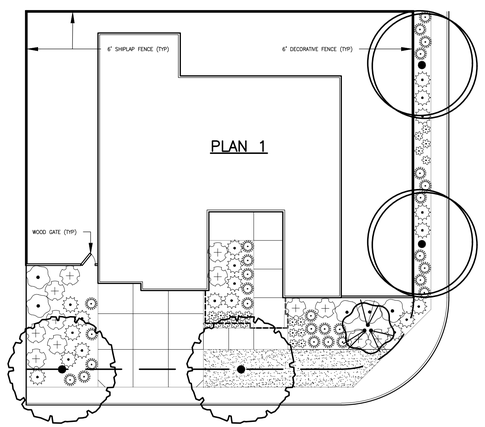

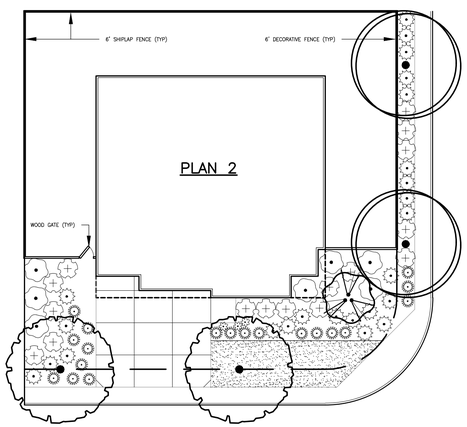

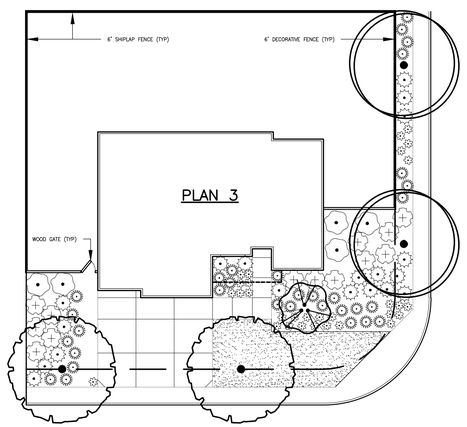

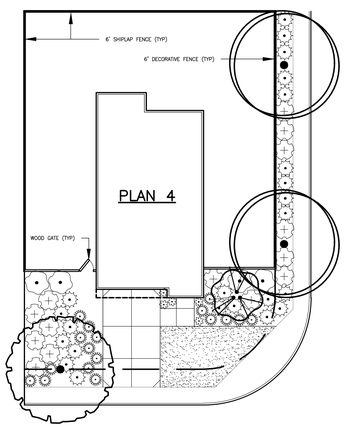

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1165 Scenic Drive, Suite A
Modesto, CA 95350
odellengineering.com

LANDSCAPE IMPROVEMENT PLANS

OAKLEY SELLERS VILLAGE

STREET TREE MASTER PLAN AND
PRODUCTION HOMES

CITY, CALIFORNIA

PLANTING PLAN
REGULAR LOT

LICENSED LANDSCAPE ARCHITECT
JOSHUA S. NAGY #6261
Signature
03/31/23
Renewal Date
04/19/2021
Date
STATE OF CALIFORNIA

APPROVED:

DESIGNED:	TH
DRAWN:	TH
CHECKED:	JN
SCALE:	1"=20'
DATE:	04/19/2021
JOB NO.:	35750
FILE NO.:	35750-PRODUCTION-PT.DWG

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RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING A VESTING TENTATIVE MAP (TM 05-20) TO SUBDIVIDE AN APPROXIMATELY 14.75-ACRE SITE INTO 42 SINGLE FAMILY RESIDENTIAL LOTS OF MINIMUM 10,000 SQUARE FOOT LOT SIZE FOR THE PROJECT KNOWN AS "OAKLEY VILLAGE SUBDIVISION 9577": APNS 033-150-001 AND 033-150-018

WHEREAS, on September 14, 2020, Edgemont Station, LLC. ("Applicant") filed an application requesting approval of a Vesting Tentative Map (TM 05-20) to subdivide an approximately 14.75 acre site into 42 single family residential lots (min. lot size of 10,000 sf.), storm water treatment areas, and dedication of right of way, including in-tract streets and frontage for Sellers Avenue ("Project"); and

WHEREAS, the project site is located west of the intersection of Sellers Avenue and BNSF Railroad tracks and zoned R-10 (Single Family Residential) District. APNs: 033-150-011 and 033-150-018; and

WHEREAS, Design Review (i.e. home design, landscape design, entrance features, street tree plan, etc.) has not been submitted in conjunction with this Vesting Tentative Map; and

WHEREAS, on May 19, 2021, the project application was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, the project is designated as Single Family Residential, Medium Density (SM) in the Oakley 2020 General Plan, and zoned R-10 (Single Family Residential) District; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act ("CEQA"), the City prepared a Draft Initial Study/Mitigated Negative Declaration ("IS/MND"), which was circulated for public review and comment from October 12, 2021 to November 2, 2021. The Notice of Intent to Adopt a Negative Declaration ("NOI") and Draft IS/MND were filed with the County Clerk, emailed or mailed out to over 60 public agencies and parties requesting such notice, and mailed to all property owners and current residents of properties contiguous to the project site; and

WHEREAS, on October 29, 2021, the Notice of Public Hearing for the Project was duly noticed in the Contra Costa Times, a newspaper of general distribution. On or before October 29, 2021, the Notice of Public Hearing was posted at the Project site, at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road, and the notice was mailed out to all owners of property within a 500-foot radius of the subject property's boundaries, to parties requesting such notice, and to outside agencies; and

WHEREAS, on November 9, 2021, the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as revised by the City Council during its deliberations; and

WHEREAS, these Findings are based on the City's General Plan and the City's Zoning Ordinance, and the information submitted to the City Council at its November 9, 2021 meeting, both written and oral, as reflected in the minutes of such meetings, together with the documents contained in the file for the Project (hereafter the "Record").

NOW, THEREFORE, BE IT RESOLVED THAT, on the basis of the above findings of fact and the entire Record, the City Council makes the following additional findings in support of the approvals:

A. The Project's Final Initial Study/Mitigated Negative Declaration ("IS/MND") was adopted by the City Council in conjunction with the Project's Vesting Tentative Map (TM 05-20) approval. Development of the project is subject to all adopted mitigation measures as included in the IS/MND unless modified pursuant CEQA Guidelines and adopted by the City Council.

B. In regards to the application requesting approval of Vesting Tentative Map 9577 (TM 05-20) to subdivide approximately 14.75 acres into 42 single family residential lots (min. lot size of 10,000 sf.), storm water treatment areas, and dedication of right of way, including in-tract streets and frontage for Sellers Avenue, the City Council finds that:

1. The proposed Vesting Tentative Map ("VTM"), together with the provisions of its design and improvements, is consistent with the Zoning Ordinance, and applicable portions Single Family Residential, High Density (SM) General Plan Land Use Designation, in that the VTM's gross density (apx. 2.8 du/ga) falls within the gross density range of the Single Family Medium Density (SM) General Plan Land Use Designation of 2.3-3.8 du/ga, and the VTM is designed in a manner that complies with all applicable development regulations, such as minimum lot size (10,000 sf.), minimum lot width (60 ft.), and minimum lot depth (100 ft.) of the R-10 District; and

2. The site is physically suitable for the type of development in that it is accessible, not physically constrained, and near like uses, and it is also able to accommodate the proposed density of development in a manner consistent with the underlying land use designation; and

3. The site is physically suitable for the proposed density and number of dwelling units in that he proposed VTM falls within the allowable density while creating lots compliant with the applicable Zoning District, and public roads to access the homes; and

4. The Project's Initial Study and Mitigated Negative Declaration were prepared in accordance with CEQA Guidelines; and

5. The design of the subdivision and type of improvements are not likely to cause serious public health problems in that the proposed subdivision consists of 42 single family residential lots. Construction and grading of the project are subject to building or grading permits, and violations of any such permits are subject to appropriate enforcement; and

6. The design of the subdivision includes the construction of improvements within public right-of-way that are consistent with major subdivisions and the City's design standards. The improvements consist of widening and improving the project frontage along Sellers Avenue, with roadway, sidewalks, curbs and gutters, and landscaping adjacent to the project's frontage; and

7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision in that the VTM provide public access and private access easements to the two residential parcels located near the project.

C. 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 of the Applicant's request for **Tentative Map (TM 05-20)** 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 application received by the Planning Division dated **September 14, 2020**, as well as additional information acquired since that time and made part of the project file.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE CONSTRUCTION OF THE BUILDING'S ON EITHER PARCEL UNLESS OTHERWISE NOTED:

PLANNING DIVISION CONDITIONS OF APPROVAL

General:

1. This **Tentative Map (TM 05-20)** application is approved, as shown on the plans presented as part of the packet presented to the City Council at the **November 9, 2021** public hearing, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.

2. This approval for **Tentative Map (TM 05-20)** shall be effectuated within a period of three (3) years from the effective date of this resolution by either satisfying conditions in the Subdivision Map Act, or pulling a building permit for construction of the homes, and if not effectuated shall expire on that same date three years later. Prior to the expiration date, the applicant may apply for a Tentative Map Extension pursuant to the provisions of the Zoning Code and Subdivision Map Act.

3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on **November 9, 2021**.

4. 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.

5. 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.

6. 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. If the remains are determined to be that of Native American origin, procedures will be guided by California PRC 5097 through California's Native American Heritage Commission.

7. The applicant shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project. The city shall promptly notify the applicant of any such claim, action or proceeding. The city shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the city from participating in a defense of any claim, action,

or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.

8. The applicant shall post a copy of the City of Oakley General Plan 2020 Land Use Diagram, in a conspicuous place, within the model homes or sales office.

Parks and Landscaping:

9. This project is not proposing to construct any parkland. The applicant will be required to pay the full in-lieu park impact fees on each lot.

10. The applicant shall submit conceptual landscape plans with any future Design Review application.

Fences and Walls:

11. Within the subdivision good neighbor fences shall be constructed as shown on the proposed landscape plans, but with metal posts surrounded by a wood exterior or acceptable alternative, rather than wooden posts, as reviewed and approved by the Community Development Director. Corner lots or any good neighbor fence facing a street shall provide a fence or wall constructed of a durable material such as, but not limited to, masonry, vinyl, enhanced wood, composite or other durable material as approved by the Community Development Director. All wood fencing visible from the street shall be stained or painted on both sides to prevent water damage to the satisfaction of the Community Development Director.

12. All CMU walls, such as landscape retaining walls, shall use colored (i.e. non-grey) split-face CMU for all publicly and privately visible portions of the wall.

13. Anti-graffiti techniques shall be used on masonry walls.

14. The final design and material for the proposed sound walls along the railroad tracks and Sellers Avenue shall be subject to the review and approval of the Planning Division. A consistent theme of quality, textured materials shall be used for all sound walls.

15. Sound walls shall attenuate, not just deflect sound. The use of sound absorbing material should be used for the construction of sound walls per the review and approval of the Community Development Director.

16. The applicant may work with the neighboring property owner to modify the sound wall along the railroad tracks to continue through the private parcel adjacent to the railroad tracks rather than between the existing property and lots 12-19 remain in the subdivision. With this modification, the fencing between the newly created lots and existing residential parcel would consist of a wooden good neighbor fence.

Subdivision Design:

17. Driveway openings may be a maximum 18' in width or up to 25% of the lot's frontage, whichever is larger.

18. The street names shall be approved by the Community Development Department and the East Contra Costa Fire Protection District.

19. The project shall establish a Home Owner Association ("HOA") governed community for the purposes of maintain the stormwater bioretention parcel, and Parcels A, B, and C. The applicant shall submit preliminary information prior to forming the HOA that details what minimum standards the development will be held to in order to avoid conflict with any applicable City regulations.

20. Proposed Parcel C may be redesigned to accommodate a narrower private access easement into the neighboring private property to the west of Parcel C. The minimum width shall allow an access driveway that meets Fire District standards, and include at least curb and gutter plus five feet of landscaping on each side. The access shall not be placed on either of the adjacent residential lots.

Subdivision Disclosures:

21. Where a lot/parcel is located within 300' of a high voltage electric transmission line, the applicant shall record the following notice:

> "The subject property is located near a high voltage electric transmission line. Purchasers should be aware that there is ongoing research on possible potential adverse health effects caused by the exposure to a magnetic field generated by high voltage lines. Although much more research is needed before the question of whether magnetic fields actually cause adverse health effects can be resolved, the basis for such a hypothesis is established. At this time no risk assessment has been made."

When a Final Subdivision Public Report issued by the California Department of Real Estate is required, the applicant shall also request that the Department of Real Estate insert the above note in the report.

22. The following statements shall be recorded at the County Recorder's Office for each parcel to notify future owners of the parcels that they own property in an agricultural area:

> "This document shall serve as notification that you have purchased land in an agricultural area where you may regularly find farm equipment using local roads; farm equipment causing dust or blowing sand; crop dusting and spraying occurring regularly; burning associated with agricultural activities; noise associated with farm equipment such as zon guns and aerial crop

dusting and certain animals, including equestrian trails as well as flies may exist on surrounding properties. This statement is again, notification that this is part of the agricultural way of life in the open space areas of the City of Oakley and you should be fully aware of this at the time of purchase."

Energy Efficiency:

23. Water heaters shall provide an energy efficiency factor of 0.62 or better.

24. Dual zone air conditioning shall be provided on all two-story residential units.

25. Air conditioning condenser units shall be located to take advantage of natural shade. Condensers should not be placed on the west or south elevation of a home, unless shade is provided. The location of the condenser shall be added to all plot plans for review and approval of the Community Development Director.

26. Design and site units so as to take advantage of natural heating and cooling, sin and wind exposure, and solar energy opportunities.

Mitigation Measures

27. The applicant shall implement all mitigation measures addressed in the project's Initial Study/Mitigated Negative Declaration, per the review and approval of the Community Development Director.

28. The applicant shall comply with all mitigation measures contained within the HCP Planning Survey Report for the Project, per the review and approval of the Community Development Director.

Waste Management Plan:

29. The applicant shall submit a Waste Management Plan that complies with the City of Oakley Construction and Demolition Debris Recycling Ordinance.

BUILDING DIVISION CONDITIONS OF APPROVAL

30. Plans shall meet the currently adopted Uniform Codes as well as the newest T-24 Energy Requirements per the State of California Energy Commission. To confirm the most recent adopted codes please contact the Building Division at (925) 625 – 7005.

31. An Automatic Life Safety Sprinkler System shall be required in all new construction pursuant to Ordinance 22-06. The Automatic Life Safety Sprinkler Systems in commercial and industrial buildings shall be designed and installed to the standards and requirements found in the most recent version of the NFPA (National Fire Protection Association). Automatic Life Safety Sprinkler Systems in

hotels and apartments shall be installed to the stands and requirements found in the most recent version of the NFPA, Standard 13R.

32. Prior to requesting a Certificate of Occupancy from the Building Division all Conditions of Approval required to occupancy must be completed.

PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF AN ENCROACHMENT AND/OR GRADING PERMIT:

33. 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.

34. ENCROACHMENT PERMIT. All work in the public right-of-way, including any blockage 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.

35. 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.

36. 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.

37. PRECONSTRUCTION MEETING. Prior to issuance of any permit or the commencement of any site work, the general contractor shall:

    A. 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;

    B. 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.

38. 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.

39. 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.

40. 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.

41. 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.

42. 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 8:30AM to 2:30PM on Monday, Tuesday, Thursday, and Friday, and 8:30AM to 12:00PM on weekends.

    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.

43. 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.

44. 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.

45. 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.

46. 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.

47. CONSTRUCTION NOISE. 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. 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.

48. 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.

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE GRADING PLAN:

49. EXISTING WELLS. Provide documentation that any gas wells located onsite have been abandon per regulations.

50. 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. Soil Infiltration Rate Analysis shall be provided to the City for approval prior to release of Grading Permit.

51. 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

52. 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:

53. PUBLIC IMPROVEMENTS. Construct the project streets within public right of way to City public road standards and as shown on the Tentative Map with the following exceptions:

    A. The minimum street grade may be lowered from the standard 1% to 0.75% provided that the project proponent demonstrates that the City's drainage standards can be achieved.

    B. Submit a turning radius exhibit to the City Engineer for review and approval to illustrate that the ninety-degree turns of project streets can accommodate the largest expected vehicle to use the streets without the inclusion of City standard elbows. If the exhibit illustrates that elbows are necessary to accommodate the expected traffic, then they shall be included in the improvement plans.

54. ROADWAY IMPROVEMENTS. The following improvements shall be installed by the developer as shown on the Tentative Map. Plans for those improvements shall be prepared by a California registered civil engineer, reviewed and approved by the City.

    A. Frontage Improvements. Sellers Avenue shall be constructed with curb, gutter, sidewalk, street lights, pavement widening, signing, striping, and storm drainage as required consistent with the necessary half width of the City of Oakley Two Lane Collector standard and consistent with the City of Oakley General Plan. Developer shall explore the design of providing a dedicated right turn lane from Sellers Avenue to A Street.

55. 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. Dedicate a public drainage easement over the drainage system that conveys storm water run-off from public streets.

F. On-site parking area and driveways shall not surface drain across public sidewalk or driveway aprons.

56. 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 on Oakley Road and other public streets identified with this project as required by the City Engineer.

57. 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.

58. JOINT TRENCH PLANS. The applicant shall submit Joint Trench 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 HOA. Pole numbers, assigned by PG&E, shall be clearly delineated on the plans.

59. 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 the final lift or paver installation of street.

60. STREET LIGHTS. Install streetlights along all project streets and the project's main frontage along Oakley Road. The City Engineer shall determine the final number and location of the lights, and the lights shall be on an LS2-A rate service. The lights on the project streets shall be decorative per City Standards and the lights along Oakley shall be spun aluminum "cobra head" style as required by the City of Oakley Standard Plans.

61. LANDSCAPING IN PUBLIC RIGHT OF WAY.
    A. Prepare landscape plans for landscape improvements within the public right of way. Landscape plans shall be prepared by a licensed landscape architect.

    B. Install public right-of-way landscaping along the project's frontages as required by the City Engineer and Community Development Director.

    C. Maintain all landscaping within the public right-of-way until such time that the adjacent roadway improvements have been accepted for maintenance.

    D. Prior to the issuance of certificate of occupancy, an inspection will be performed to verify the health and location of the street trees. Trees in poor health or those without adequate clearance from utilities will require replacement or relocation.

62. SOUNDWALL. Soundwalls shall be installed within private property and not within public right of way.

63. MAINTENANCE EXHIBIT. Submit a maintenance exhibit showing the responsible maintenance entity of proposed subdivision improvements. Exhibit must clearly show which areas are to be maintained by the City of Oakley.

    A. Parcel A to be retained and maintained by the Owner/Developer.

    B. Parcel B to be dedicated to the Iron House Sanitary District for the sewer lift station.

    C. Parcel C to be retained and maintained by the Owner/Developer until dedicated to the adjacent property owner to the east. The access to this property shall adhere to the widths for a private driveway standard.

    D. Bioretention Area to be dedicated to the City and maintained through a Community Facility District.

THE FOLLOWING PUBLIC WORKS AND ENGINEERING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE APPROVAL OF THE FINAL MAP:

64. BONDS. The applicant shall supply suitable securities for all improvements that are a part of the development in a form acceptable to the City in the amount of 100% (performance) and 50% (labor and material) prior to issuance of any permit.

65. FINAL MAP. Submit a Final Map prepared by a Licensed Land Surveyor. The final map shall be recorded, and the Subdivision Agreement must be executed before any building permits are issued. Insurance shall be provided per the terms of the Subdivision Agreement.

66. DEDICATIONS. The following shall be dedicated on the final map. The dedication shall be recorded before any permits are issued.

    A. Dedicate the required right-of-way along the project frontage as shown in the typical sections of the Tentative Map for the ultimate width of Sellers Avenue as required by the City Engineer.

    B. Public Utility Easement (PUE): 5' PUE beyond right of way or property lines as required.

    C. Ingress-egress, storm drainage easements, and emergency access easements as required.

    Any necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road, utility and drainage improvements shall be furnished to the City. Prior to the issuance of the first building permit, the applicant must provide the necessary documentation that any existing easements no longer necessary have been quitclaimed.

67. PRIVATE EASEMENTS. Agreements detailing rights, limitations, and responsibilities of involved parties shall accompany each private easement. The easements and associated agreements shall be recorded simultaneously with the final map.

68. UTILITY SETBACKS. House foundations shall be set back from utility lines a sufficient distance to allow excavation of the utility without undermining the house foundation. The City Engineer shall determine the appropriate setback based on the depth of the utility, input from the project soils engineer, and the type of foundation.

69. DRAINAGE FEES. This project is located within Drainage Area 52D (DA 52D) and Drainage Area 130 (DA 130), for which drainage fees are due in accordance with Flood Control Ordinance Number 2006-52 and 2007-06 respectively. By ordinance, all building

permits or subdivision maps filed in this area are subject to the provisions of the drainage fee ordinances,

THE FOLLOWING SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF THE BUILDING PERMIT:

70. 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 the issuance of the building permit.

71. 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.

72. AGREEMENT FOR STORMWATER BEST MANAGEMENT PRACTICES INSPECTION AND MAINTENANCE OBLIGATIONS. The property owner/HOA 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/HOA 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.

73. 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.

74. 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);

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments.

75. ANNEXATIONS

A. Annex the property to the City of Oakley Community Facilities District No. 2018-1 Fire Protection Services (CFD) for funding certain services within the boundaries of the City of Oakley including fire protection services. 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 the applicant. 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 the final map.

B. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by the subdivision approval. 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. If the homes 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 final map.

D. Coordinate with the Contra Costa Flood Control District to annex the property into Drainage Area 52D (DA 52D), a Contra Costa County Maintenance Benefit Assessment District, to provide a perpetual funding source for maintenance of the sub-regional drainage area facilities.

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 Iron House 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. The applicant shall be responsible for paying the County Recorder's Fee for the Notice of Determination as well as the State Department of Fish and Game's Filing Fee.

I. East Contra Costa County Habitat Conservation Plan Fees (adopted by Ordinance No. 08-21 & City Council Resolution No. 124-07).

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 9th day of November, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Sue Higgins, Mayor Date

ATTEST:

Libby Vreonis, City Clerk Date

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 1, 2021

TO: Mayor and Council

Approved and Forwarded to the City Council

FROM: Derek P. Cole, City Attorney

SUBJECT: **Adoption of a Resolution of the City Council of the City of Oakley Appointing Joshua McMurray as City Manager and Authorizing the Mayor to Execute an Employment Agreement with Mr. McMurray for City Manager Services**

Discussion

City Manager Bryan Montgomery ended his employment as City Manager, effective May 7, 2021, to take employment with another city. At its meeting on April 27, 2021, the City Council appointed Joshua McMurray to serve as Interim City Manager. The Council also directed the City Attorney to prepare a request for proposals for qualified executive search firms to facilitate the search for a new City Manager.

A request for proposals was prepared and issued, and the City Council selected Peckham & McKinney to serve as the firm to conduct the search for a new, permanent City Manager. Maria Hurtado of this firm coordinated and supervised the recruitment, in which 36 candidates applied for the City Manager position. Of these applicants, and following a screening process, 8 candidates were presented to the City Council for consideration as finalists.

The Council chose 3 finalists. Interviews were conducted before the City's Executive Team and the City Council on October 26, 2021. (One finalist withdrew shortly before the interviews because she had accepted employment with another city.)

Following its interviews on October 26, 2021, the City Council expressed its intention to appoint Joshua McMurray as permanent City Manager and directed the City Attorney to prepare an employment agreement with Mr. McMurray for consideration at the City Council's regular meeting on November 9, 2021.

Mr. McMurray has been employed by the City for 13 years. He has most recently served as the Community Development and Economic Development Director.

The attached Employment Agreement has been prepared and includes standard terms and conditions for a city manager contract. These provisions include annual salary of $250,000, benefits consistent with that received by City management employees, and a severance of eight months in the event of a not-for-cause termination.

Fiscal Impact

Adoption of this resolution will not have a noticeable impact on the General Fund. Total compensation for this position including salary and benefits would be $337,520 annually and $339,690 was budgeted for this position for Fiscal Year 2021/2022.

Recommendation

It is recommended that the City Council adopt this resolution, appointing Joshua McMurray as City Manager and authorizing the Mayor to execute an employment agreement with Mr. McMurray for City Manager services.

Attachment

1. Resolution
2. Exhibit A-Employment Agreement

RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPOINTING JOSHUA MCMURRAY AS CITY MANAGER AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT WITH MR. MCMURRAY FOR CITY-MANAGER SERVICES

WHEREAS, it is the desire of the City Council of the City of Oakley to employ an individual to serve in the at-will position of City Manager, which position is prescribed by state law and the City's Municipal Code; and

WHEREAS, California Government Code Section 34852 provides that an ordinance establishing a city manager form of government shall define the powers and duties of the city manager; and

WHEREAS, the powers and duties of the city manager of the City are set forth in Article 1 of Chapter 2 of Title 2 of the Oakley Municipal Code

WHEREAS, Joshua McMurray satisfies the City's eligibility requirements for the position of City Manager and has the required level of education, experience, skills and expertise to serve as the City Manager of the City; and

WHEREAS, based on Mr. McMurray's executive and administrative qualifications and ability, the City Council desires to employ him to serve as the at-will City Manager for the City; and

WHEREAS, Mr. McMurray desires to perform and assume responsibility for the provision of City Manager services to the City; and

WHEREAS, the parties wish to establish the terms and conditions of Mr. McMurray's provision of city-manager professional services to the City and its related agencies through the agreement attached hereto as Exhibit A.

THEREFORE, BE IT RESOLVED, The City Council hereby appoints Joshua McMurray as City Manager, subject to the terms and conditions stated in the Oakley Municipal Code and the agreement attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, The City Manager Employment Agreement between the City of Oakley and Joshua McMurray attached hereto as Exhibit A is hereby approved. The Mayor is authorized to execute this Agreement on behalf of the City.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2021 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Sue Higgins, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

AGREEMENT EMPLOYING JOSHUA McMURRAY AS CITY MANAGER FOR THE CITY OF OAKLEY, CA

WHEREAS, the City of Oakley desires to employ Joshua McMurray as its City Manager.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Employment: This City Manager Employment Agreement ("Agreement") is entered into by and between the CITY OF OAKLEY ("City"), a California "General Law" City, and JOSHUA McMURRAY ("Manager"). Under this Agreement, the City offers, and Manager accepts, employment as City Manager of the City. Manager agrees that employment with City is "at will," at the will of the City Council, which may terminate said employment in its sole discretion, with or without cause. There has been no express or implied promise made to Manager concerning continued employment and any such promise can arise in the future, if at all, only expressly from a resolution adopted by the City Council.

2. Duties: Manager shall perform those duties and have those responsibilities that are commonly assigned to a city manager of a city in California, and as may be further set forth in the City's Municipal Code. Manager shall perform such other legally permissible and proper duties and functions consistent with the office of City Manager, as the City Council shall from time to time assign.

3. Devotion to City Business: During the term of this Agreement, Manager shall not accept any other employment and shall be exclusively employed by City, unless prior authorization is received from the City Council, at its sole and exclusive discretion.

4. Term: Manager's employment will commence November 10, 2021, and shall continue until June 30, 2024, or the date of earlier termination in accordance with provisions in this Agreement.

5. City Council Commitments:

A. Neither the City Council nor any member thereof shall give direction to any subordinate of the Manager, including subcontractors and consultants, either publicly or privately, except as authorized by Manager.

B. No member of the City Council will order the appointment or removal of any person to any office or employment under the supervision and control of the Manager.

C. Neither the City Council nor any of its members shall interfere with the execution of the powers and duties of the Manager, as specified in the Municipal Code, this Agreement, or any other lawfully adopted and authorized document.

6. <u>Termination of Employment and this Agreement; General Release; Severance</u>:

A. If City terminates this Agreement (thereby terminating Manager's employment) without Cause, as determined by the affirmative votes of a majority of the members of the City Council at a Regular Meeting of the City Council, and if Manager signs, delivers to the City Council, and does not revoke, a General Release Agreement ("Release Agreement"), City shall pay Manager a lump sum benefit equal to eight (8) months of Manager's then Base Salary; and, subject to any restrictions of the City's Medical benefit provider(s) shall provide health (medical, dental, and vision) benefits continuing under the health benefit plans in which Manager and any dependents are then enrolled for eight (8) months or until the Manager finds other employment, whichever comes first (the cash payment and continuing benefits, collectively "Severance").

Notwithstanding the foregoing, and in accordance with Government Code section 53260, if the remaining term of Manager's Agreement is less than six (6) months, the maximum Severance that Manager may receive shall be an amount equal to Manager's monthly salary multiplied by the number of months left on the unexpired term of the Agreement.

B. If City terminates this Agreement (thereby terminating Manager's employment) with Cause, as determined by the affirmative votes of a majority of the members of the City Council at a Regular Meeting of the City Council, Manager shall not be entitled to any additional compensation or payment, including Severance, but shall be entitled only to accrued Base Salary and vacation pay, and any other accrued and unused benefit allowances according to their terms ("Accrued Salary and Benefits").

As used in this Agreement, Cause shall mean any of the following:

1. Conviction of, or plea of guilty or nolo contendre to, any crime or offense (other than minor traffic violations or similar offenses) which is likely to have a material adverse impact on the City or on the Manager's reputation;

2. Proven failure of the Manager to observe or perform any duties and obligations, if that failure continues for a period of thirty (30) business days from the date of receipt of notice from the City Council specifying the acts or omissions deemed to amount to that failure;

3. Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4 (see Section 6. C., (below));

4. Repeated failure to carry out a directive or directives of the City Council made by the City Council as a body at a Brown Act compliant meeting; and

5. Any grossly negligent action or inaction by Manager that materially and adversely: (a) impedes or disrupts the operations of City or its organizational units; (b) is detrimental to employees or public safety; or (c) violates City's properly-established rules or procedures.

C. Notwithstanding any of the provisions in Sections 6. A. and 6. B. (above), in any circumstance in which the Manager is convicted of a crime involving abuse of his or her office

or position with the City as defined in California Government Code Section 53243.4, any paid administrative leave provided by the City pending an outcome of the investigation into such crime, any City funds expended for the legal criminal defense to such criminal allegation, any cash settlement or severance provided to the Manager upon termination shall be fully reimbursed by the Manager to the City.

D. If, during the Term or any extended Term, Manager dies, Manager's estate shall receive Accrued Salary and Benefits, but shall not be entitled to any additional compensation or payment, including Severance.

E. In the event Manager is permanently disabled or is otherwise unable to perform duties because of sickness, accident, injury, or mental incapacity for a period of three consecutive months beyond any provided sick leave, the City may terminate Manager's employment and this Agreement.

F. Manager may resign from employment at any time, upon giving forty-five (45) days written notice to the City Council.

7. Compensation and Annual Evaluation:

A. Manager's initial annual Base Annual Salary shall be Two-Hundred Fifty-Thousand Dollars ($250,000.00) payable in equal installments at the same time and in the same manner as other employees of the City are paid. The salary shall be subject to withholding.

B. At least annually the City, by the City Council, and Manager may set mutually-agreed-upon objectives for each year under this Agreement. These objectives shall coincide with the City Council's completion of a public employee performance evaluation of the City Manager in April of each year, the Council shall discuss the results of the evaluation with Manager ("Annual Evaluation").

C. Subject to Manager's overall satisfactory performance at the annual performance evaluation referred to in Section 7. B. (above), Manager's base salary shall be adjusted based upon The Consumer Price Index, San Francisco Area (San Francisco-Oakland-Hayward) ("CPI") as reported by the Bureau of Labor Statistics ("CPI Adjustment"). Any applicable CPI Adjustment shall be effective for the following fiscal year, beginning July 1 of 2023. The base salary shall, however, not be reduced by a negative CPI Adjustment. Such base salary adjustment shall be set forth in an annual salary resolution or minute action approved by the City Council and ratified by resolution at a regular meeting of the City Council.

8. Pension: City agrees to continue to enroll Manager as a member of the Public Employees Retirement System (PERS) in the PERS plan selected by City in its sole discretion. The City shall continue to pay Manager's employee-share of contributions, as Manager has been receiving for his employment with the City existing before the effective date of this Agreement. Pursuant to California government Code Section 53244, a local public officer who is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of or in the performance of, his or her official duties shall forfeit any contract right or other

common law, constitutional or statutory claim against a public agency employer to retirement or pension rights or benefits.

9. **Non-Cash Compensation and Benefits Insurance**: City shall provide Manager with deferred compensation of $500 per month and the same health plans and employer contributions (medical, dental, and vision, group or individual life insurance, accidental death or dismemberment, catastrophic illness or disability insurance, vacation leave, and sick leave) which are provided to other City management-level employees. All actions taken by the City Council relating to those benefits for other management employees of City shall be considered actions relating to these benefits of Manager and shall be deemed to be agreeable amendments to this Agreement without any need for a written, modification signed by all parties.

10. **Car Allowance**: Manager's duties require being available and to respond to the demands of City business at all times and outside of regular business hours, including weekends. City shall pay Manager Four Hundred Dollars ($400) monthly in compensation for the use and maintenance of a personal vehicle on City business.

[11. **Technology Equipment**: City shall provide a City-owned electronic devices (cellphone and computer), or in the alternative shall provide the same monthly stipend as provided to other management-level employees for the business use of a personal cell phone or other technology devices.

12. **Tax Liability for Benefits**: Manager shall be responsible for any income tax liability arising out of receipt of benefits provided under this Agreement that exceed the allowable tax exempt amounts including, but not limited to excess life insurance, and agrees to hold City harmless and indemnify it for any liabilities, costs and expenses caused by any tax authority relating to these benefits.

13. **Business and Professional Expenses:**

A. City recognizes that Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to Manager's service to City. City agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to City's normal expense reimbursement procedures or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be supported by documentation meeting City's normal requirements and must be submitted within time limits established by City.

B. City agrees to pay the professional dues and subscriptions on behalf of Manager which are necessary for Manager's continuation or full participation in international, national, regional, state, or local associations and organizations necessary and desirable for Manager's continued professional participation, growth and advancement, or for the good of the City, in an amount up to Two Thousand Five Hundred Dollars ($2,500) per year.

C. City agrees to pay Manager's preapproved travel and subsistence expenses for official travel, meetings, and occasions reasonably necessary to continue Manager's professional

development, and for Manager's reasonable participation in necessary official and other functions for the City; including, but not limited to, national, regional, state, and local conferences, and governmental groups and committees on which Manager serves as a member. Notwithstanding the above, the number of conferences or meetings City will pay for each year, and attendance at out-of-state conferences and meetings, shall be at the discretion of the City Council as set forth in the City's budget.

14. **Management Leave**: Manager shall receive and accrue management leave consistent with City policy relating to its management employees. Such leave must be used during the fiscal year and total management leave will be capped at annual fiscal year accruals, i.e., total management leave will not exceed the amounts accrued on a fiscal year basis. Upon termination without cause of the employment of Manager, Manager shall be compensated for that portion of the remaining balance at Manager's base hourly rate.

15. **Enforcement of this Agreement**: The prevailing party in any actions brought to enforce this Agreement or to resolve any dispute or controversy arising under its terms and conditions, shall be entitled to payment of his/her/its reasonable attorneys' fees and costs.

16. **Communications Upon Manager's Separation**: In the event the City terminates the Manager for any reason or no reason, the City and the Manager agree that no member of the City Council, the City Management staff, nor the Manager, shall make any written, oral or electronic statement to any member of the public, the press, or any city employee concerning the Manager's termination except in the form of a joint press release or statement, the content of which is mutually agreeable to the City and the Manager. The joint press release or statement shall not contain any text or information that is disparaging to either party. Either party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

17. **Indemnification**: Consistent with the California Government Code, City shall defend, hold harmless, and indemnify Manager using legal counsel of City's choosing, against expense or legal liability for acts or omissions by Manager occurring within the course and scope of Manager's employment under this Agreement, provided that such indemnity shall not extend to any judgment or damages arising out of any willful wrongdoing. Legal representation, provided by City for City Manager, shall extend until a final determination of the issues including any and all losses, damages, judgments, interest, settlements, fines, court costs, and the reasonable costs and expenses of legal proceedings, including appeals, and including attorneys' fees, and expert witness fees and all other trial and appellate costs, and other liabilities incurred, imposed upon, or suffered by Manager in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened. In the event there is a conflict of interest between City and Manager such that independent counsel is required for Manager, Manager may engage Manager's own legal counsel, in which event City shall indemnify Manager, including direct payment of all such reasonable costs related thereto.

18. **Notices**: Any notices to be given hereunder by either party to the other in writing may be effected either by personal delivery, mail, or email. Mailed notices shall be addressed to the parties as set forth below, but each party may change his/her/its address by written notice given in accordance with this Section. Notices delivered personally or by email will be deemed

communicated as of actual receipt. Mailed notices will be deemed communicated and received as of three (3) calendar days following the date of mailing.

CITY:	MANAGER:
City of Oakley	Joshua McMurray
Attention: Mayor	[*Insert Address*]
3231 Main Street,	
Oakley, CA 94561	

19. Conflict with City Municipal Code: The City personnel ordinances, resolutions, rules and policies shall apply to Manager in the same manner as applied to other management employees, provided, however, in the event of a conflict between the provisions of this Agreement and the City Municipal Code, the City Municipal Code shall prevail over this Agreement.

20. Entire Agreement: This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Manager by City, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein, and that no other employment agreement, statement, or promise not contained in this Agreement shall be valid or binding upon either party.

21. Modifications: Any modifications to this Agreement shall be effective only if in writing and signed by both of the parties hereto.

22. Effect of Waiver: The failure of either party to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

23. Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

24. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(*Signatures on Following Page*)

This Agreement is entered into this 10th day of November, 2021.

CITY OF OAKLEY

By: _____
Sue Higgins, Mayor

CITY MANAGER

By: _____
Joshua McMurray

APPROVED AS TO FORM: _____
Derek Cole, City Attorney

ATTEST: _____
Libby Vreonis, City Clerk

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 9, 2021

TO: Joshua McMurray,
Interim City Manager

Approved and Forwarded to the City Council

FROM: Libby Vreonis, City Clerk/Paralegal

SUBJECT: **Oakley City Council Hearing for Special Assessment Regarding 87 Concannon Court (APN 037-234-033)**

Background and Analysis

This hearing is regarding a determination to impose a special assessment on 87 Concannon Court (APN 037-234-033) for costs incurred by the City associated with clean-up of refuse, trash and debris on the property.

Background

On June 15, 2020, Code Enforcement staff was completing inspections in the area surrounding 87 Concannon Court, noticed a large amount of trash and debris in front of the property (a violation of Oakley Municipal Code Section 4.29.404) as shown (Attachment 1), and issued a Notice of Violation to the property owner the following day (Attachment 2). The Notice of Violation provided June 26, 2020 as the compliance deadline.

Upon re-inspection on July 16, 2020, staff found tarps hanging up, trash and debris all over the front yard, a wood pile in between the vehicles, a mattress, and a pack rat storage container (violations of Oakley Municipal Code Sections 4.29.404 and 9.1.1802) as shown (Attachment 3). Staff issued a Notice of Violation to the property owner (Attachment 4). The Notice of Violation provided July 26, 2020 and August 15, 2020 as the compliance deadlines, respectively.

Upon re-inspection on August 13, 2020, staff found trash and debris as well as the storage container remained as shown (Attachment 5). The compliance deadline for the storage container to be removed was August 15, 2020, as noted on the Notice of Violation issued July 16, 2020; therefore, staff noted to re-inspect after that date.

Upon re-inspection on August 17, 2020, staff found violations still remained. On August 18, 2020, staff issued a first citation, Administrative Citation AC-20-000788, to the property owner (Attachment 6) imposing fines in the amount of $100 for violation of Oakley Municipal Code Section 4.29.404 and $100 for violation of Oakley Municipal Code Section 9.1.1802.

On August 24, 2020, the property owner left two voice mails for staff, indicating he and a neighbor down the street both have storage containers because they sustained significant water damage.

On September 23, 2020, staff received a complaint regarding the refuse, trash and debris in the driveway as well as the storage container. The complainant indicated the property owner was bringing in new junk daily and added to the pile. Staff inspected the property and took photos as shown (Attachment 7). Staff issued a second citation, Administrative Citation AC-20-000937, to the property owner (Attachment 8) imposing fines in the amount of $200 for violation of Oakley Municipal Code Section 4.29.404 and $200 for violation of Oakley Municipal Code Section 9.1.1802.

The property owner and staff communicated the same day by phone. The property owner indicated his wife passed away and he was going through tough times, and he also had a massive pipe break. He also indicated the items in front of his property were part of his business. Staff informed him that he would need a business license and home-based business permit, and if upon re-inspection the violations still exist, he would incur a $500 fine on each violation as well as re-inspection fees.

On September 24, 2020, staff issued a final demand for payment for Administrative Citation AC-20-000788, in the amount of $200 (Attachment 9).

On October 5, 2020 and October 8, 2020, staff received complaints regarding the property. On October 8, staff re-inspected the property and found possible effigy, along with trash and debris as shown (Attachment 10). The City Manager was informed. Staff issued a third citation, Administrative Citation AC-20-000968, to the property owner (Attachment 11) imposing a fine in the amount of $500 for violation of Oakley Municipal Code Section 4.29.404. Staff did not impose a fine in the amount of $500 for a violation of Oakley Municipal Code Section 9.1.1802 at this time because the Notice of Violation issued on September 23, 2020 provided until October 23, 2020 for removal of the storage container. Staff also issued the property owner a Notice of Violation for violations of Oakley Municipal Code Sections 4.29.404 and 9.1.1802, extending the compliance deadline to October 18, 2020 for refuse, trash and debris clean-up and maintaining October 23, 2020 as the deadline for removal of the storage container (Attachment 12).

On October 12, 2020, staff received a complaint regarding the property and concern regarding a minor possibly inhabiting the property. The matter was referred to Police.

On October 14, 2020, staff received payment in the amount of $200 (Attachment 13). This payment satisfied the amount due for the first citation issued (two $100 fines).

On October 15, 2020, Police went by the property and found no effigy in sight.

On October 19, 2020, staff received a separate complaint regarding the deterioration of the property, well-being of the property owner, and concern regarding a minor possibly inhabiting the property. The matter was referred to Police, the City Manager and Community Development Director.

On October 30, 2020, staff spoke with the property owners' son who indicated he was challenging the executor status of his mother's estate and if the executor status changes, his father would be provided a 30-day notice to leave the property. Staff extended compliance deadlines 20 days for the son to contact staff with an update regarding the executor status. A photo taken November 12, 2020 shows the debris and storage container still existed (Attachment 14).

On January 22, 2021, staff received a separate complaint regarding roaches on the property and concern regarding a minor possibly inhabiting the property. The latter concern was already being addressed by Police. On the same day, staff spoke with the property owner's son and was informed a court date had been scheduled for January 26, 2021. The son indicated he would update staff of the outcome at court and provide a timeline when he expected his father to be out of the property. Staff informed him because of the condition of the property and amount of complaints received, the City would likely have to take further action, including a possible abatement of the property.

On January 25, 2021, staff re-inspected the property and found more trash and debris had accumulated, including a pick-up truck with a full truck bed of debris. Staff issued a fourth citation, Administrative Citation AC-21-000011, to the property owner imposing a fine in the amount of $500 for violation of Oakley Municipal Code Section 4.29.404 and $500 for violation of Oakley Municipal Code Section 9.1.1802 (Attachment 15). Staff also issued the property owner a Notice of Violation for violations of Oakley Municipal Code Sections 4.29.404 and 9.1.1802, extending compliance deadlines to February 4, 2021 for both (Attachment 16).

On January 26, 2021, staff spoke with the property owner's son whom informed staff his father found a clause in his trust that allows his father to legally revoke the trust and the judge has provided time for his father to retain legal counsel and file papers by March 15, 2021. Staff informed him the City will have to move forward based on the current condition of the property. The son agreed to connect with staff after March 15, 2021.

On January 26, 2021, staff re-inspected the property and found it in worse condition as shown (Attachment 17). Staff consulted with the Community Development Director

regarding initiating the 30-day abatement process. Staff performed due diligence to confirm the correct title of the property.

On February 9, 2021, staff received three complaints regarding the condition of the property. Staff worked to prepare an Order to Abate.

On February 22, 2021, the City Manager executed the Order to Abate and it was mailed to the property owner via certified mail with return receipt (Attachment 18). The Order to Abate was also posted to the property on February 25, 2021, and staff noted the condition of the property was worse as shown (Attachment 19). On March 3, 2021, staff received the return receipt signed by the property owner. Staff worked with the City Attorney's Office to secure an abatement warrant.

On March 22, 2021, the property owner contacted the City Manager via email and requested an extension. He indicated he is a disabled-retiree and was trying to donate items to Salvation Army or Goodwill, but they were not accepting home goods or clothing during the pandemic. He also indicated he tried to find an organization to pick up the refuse, trash and debris in front of his home to deliver them to the garbage dump, but he was unsuccessful until he reached out to Vietnam Veterans of America and the earliest pick up that could be scheduled was March 29, 2021. He mentioned the storage container is scheduled for pick-up on March 31, 2021. The City Manager denied his request for an extension and suggested the property owner clean up as much as possible as the City has repeatedly requested, and if still not up to Code, the City would complete the clean-up through the abatement process.

On March 23, 2021, staff spoke with the property owner's son to receive an update on the court case. To the son's knowledge, his father had not filed with the court and a hearing was set for April 29, 2021. He indicated he would provide staff with an update after the hearing.

On March 31, 2021, staff re-inspected the property and found the storage container had been removed, but the items presumably inside the container had been removed and were in the yard, making the condition of the property worse as shown (Attachment 20). Staff worked with the City Attorney's Office to prepare a declaration and warrant application.

On April 21, 2021, staff visited other properties in the area and noticed the condition of the property was worse as shown (Attachment 21).

On April 29, 2021, a warrant was obtained. Staff scheduled the abatement with a hauling company for May 5, 2021.

On April 30, 2021, staff spoke with the property owner's son and he informed staff he is now the executor of the property and his father is now the tenant of the property.

On May 3, 2021, staff received a complaint regarding the condition of the property and that the debris has encroached onto the sidewalk.

On May 4, 2021, staff posted the warrant on the property as shown (Attachment 22).

On May 5, 2021, prior to the abatement, staff spoke with the property owner's son and he indicated he also wanted the property cleaned up. Thereafter, contracted haulers, Police, and Code Enforcement staff went to the property and the abatement was completed. While staff noted there was significantly less debris on the day of abatement than when they posted at the property the day prior, a violation still existed. Pre-abatement and post-abatement photos are provided (Attachment 23).

On May 12, 2021 and May 28, 2021, re-inspections were performed. The property remains clear and in compliance.

Analysis

As described in the background above, an ongoing accumulation of visible garbage, refuse and rubbish occurred in front of the home located at 87 Concannon Court from mid-June 2020 through the beginning of May 2021. After repeated citations, notices of violation, and extensions to correct violations, the property was still not in compliance with Oakley Municipal Code Section 4.29.404 which provides:

> It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any property to maintain such property in such a manner that any one or more of the following described conditions are found to exist:
>
> a. The accumulation of garbage, refuse, or rubbish
>
> i. in any area which is visible from a public street for a period of more than seven (7) consecutive days; or
>
> ii. in such a manner as to threaten the public health, safety or welfare; or
>
> iii. in such a manner so as to create a significant blight upon the surrounding neighborhood.

As visible from the attached photos, various wood pieces, a mattress, rods, oxygen tank equipment, coolers, boxes, full plastic bags, small containers, infant gates, miscellaneous equipment, and a shopping cart, were in clear sight from the public street for nearly an entire year, well beyond the seven day period allowed by code. Multiple complaints were received by the City from multiple parties concerned with the visible condition of the property, roaches, and debris continually added to the property, at one point encroaching onto the public sidewalk, threatening public health, safety and welfare for passerby and neighboring properties. As evidenced by multiple complaints from multiple parties and the amount of debris shown in attached photos, significant blight was created upon the surrounding neighborhood. For these reasons, the property owner was in violation of Oakley Municipal Code Section 4.29.404.

The property owner was also in violation of Oakley Municipal Code Section 9.1.1802(e)(3). This section provides:

> Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:
>
> a) The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the additional of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit;
> b) The shipping container is structurally modified to include at least one residential main door that can be unlocked and opened from inside the container; and
> c) Subject to review and approval of the Community Development Director, exceptions may be made for the standard in subsection (e)(3)(a) of this section if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

Photos taken of the property on July 16, 2020 (Attachment 2), show a Pack-Rat shipping container located in the driveway of the property. Pack-Rat is a company that provides storage containers for shipping and/or storage, therefore, the shipping container does not meet the residential accessory structure criteria as set forth above in the code as it is not a structure designed to match the home, it does not have a residential door, and it is located in the driveway (not screened from public and private view). For these reasons, the property owner was in violation of Oakley Municipal Code Section 9.1.1802(e)(3).

The shipping container existed on the property at least from the time the photos were taken on July 16, 2020 through its removal sometime between March 22, 2021 (when the property owner indicated to the City Manager it would be picked up on March 31, 2021) and the City abatement performed May 5, 2021, approximately 8-10 months. Because the shipping container was removed prior to the City abatement, it is not included in the abatement invoice; however, it is included in the Report of Costs due to staff time to re-inspect the property on numerous occasions to confirm if it had been removed.

Hearing Procedures

Oakley Municipal Code Sections 1.6.126 through 1.6.132 address recovery of City abatement costs. These sections provide that the City Manager may submit a written report of total abatement costs (Report of Costs-Attachment 24) to the City Council

for confirmation during a regular meeting following notice to the property owner. Any person affected by the proposed charge may file an objection with the City Clerk any time prior to the time the matter for the hearing on the Report of Costs. The Council may modify the Report of Costs if it deemed necessary and then, by resolution, may confirm the report as submitted or modified. After the Council has confirmed the Report of Costs, and if the costs have not been paid in full, the Report of Costs may be filed with the County Tax Collector and the amount may be added to the next regular tax bill as a special assessment to be collected at the time and manner as ordinary municipal taxes. Payment may be submitted in full to the City any time after confirmation of the report of costs by the Council and prior to the Report of Costs being filed with the County Tax Collector. The next regular tax bill will be issued for fiscal year 2022/2023. The deadline to submit the Report of Costs to the County is August 10, 2022. Staff would need time to file the Report of Costs with the County and therefore recommends August 1, 2022 as the deadline for payment.

Oakley City Council Resolution 148-16 allows the City to recover actual costs incurred for Code Enforcement abatement services and re-inspection services. Oakley Municipal Code Section 1.6.302 allows recovery of attorneys' fees by the prevailing party in a nuisance abatement action or proceeding. The abatement fee, re-inspection fees and attorneys' fees are included in the Report of Costs.

On October 14, 2021, a Notice of Hearing of Special Assessments of Costs was posted at the property, posted at City Hall and mailed to the property owner, along with the Report of Costs, as required by Oakley Municipal Code Section 1.6.126, indicating the matter would be heard by the Council on October 26, 2021, during its regular meeting (Attachment 25). The property owner informed staff he could not attend the hearing due to a conflicting medical appointment. Staff suggested to reschedule to November 9, 2021, in which the property owner indicated should work. Staff updated the Notice and Report to reflect the revised date, re-posted to the property and at City Hall, and mailed to the property owner on October 21, 2021 (Attachment 26). As of the time this staff report was prepared on November 1, 2021, the City Clerk had not received any written objection to the proposed assessment.

Fiscal Impact

The City has incurred costs totaling $5,798.65 as stated in the Report of Costs. This amount includes the abatement fee, re-inspection fees and attorneys' fees. The City seeks to recover these costs.

Staff Recommendation

Staff recommends the City Council review the information in the staff report and allow for the property owner to be heard and present any objection to the assessment. The Council may accept or deny the Report of Costs. If it accepts the Report of Costs, it may do so as presented or modified, and a resolution should be adopted confirming such costs.

In addition, the property owner inquired about a payment plan to satisfy the total costs. The Council may direct staff to enter into such written agreement with the property owner. Staff recommends if the Council should provide direction to staff to enter into a payment agreement, that it directs staff to include a provision in the payment agreement to provide that the total amount ($5,798.65) shall be paid prior to August 1, 2022, to meet the deadline of August 10, 2022 for the costs to be placed on the next tax roll, if necessary.

Attachments

1. Photo taken June 15, 2020
2. Notice of Violation dated June 16, 2020
3. Photos taken July 16, 2020
4. Notice of Violation dated July 16, 2020
5. Photos taken August 13, 2020
6. Administrative Citation dated August 18, 2020
7. Photos taken September 23, 2020
8. Administrative Citation dated September 23, 2020
9. Final Demand dated September 24, 2020
10. Photos taken October 8, 2020
11. Administrative Citation dated October 8, 2020
12. Notice of Violation dated October 8, 2020
13. Receipt of Payment ($200.00)
14. Photo taken November 12, 2020
15. Administrative Citation dated January 25, 2021
16. Notice of Violation dated January 25, 2021
17. Photos taken January 26, 2021
18. Notice of Violation and Order to Abate dated February 22, 2021
19. Photos taken February 25, 2021
20. Photos taken March 31, 2021
21. Photo taken April 21, 2021
22. Photos taken May 4, 2021
23. Photos taken May 5, 2021 (pre-abatement and post-abatement)
24. Report of Costs (Revised)
25. Notice of Hearing of Special Assessment of Costs dated October 14, 2021 and Report of Costs
26. Revised Notice of Hearing of Special Assessment of Costs dated October 21, 2021 and Report of Costs
27. Resolution


87 Concannon
Jun 15, 2020, 11:39 AM

OAKLEY
CALIFORNIA

NOTICE OF VIOLATION

HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE,

Date: June 16, 2020

An inspection was conducted on June 16, 2020 and the property listed above has been found to be in violation of the City of Oakley's Municipal Code. The violation(s) below require immediate action by the property owner/resident.

VIOLATION AND ACTION REQUIRED

OMC § 4.29.404 - Trash and Debris states:
Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

Please remove all trash and debris from the property and/or public view. Please see picture.

- **Compliance Date: June 26, 2020**

FAILURE TO CORRECT

Failure to correct the violation(s) by the compliance date(s) above may result in re-inspection fees for actual costs incurred. These costs are separate from citations and may be placed as a special assessment on the property tax rolls if not reimbursed. The City may also issue Administrative Citations, which range from a $100 to $500 fine per violation for every day the violation(s) remain and/or take other actions to compel compliance. The property owner is responsible for all costs associated with the abatement of this nuisance including inspection fees, hearing costs, and any costs incurred by the City if forced to abate this nuisance.

Thank you in advance for your prompt attention to resolving this matter.

CONTACT

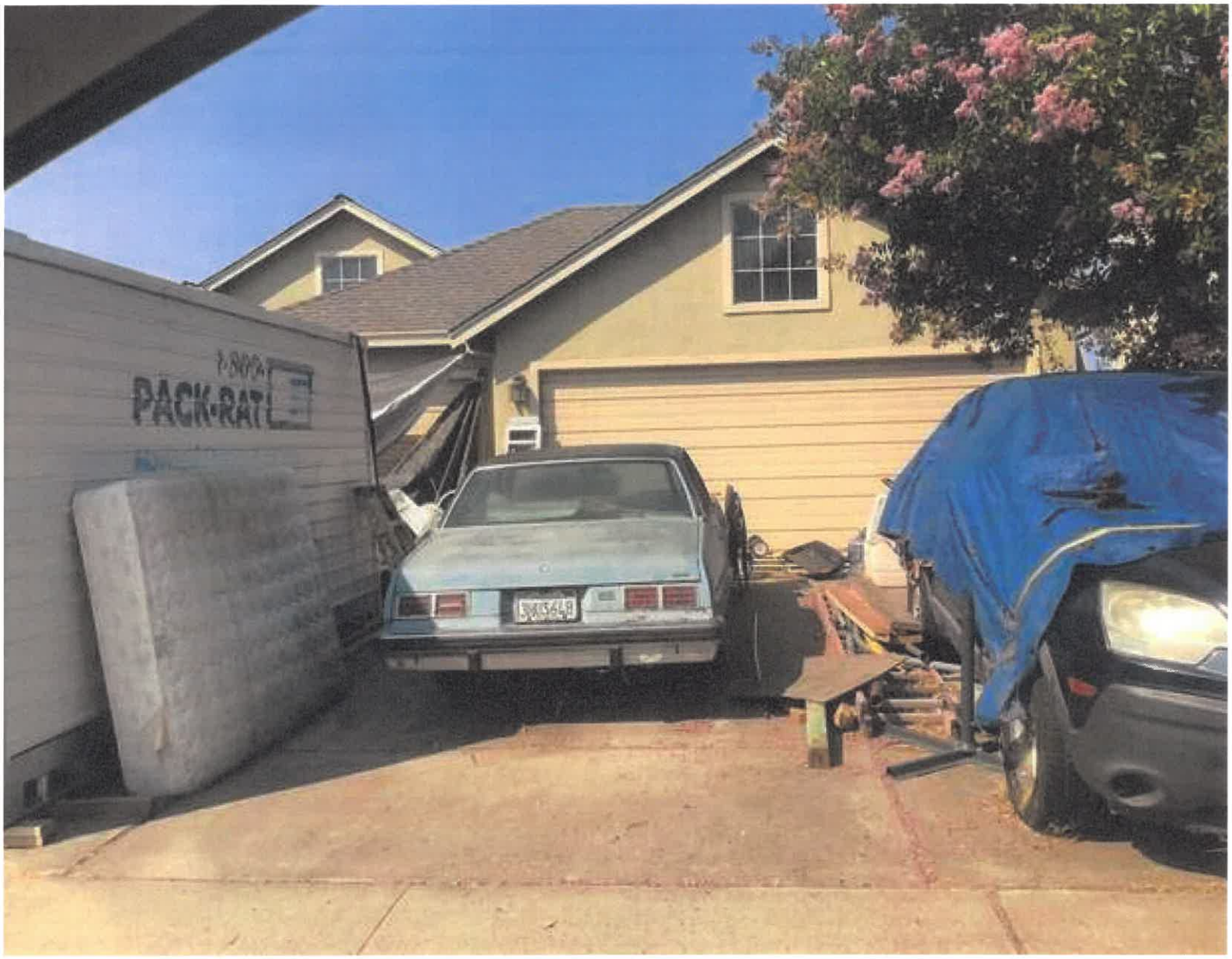
You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

CITY OF OAKLEY CODE ENFORCEMENT - 3231 MAIN STREET, OAKLEY, CA 94561

PHOTO ATTACHMENTS



IMG_3340.JPG



87 Concannon
7/16/20



87 Concannon
7/16/20

OAKLEY
CALIFORNIA

Attachment 4

NOTICE OF VIOLATION

HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE,

Date: July 16, 2020

An inspection was conducted on July 16, 2020 and the property listed above has been found to be in violation of the City of Oakley's Municipal Code. The violation(s) below require immediate action by the property owner/resident.

VIOLATION AND ACTION REQUIRED

OMC § 4.29.404 - Trash and Debris states:

Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

FINAL NOTICE TO Please remove all trash and debris from the property and/or public view. This includes the debris in the front yard, the wood and metal in the driveway, the tarps, and the mattress.

IF VIOLATION IS NOT CORRECTED BY DUE DATE, CITATIONS WILL BE ISSUED.

• Compliance Date: July 26, 2020

OMC § 9.1.1802 - Sea Containers states:

Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

a) The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the addition of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.

b) The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.

c) Subject to review and approval of the Community Development Director, exceptions may be made for the standard in subsection (e)(3)(a) of this section if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

Please remove all Shipping Containers from the property or contact the Planning Department, located in the Development Services side of City Hall (3231 Main Street), for review and approval. **Please note that redesign or re-purpose of a sea container requires applying for and obtaining a Building Permit**.

• Compliance Date: August 15, 2020

FAILURE TO CORRECT

Failure to correct the violation(s) by the compliance date(s) above may result in re-inspection fees for actual costs incurred. These costs are separate from citations and may be placed as a special assessment on the property tax rolls if not reimbursed. The City may also issue Administrative Citations, which range from a $100 to $500 fine per violation for every day the violation(s) remain and/or take other actions to compel compliance. The property owner is responsible for all costs associated with the abatement of this nuisance

including inspection fees, hearing costs, and any costs incurred by the City if forced to abate this nuisance.

Thank you in advance for your prompt attention to resolving this matter.

CONTACT

You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

CITY OF OAKLEY CODE ENFORCEMENT - 3231 MAIN STREET, OAKLEY, CA 94561



87 Concannon



87 Concannon

OAKLEY
CALIFORNIA

Attachment 6

ADMINISTRATIVE CITATION

Mailing Date: August 18, 2020
Time of Citation: 9:50 AM
HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Citation No:	AC-20-000788
Responsible Party:	HOPPER THOREN DAVID TRE
Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE, Date: August 18, 2020

A Notice of Violation for the above property was issued on July 16, 2020 granting a time frame to correct the violation. That time frame has now expired and the property is still not in compliance so an Administrative Citation is being issued. **Payment of this Citation does not relieve the burden of correcting the remaining violation(s). This account will be referred to a Third Party Collection Agency upon becoming past due.**

ADMINISTRATIVE CITATION

OMC § 4.29.404 - Trash and Debris states:
Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

The following corrective action was <u>not</u> completed upon re-inspection:
Please remove all trash and debris from the property and/or public view. This is including but not limited to the debris in the front yard, items in the driveway and under the tarp and mattress.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $100.00 AND ANOTHER CITATION OF $200.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

CITATION FINE IS NOW DUE AND PAYABLE		
☑ **1st Citation**	☐ 2nd Citation	☐ 3rd Citation
$100.00	$200.00	$500.00

OMC § 9.1.1802 - Sea Containers states:
Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

a) The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the addition of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.

b) The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.

c) Subject to review and approval of the Community Development Director, exceptions may be made for the standard in subsection (e)(3)(a) of this section if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

The following corrective action was <u>not</u> completed upon re-inspection:

Please remove all Shipping Containers from the property or contact the Planning Department, located in the Development Services side of City Hall (3231 Main Street), for review and approval. ***Please note that redesign or re-purpose of a sea container requires applying for and obtaining a Building Permit.***

This is in reference to the Pack-Rat storage unit. Thank you.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $100.00 AND ANOTHER CITATION OF $200.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

CITATION FINE IS NOW DUE AND PAYABLE		
☑ 1st Citation	☐ 2nd Citation	☐ 3rd Citation
$100.00	$200.00	$500.00

Pursuant to Section 1.5.203(d) and 1.5.204 (c) of the Oakley Municipal Code (OMC), each day the violation continues is a separate and distinct offense and subject to additional citations. Fines per each count of the OMC Section violated are as follows: Fines are $100 for the first citation per violation, $200 for the second citation per violation and $500 for any subsequent citation violation. Notwithstanding the above, violations of local building and safety codes are punishable by fines of $500 for a second Citation and $1,000 for subsequent Citations.

Rights of Appeal

You have the right to contest this Administrative Citation at a public hearing before an **Administrative Hearing Officer**. To request a hearing, you must pay an advance deposit in the full amount of the fine and submit that amount with the written appeal either by mail to the City Clerk, 3231 Main St, Oakley, CA 94561, or in person to the City Clerk's office at City Hall, **within ten (10) working days from the date of the Administrative Citation**.

A properly filed appeal will result in written notification of the date and time set for your hearing. Failure to appear at your hearing will constitute a failure to exhaust your administrative remedies. Any person who requests an appeal of an administrative citation and is unable to make the advance deposit of the fine required, may file a **Waiver of Fine Deposit Application**. Applications may be obtained from the City Clerk's Office at the above address and must be submitted with the appeal request.

RIGHT TO JUDICIAL REVIEW: Any person aggrieved by a decision of the Administrative Hearing Officer on an Administrative Citation may obtain review of the decision by filing a petition for review with the Superior Court in Contra Costa County in accordance with the timelines and provisions set forth in the California Government Code Section 530693.4

How to Pay

Payment should be made to: City of Oakley 3231 Main St Oakley, CA 94561.

- The total fine amount is **$200.00** and must be paid by mail or in person to the City of Oakley by **September 17, 2020**, which is thirty (30) days from the date of this Citation.
- Payment may be made by personal check, cashier's check or money order, VISA or Master Card.
- Please include the citation number **AC-20-000788** on your check or money order.

If the citation is not paid within thirty (30) days or appealed within 10 days from **August 18, 2020**, you may be subject to the imposition of a twenty-five percent (25%) late payment penalty if the Administrative Fine(s) is not paid by the due date, and interest at the rate of 1.5% per month, compounded monthly, will be added to the fine amount.

Failure to Pay

The City will collect any unpaid Administrative Citation fines or late payment charges by use of all available legal means, including but not limited to those means available for the collection of judgments, special assessment liens on real property and all actions for recovery of money. The city has the authority to collect all costs and attorney fees associated with the filing of such actions.

CONTACT

You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

CITY OF OAKLEY CODE ENFORCEMENT - 3231 MAIN STREET, OAKLEY, CA 94561

OAKLEY
CALIFORNIA

Credit Card Authorization

Property Address: _____

Company Name: _____

Cardholders Name (exactly as shown on credit card): _____

Billing Address (credit card): _____

City: _____ State: _____ Zip Code: _____

Telephone Number: (_____) _____

☐ Mastercard ☐ Visa

Card Number: _____ Card CCW/I.D. Number: _____

Expiration Date: _____ Amount Authorized: $ _____

AUTHORIZED SIGNATURE _____ DATE _____

FOR OFFICE USE ONLY

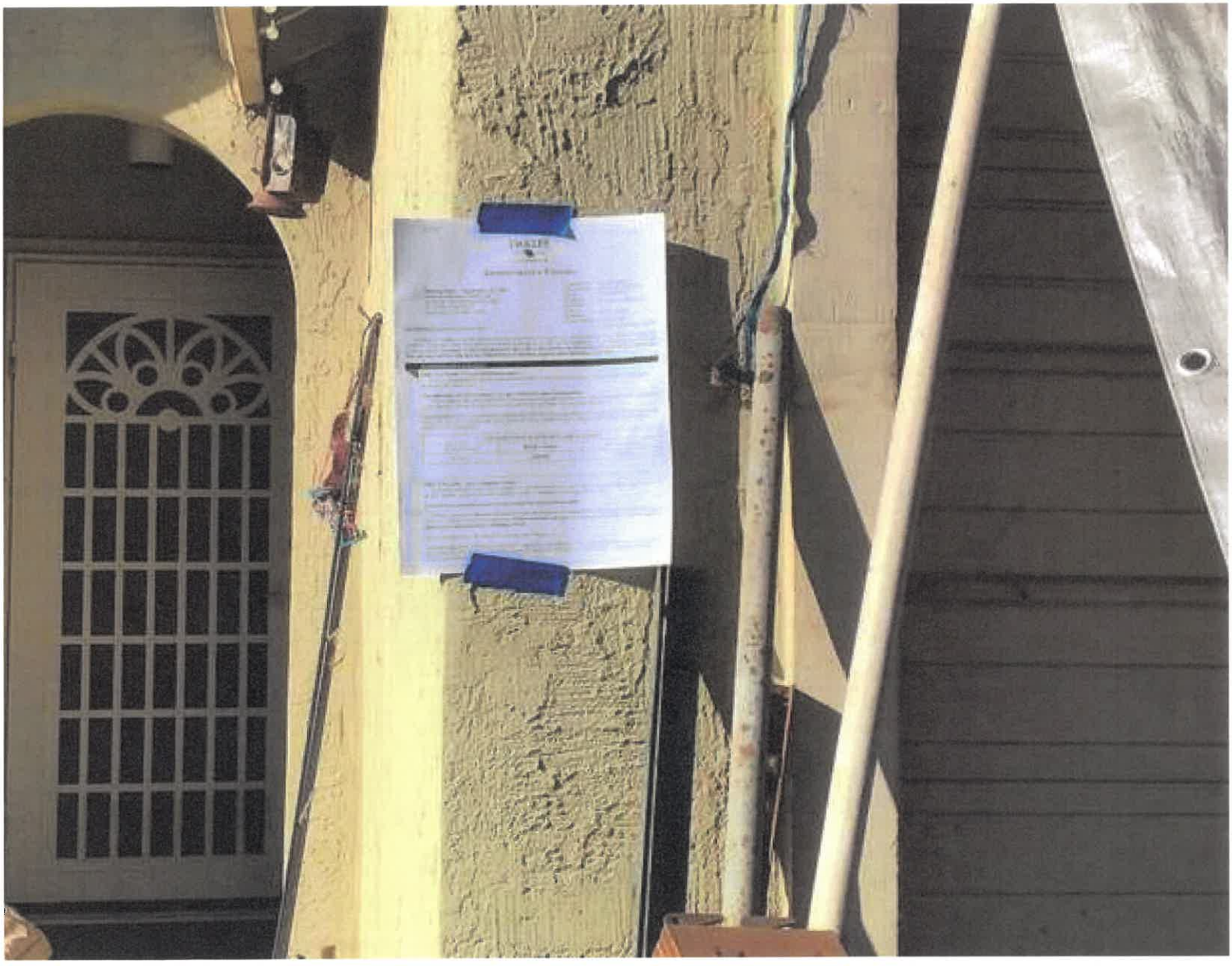
Authorization Number: _____



87 Concannon 9/23/20



87 Concannon
9/23/20



87 Concannon
9/23/20



87 Concannon
9/23/20



87 Concannon
9/23/20

OAKLEY
CALIFORNIA

Attachment 8

ADMINISTRATIVE CITATION

Mailing Date: September 23, 2020
Time of Citation: 8:04 AM
HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Citation No:	AC-20-000937
Responsible Party:	HOPPER THOREN DAVID TRE
Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE,

Date: September 23, 2020

A Notice of Violation for the above property was issued on August 18, 2020 granting a time frame to correct the violation. That time frame has now expired and the property is still not in compliance so an Administrative Citation is being issued. **Payment of this Citation does not relieve the burden of correcting the remaining violation(s). This account will be referred to a Third Party Collection Agency upon becoming past due.**

ADMINISTRATIVE CITATION

OMC § 4.29.404 - Trash and Debris states:

Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

The following corrective action was <u>not</u> completed upon re-inspection:

Please remove all trash and debris from the property and/or public view. This is including but not limited to the debris in the front yard, items in the driveway and under the tarp and mattress.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $200.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

CITATION FINE IS NOW DUE AND PAYABLE		
☐ 1st Citation	☑ **2nd Citation**	☐ 3rd Citation
$100.00	**$200.00**	$500.00

OMC § 9.1.1802 - Sea Containers states:

Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

The following corrective action was not completed upon re-inspection:

Please remove all Shipping Containers from the property or contact the Planning Department by calling 925-625-7000 for review and approval. ***Please note that redesign or re-purpose of a sea container requires applying for and obtaining a Building Permit.***

This is in reference to the Pack-Rat storage unit. Thank you.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $200.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

CITATION FINE IS NOW DUE AND PAYABLE		
☐ 1st Citation	☑ **2nd Citation**	☐ 3rd Citation
$100.00	**$200.00**	$500.00

Pursuant to Section 1.5.203(d) and 1.5.204 (c) of the Oakley Municipal Code (OMC), each day the violation continues is a separate and distinct offense and subject to additional citations. Fines per each count of the OMC Section violated are as follows: Fines are $100 for the first citation per violation, $200 for the second citation per violation and $500 for any subsequent citation violation. Notwithstanding the above, violations of local building and safety codes are punishable by fines of $500 for a second Citation and $1,000 for subsequent Citations.

Rights of Appeal

You have the right to contest this Administrative Citation at a public hearing before an **Administrative Hearing Officer**. To request a hearing, you must pay an advance deposit in the full amount of the fine and submit that amount with the written appeal either by mail to the City Clerk, 3231 Main St, Oakley, CA 94561, or in person to the City Clerk's office at City Hall, **within ten (10) working days from the date of the Administrative Citation**.

A properly filed appeal will result in written notification of the date and time set for your hearing. Failure to appear at your hearing will constitute a failure to exhaust your administrative remedies. Any person who requests an appeal of an administrative citation and is unable to make the advance deposit of the fine required, may file a **Waiver of Fine Deposit Application**. Applications may be obtained from the City Clerk's Office at the above address and must be submitted with the appeal request.

RIGHT TO JUDICIAL REVIEW: Any person aggrieved by a decision of the Administrative Hearing Officer on an Administrative Citation may obtain review of the decision by filing a petition for review with the Superior Court in Contra Costa County in accordance with the timelines and provisions set forth in the California Government Code Section 530693.4

How to Pay

Payment should be made to: City of Oakley 3231 Main St Oakley, CA 94561.

- The total fine amount is **$400.00** and must be paid by mail or in person to the City of Oakley by **October 23, 2020**, which is thirty (30) days from the date of this Citation.
- Payment may be made by personal check, cashier's check or money order, VISA or Master Card.
- Please include the citation number **AC-20-000937** on your check or money order.

If the citation is not paid within thirty (30) days or appealed within 10 days from **September 23, 2020**, you may be subject to the imposition of a twenty-five percent (25%) late payment penalty if the Administrative Fine(s) is not paid by the due date, and interest at the rate of 1.5% per month, compounded monthly, will be added to the fine amount.

Failure to Pay

The City will collect any unpaid Administrative Citation fines or late payment charges by use of all available legal means, including but not limited to those means available for the collection of judgments, special assessment liens on real property and all actions for recovery of money. The city has the authority to collect all costs and attorney fees associated with the filing of such actions.

Contact

You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

OAKLEY
CALIFORNIA

Credit Card Authorization

Property Address: _____

Company Name: _____

Cardholders Name (exactly as shown on credit card): _____

Billing Address (credit card):_____

City:_____ State:_____ Zip Code:_____

Telephone Number: (_____)_____

☐ Mastercard ☐ Visa

Card Number:_____ Card CCW/I.D. Number:_____

Expiration Date:_____ Amount Authorized: $ _____

AUTHORIZED SIGNATURE _____ DATE _____

FOR OFFICE USE ONLY

Authorization Number: _____

CITY COUNCIL
Kevin Romick, *Mayor*
Sue Higgins, *Vice-Mayor*
Randy Pope
Claire Alaura
Michael Krieg

OAKLEY
CALIFORNIA

Attachment 9

CITY HALL
3231 MAIN STREET
OAKLEY, CA 94561
925.625.7000 TEL
925.625.9859 FAX
WWW.CI.OAKLEY.CA.US

FINAL DEMAND

HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

To HOPPER THOREN DAVID TRE,

Date: September 24, 2020

You are receiving this Final Demand letter as the Citee of administrative citation(s) that, as of this date, have gone unpaid. The citations were issued as a result of uncorrected violations occurring at 87 CONCANNON CT OAKLEY CA 94561 (APN: 037-234-033) Case CE-20-1925.

THIS IS YOUR FINAL OPPORTUNITY TO PAY BEFORE ANY BALANCE DUE IS TRANSFERRED TO A THIRD PARTY COLLECTION AGENCY. The opportunity to appeal the citation(s) has expired.

Issue Date:	Citation Number:	Amount
08/18/2020	Administrative Citation AC-20-000788	$200.00
	Total Balance Due:	**$200.00**

Accounting Code: 100-3374

Please make check payable to the **City of Oakley**. Mailing address is 3231 Main Street Oakley, CA 94561. To make a credit card payment the attached authorization form may be submitted via US Mail or electronically to: code-enforcement@ci.oakley.ca.us If you have any questions you may contact Code Enforcement at 925-625-7031.

If the invoice is not paid in full within thirty (30) days of the date indicated on this notice, the balance due will be transferred to a Third Party Collection Agency.



87 Corcannon
10/8/20



87 Concannon
10/8/20

OAKLEY
CALIFORNIA

ADMINISTRATIVE CITATION

Mailing Date: October 8, 2020
Time of Citation: 4:55 PM
HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Citation No:	AC-20-000968
Responsible Party:	HOPPER THOREN DAVID TRE
Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE,

Date: October 8, 2020

A Notice of Violation for the above property was issued on September 23, 2020 granting a time frame to correct the violation. That time frame has now expired and the property is still not in compliance so an Administrative Citation is being issued. **Payment of this Citation does not relieve the burden of correcting the remaining violation(s). This account will be referred to a Third Party Collection Agency upon becoming past due.**

ADMINISTRATIVE CITATION

OMC § 4.29.404 - Trash and Debris states:
Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

The following corrective action was <u>not</u> completed upon re-inspection:
Please remove all trash and debris from the property and/or public view. This is including but not limited to the debris in the front yard, items in the driveway and under the tarp and mattress.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $500.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

CITATION FINE IS NOW DUE AND PAYABLE		
☐ 1st Citation	☐ 2nd Citation	☑ **3rd Citation**
$100.00	$200.00	**$500.00**

Pursuant to Section 1.5.203(d) and 1.5.204 (c) of the Oakley Municipal Code (OMC), each day the violation continues is a separate and distinct offense and subject to additional citations. Fines per each count of the OMC Section violated are as follows: Fines are $100 for the first citation per violation, $200 for the second citation per violation and $500 for any subsequent citation violation. Notwithstanding the above, violations of local building and safety codes are punishable by fines of $500 for a second Citation and $1,000 for subsequent Citations.

RIGHTS OF APPEAL

You have the right to contest this Administrative Citation at a public hearing before an **Administrative Hearing Officer**. To request a hearing, you must pay an advance deposit in the full amount of the fine and submit that amount with the written appeal either by mail to the City Clerk, 3231 Main St, Oakley, CA 94561, or in person to the City Clerk's office at City Hall, **within ten (10) working days from the date of the**

Administrative Citation.

A properly filed appeal will result in written notification of the date and time set for your hearing. Failure to appear at your hearing will constitute a failure to exhaust your administrative remedies. Any person who requests an appeal of an administrative citation and is unable to make the advance deposit of the fine required, may file a **Waiver of Fine Deposit Application**. Applications may be obtained from the City Clerk's Office at the above address and must be submitted with the appeal request.

RIGHT TO JUDICIAL REVIEW: Any person aggrieved by a decision of the Administrative Hearing Officer on an Administrative Citation may obtain review of the decision by filing a petition for review with the Superior Court in Contra Costa County in accordance with the timelines and provisions set forth in the California Government Code Section 530693.4

How to Pay

Payment should be made to: City of Oakley 3231 Main St Oakley, CA 94561.

- The total fine amount is **$500.00** and must be paid by mail or in person to the City of Oakley by **November 7, 2020**, which is thirty (30) days from the date of this Citation.
- Payment may be made by personal check, cashier's check or money order, VISA or Master Card.
- Please include the citation number **AC-20-000968** on your check or money order.

If the citation is not paid within thirty (30) days or appealed within 10 days from **October 8, 2020**, you may be subject to the imposition of a twenty-five percent (25%) late payment penalty if the Administrative Fine(s) is not paid by the due date, and interest at the rate of 1.5% per month, compounded monthly, will be added to the fine amount.

Failure to Pay

The City will collect any unpaid Administrative Citation fines or late payment charges by use of all available legal means, including but not limited to those means available for the collection of judgments, special assessment liens on real property and all actions for recovery of money. The city has the authority to collect all costs and attorney fees associated with the filing of such actions.

Contact

You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

OAKLEY
CALIFORNIA

Credit Card Authorization

Property Address: _____

Company Name: _____

Cardholders Name (exactly as shown on credit card): _____

Billing Address (credit card):_____

City:_____ State:_____ Zip Code:_____

Telephone Number: (_____)_____

☐ Mastercard ☐ Visa

Card Number:_____ Card CCW/I.D. Number:_____

Expiration Date:_____ Amount Authorized: $ _____

AUTHORIZED SIGNATURE _____ DATE _____

FOR OFFICE USE ONLY

Authorization Number: _____

OAKLEY
CALIFORNIA

Attachment 12

NOTICE OF VIOLATION

HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE,

Date: October 8, 2020

An inspection was conducted on October 8, 2020 and the property listed above has been found to be in violation of the City of Oakley's Municipal Code. The violation(s) below require immediate action by the property owner/resident.

VIOLATION AND ACTION REQUIRED

OMC § 4.29.404 - Trash and Debris states:

Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

Please remove all trash and debris from the property and/or public view. This is including but not limited to the debris in the front yard, items in the driveway and under the tarp and mattress.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $500.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

• Compliance Date: October 18, 2020

OMC § 9.1.1802 - Sea Containers states:

Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

a) The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the addition of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.

b) The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.

c) Subject to review and approval of the Community Development Director, exceptions may be made for the standard in subsection (e)(3)(a) of this section if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

Please remove all Shipping Containers from the property or contact the Planning Department by calling 925-625-7000 for review and approval. **Please note that redesign or re-purpose of a sea container requires applying for and obtaining a Building Permit.**

This is in reference to the Pack-Rat storage unit. Thank you.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $200.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

• Compliance Date: October 23, 2020

Failure to Correct

Failure to correct the violation(s) by the compliance date(s) above may result in re-inspection fees for actual costs incurred. These costs are separate from citations and may be placed as a special assessment on the property tax rolls if not reimbursed. The City may also issue Administrative Citations, which range from a $100 to $500 fine per violation for every day the violation(s) remain and/or take other actions to compel compliance. The property owner is responsible for all costs associated with the abatement of this nuisance including inspection fees, hearing costs, and any costs incurred by the City if forced to abate this nuisance.

Thank you in advance for your prompt attention to resolving this matter.

Contact

You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

CITY OF OAKLEY CODE ENFORCEMENT - 3231 MAIN STREET, OAKLEY, CA 94561



☐ Please check box if below address is incorrect and indicate change(s) on reverse side.

PO BOX 150
FAIRFIELD CA 94533-0150

STATEMENT DATE	09/09/2021
REFERENCE NUMBER	CE-20-1925
AMOUNT DUE	$200.00

☐ **Payment in full enclosed.**

☐ **Please call me at:** _____

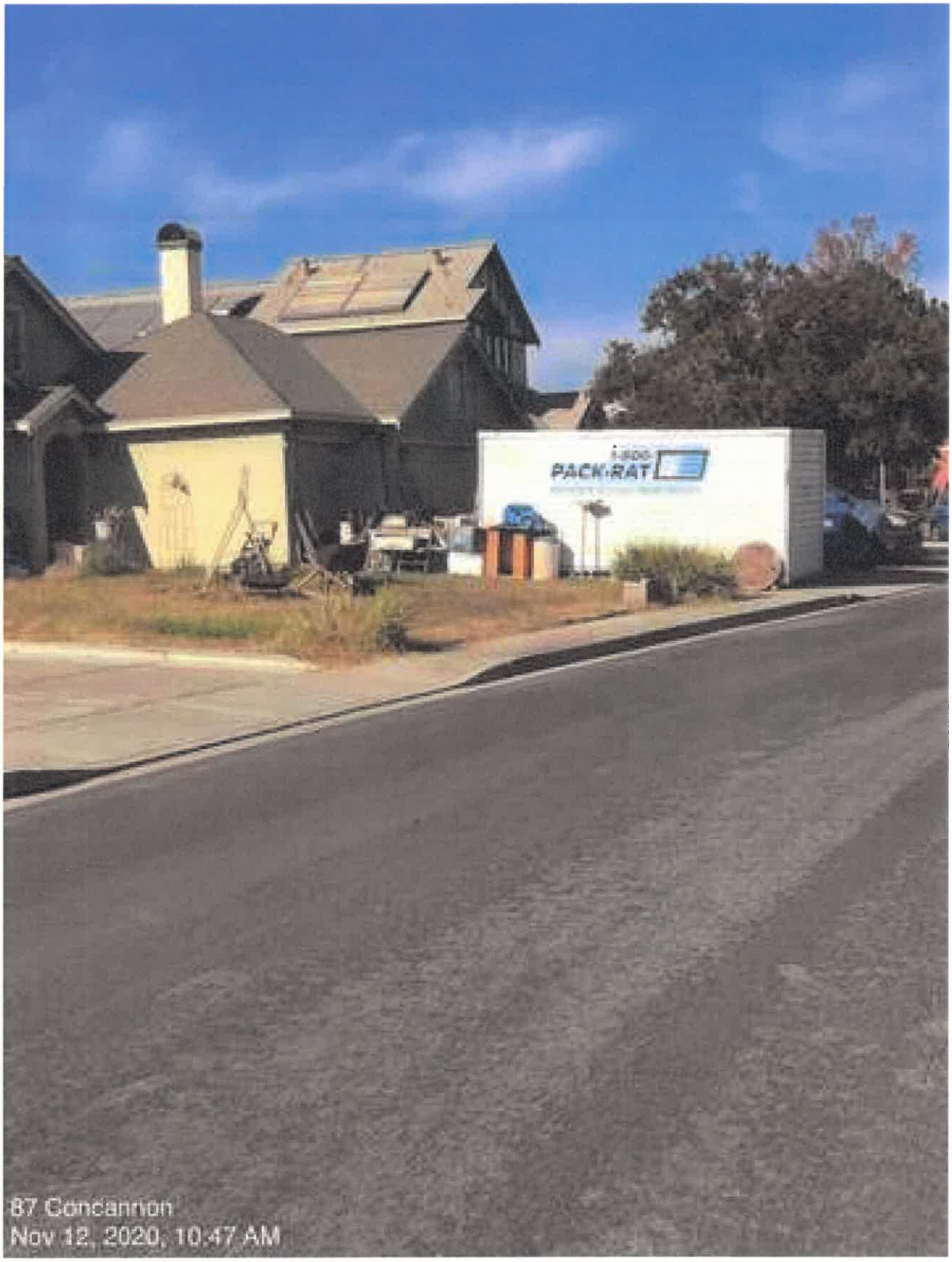
000012 - 3478

THOREN DAVID HOPPER
87 CONCANNON CT
OAKLEY CA 94561-3004

Make Checks Payable And Remit To:

CITY OF OAKLEY (PC)
3231 MAIN ST
OAKLEY CA 94561

CBA30


PACK-RAT
87 Concannon
Nov 12, 2020, 10:47 AM

OAKLEY
CALIFORNIA

Attachment 15

ADMINISTRATIVE CITATION

Mailing Date: January 25, 2021
Time of Citation: 4:21 PM
HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Citation No:	AC-21-000011
Responsible Party:	HOPPER THOREN DAVID TRE
Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE, Date: January 25, 2021

A Notice of Violation for the above property was issued on October 8, 2020 granting a time frame to correct the violation. That time frame has now expired and the property is still not in compliance so an Administrative Citation is being issued. **Payment of this Citation does not relieve the burden of correcting the remaining violation(s). This account will be referred to a Third Party Collection Agency upon becoming past due.**

ADMINISTRATIVE CITATION

OMC § 4.29.404 - Trash and Debris states:
Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

The following corrective action was <u>not</u> completed upon re-inspection:
Please remove all trash and debris from the property and/or public view. This is including but not limited to the debris in the front yard, items in the driveway and under the tarp and mattress.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $500.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

CITATION FINE IS NOW DUE AND PAYABLE		
☐ 1st Citation	☐ 2nd Citation	☑ **3rd Citation**
$100.00	$200.00	**$500.00**

OMC § 9.1.1802 - Sea Containers states:
Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

a) The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the addition of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.

b) The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.

c) Subject to review and approval of the Community Development Director, exceptions may be made for the standard in subsection (e)(3)(a) of this section if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

The following corrective action was <u>not</u> completed upon re-inspection:

Please remove all Shipping Containers from the property or contact the Planning Department by calling 925-625-7000 for review and approval. ***Please note that redesign or re-purpose of a sea container requires applying for and obtaining a Building Permit.***

This is in reference to the Pack-Rat storage unit. Thank you.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $500.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

CITATION FINE IS NOW DUE AND PAYABLE		
☐ 1st Citation	☐ 2nd Citation	☑ **3rd Citation**
$100.00	$200.00	**$500.00**

Pursuant to Section 1.5.203(d) and 1.5.204 (c) of the Oakley Municipal Code (OMC), each day the violation continues is a separate and distinct offense and subject to additional citations. Fines per each count of the OMC Section violated are as follows: Fines are $100 for the first citation per violation, $200 for the second citation per violation and $500 for any subsequent citation violation. Notwithstanding the above, violations of local building and safety codes are punishable by fines of $500 for a second Citation and $1,000 for subsequent Citations.

Rights of Appeal

You have the right to contest this Administrative Citation at a public hearing before an **Administrative Hearing Officer**. To request a hearing, you must pay an advance deposit in the full amount of the fine and submit that amount with the written appeal either by mail to the City Clerk, 3231 Main St, Oakley, CA 94561, or in person to the City Clerk's office at City Hall, **within ten (10) working days from the date of the Administrative Citation**.

A properly filed appeal will result in written notification of the date and time set for your hearing. Failure to appear at your hearing will constitute a failure to exhaust your administrative remedies. Any person who requests an appeal of an administrative citation and is unable to make the advance deposit of the fine required, may file a **Waiver of Fine Deposit Application**. Applications may be obtained from the City Clerk's Office at the above address and must be submitted with the appeal request.

RIGHT TO JUDICIAL REVIEW: Any person aggrieved by a decision of the Administrative Hearing Officer on an Administrative Citation may obtain review of the decision by filing a petition for review with the Superior Court in Contra Costa County in accordance with the timelines and provisions set forth in the California Government Code Section 530693.4

How to Pay

Payment should be made to: City of Oakley 3231 Main St Oakley, CA 94561.

- The total fine amount is **$1,000.00** and must be paid by mail or in person to the City of Oakley by **February 24, 2021**, which is thirty (30) days from the date of this Citation.
- Payment may be made by personal check, cashier's check or money order, VISA or Master Card.
- Please include the citation number **AC-21-000011** on your check or money order.

If the citation is not paid within thirty (30) days or appealed within 10 days from **January 25, 2021**, you may be subject to the imposition of a twenty-five percent (25%) late payment penalty if the Administrative Fine(s) is not paid by the due date, and interest at the rate of 1.5% per month, compounded monthly, will be added to the fine amount.

Failure to Pay

The City will collect any unpaid Administrative Citation fines or late payment charges by use of all available legal means, including but not limited to those means available for the collection of judgments, special assessment liens on real property and all actions for recovery of money. The city has the authority to collect all costs and attorney fees associated with the filing of such actions.

CONTACT

You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

CITY OF OAKLEY CODE ENFORCEMENT - 3231 MAIN STREET, OAKLEY, CA 94561

OAKLEY
CALIFORNIA

Credit Card Authorization

Property Address: _____

Company Name: _____

Cardholders Name (exactly as shown on credit card): _____

Billing Address (credit card): _____

City: _____ State: _____ Zip Code: _____

Telephone Number: (_____) _____

☐ Mastercard ☐ Visa

Card Number: _____ Card CCW/I.D. Number: _____

Expiration Date: _____ Amount Authorized: $ _____

AUTHORIZED SIGNATURE _____ DATE _____

FOR OFFICE USE ONLY

Authorization Number: _____

OAKLEY
CALIFORNIA

NOTICE OF VIOLATION

HOPPER THOREN DAVID TRE
87 CONCANNON CT
OAKLEY, CA 94561-3004

Property Address:	87 CONCANNON CT
Parcel Number:	037-234-033
Case Number:	CE-20-1925

To HOPPER THOREN DAVID TRE,

Date: January 25, 2021

An inspection was conducted on January 25, 2021 and the property listed above has been found to be in violation of the City of Oakley's Municipal Code. The violation(s) below require immediate action by the property owner/resident.

VIOLATION AND ACTION REQUIRED

OMC § 4.29.404 - Trash and Debris states:

Property inadequately maintained (trash & debris, inoperable equipment, junk, rubbish, and building materials) in public view.

Please remove all trash and debris from the property and/or public view. This is including but not limited to the debris in the front yard, items in the driveway and under the tarp and mattress.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $500.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

• **Compliance Date: February 4, 2021**

OMC § 9.1.1802 - Sea Containers states:

Shipping containers are not permitted as residential accessory structures unless the following criteria can be met, subject to the review and approval of the Community Development Director:

a) The shipping container is redesigned and repurposed to appear and function as a residential accessory structure through the addition of a pitched roof that matches the color of the primary unit's roof, and the addition of texture coating or exterior veneer to disguise the industrial appearance of such structures and that matches the color of the primary unit.

b) The shipping container is structurally modified to include at least one residential man door that can be unlocked and opened from inside the container.

c) Subject to review and approval of the Community Development Director, exceptions may be made for the standard in subsection (e)(3)(a) of this section if the shipping container is screened from public and private view by a solid fence as seen from adjacent ground level.

Please remove all Shipping Containers from the property or contact the Planning Department by calling 925-625-7000 for review and approval. **Please note that redesign or re-purpose of a sea container requires applying for and obtaining a Building Permit.**

This is in reference to the Pack-Rat storage unit. Thank you.

ADMINISTRATIVE CITATION HAS BEEN ISSUED FOR $500.00 AND ANOTHER CITATION OF $500.00 WILL BE ISSUED AFTER THE DUE DATE IF VIOLATION IS NOT CORRECTED. THANK YOU FOR YOUR COOPERATION.

• **Compliance Date: February 4, 2021**

Failure to Correct

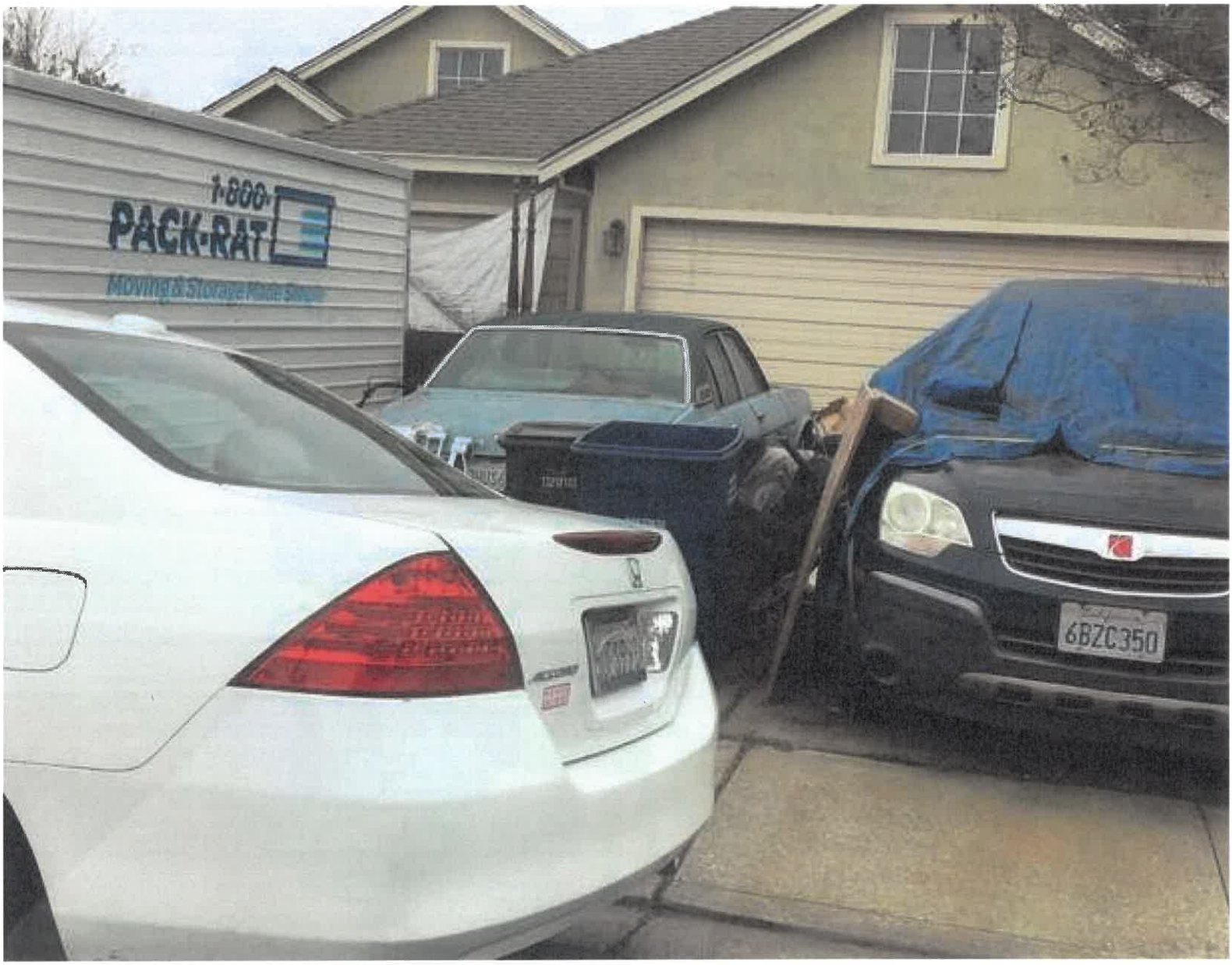
Failure to correct the violation(s) by the compliance date(s) above may result in re-inspection fees for actual costs incurred. These costs are separate from citations and may be placed as a special assessment on the property tax rolls if not reimbursed. The City may also issue Administrative Citations, which range from a $100 to $500 fine per violation for every day the violation(s) remain and/or take other actions to compel compliance. The property owner is responsible for all costs associated with the abatement of this nuisance including inspection fees, hearing costs, and any costs incurred by the City if forced to abate this nuisance.

Thank you in advance for your prompt attention to resolving this matter.

Contact

You may contact Code Enforcement via email at: code-enforcement@ci.oakley.ca.us or by calling (925) 625-7031. To better assist you, please reference the Case No. and/or Property Address and provide a brief explanation of your question (ie. Request for Extension, Clarification of Violation).

CITY OF OAKLEY CODE ENFORCEMENT - 3231 MAIN STREET, OAKLEY, CA 94561



87 Concannon
1/26/21



87 Concannon
1/26/21



87 Concannon
1/26/21

CITY COUNCIL
Sue Higgins, Mayor
Randy Pope, Vice Mayor
Aaron Meadows
Anissa Williams
George Fuller

OAKLEY
CALIFORNIA

Attachment 18

CITY HALL
3231 Main Street
Oakley, CA 94561
925.625.7000 tel
925.625.9859 fax
www.ci.oakley.ca.us

HOPPER DAVID THOREN TRE
87 CONCANNON CT
OAKLEY, CA 94561

February 22nd, 2021

Re: APN 037-234-033 (CE 20-1925): Refuse, Trash, and Debris

NOTICE OF VIOLATION AND ORDER TO ABATE

Pursuant to Oakley Municipal Code section **4.29.404**, this Notice of Violation is to inform you that conditions on the property under your ownership, management or control, and for which you have been cited under city code **4.29.404:**

"It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any property to maintain such property in such a manner that any one or more of the following described conditions are found to exist:

a. The accumulation of garbage, refuse, or rubbish
   i. in any area which is visible from a public street for a period of more than seven (7) consecutive days; or
   ii. in such a manner as to threaten the public health, safety or welfare; or
   iii. in such a manner so as to create a significant blight upon the surrounding neighborhood.."

It is the intent of the City of Oakley to abate the violation(s) by removing the refuse and debris.

You are required to remove the condition(s) causing the nuisances described above from the property. Correction of the condition(s) which give rise to the nuisance must be completed by **March 25th, 2021**. If corrections are not commenced within the time specified, and the City performs the abatement work, the owner shall be charged for the City's costs, including administrative and legal expenses. If the owner fails to compensate the City for its costs of performing the abatement work within thirty (30) days of the City billing the owner, the costs shall become an assessment against the property to be collected at the same time and in the same manner as other City taxes. Citations may continue to accrue during this period until the nuisance is abated.

Any person having any record title or legal interest in the parcel of land may appeal from this notice and order to the City Council, provided the appeal is made in writing and filed with the Office of the City Manager within 30 days from the date of service of this notice and order. The failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

Sincerely,

Bryan Montgomery, City Manager



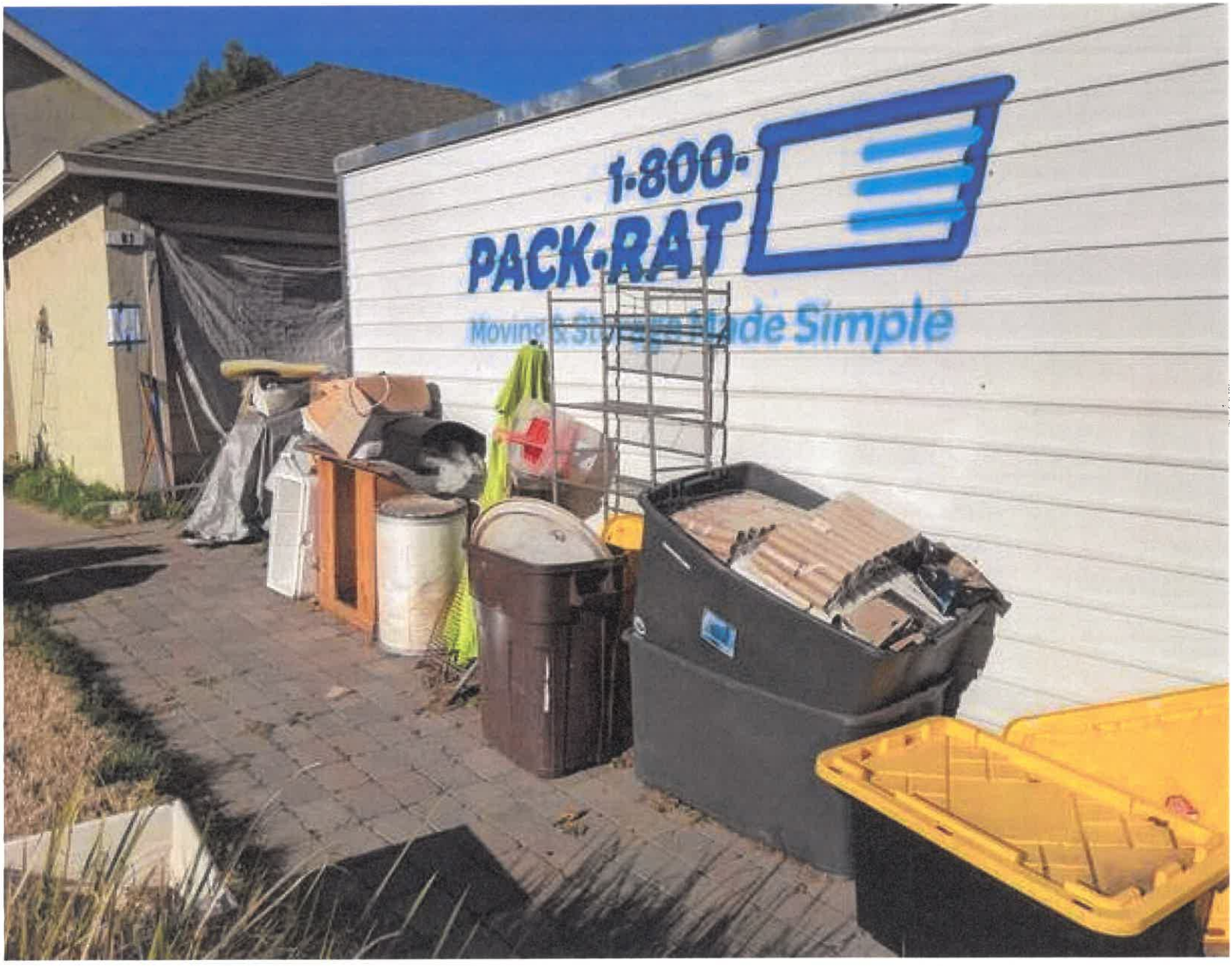
87 Concannon
2/25/21



87 Cocannon
2/25/21



87 Cinnamon
2/25/21

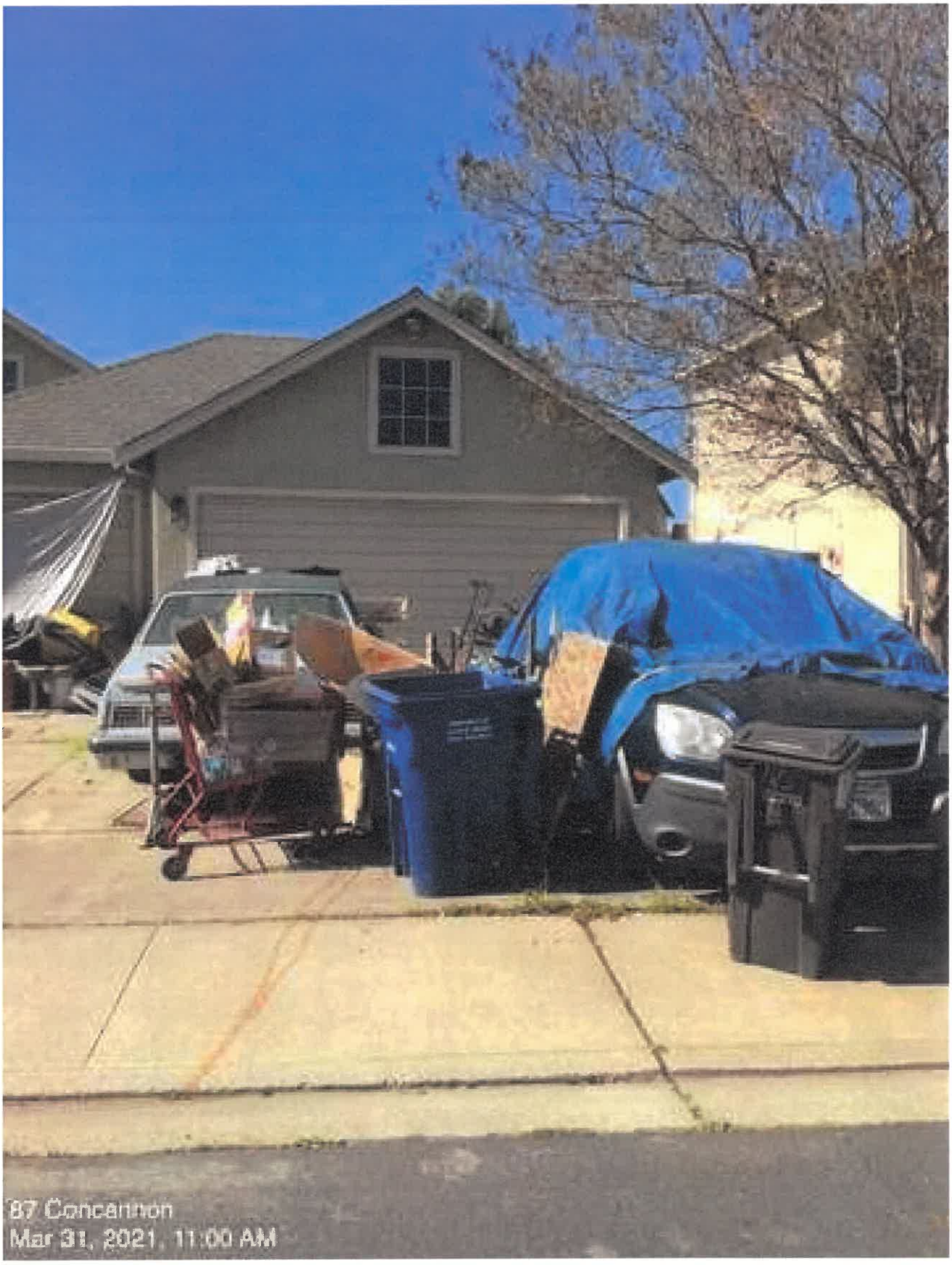


87 Concannon
2/25/21



87 Concannon
2/25/21


87 Concannon
Mar 31, 2021, 11:00 AM


87 Concannon
Mar 31, 2021, 11:00 AM


87 Concannon
Mar 31, 2021, 11:00 AM


87 Concannon
Mar 31, 2021, 11:00 AM


87 Condennon
Mar 31, 2021, 11:00 AM


, 2021, 11:00 AM


87 Concannon
Mar 31, 2021, 11:00 AM


87 Cordelia Dr
Mar 31, 2021, 11:00 AM



87 Concannon



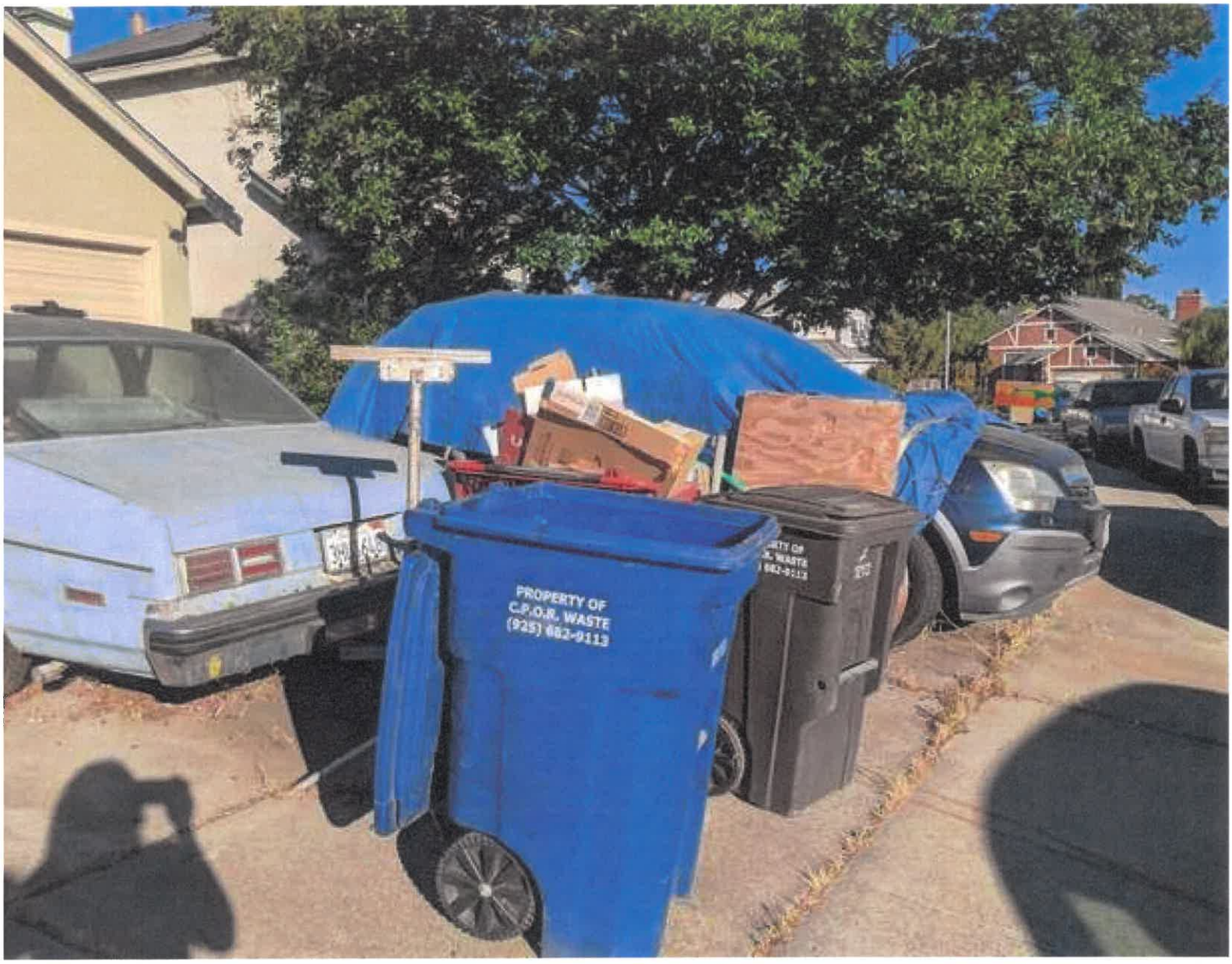
87 Concannon 5/4/21



87 Concannon
5/4/21



87 Concannon
5/4/21



87 Concannon
5/4/21



87 Corcannon
5/4/21



87 Concannon
5/5/21
Pre-Abatement



87 Concannon
5/5/21
Pre-abatement



87 Concannon
5/5/21
Post-abatement



87 Corcannon
5/5/21
Post-abatement

CITY COUNCIL
Sue Higgins, Mayor
Randy Pope, Vice Mayor
Aaron Meadows
Anissa Williams
George Fuller

OAKLEY
CALIFORNIA

Attachment 24

CITY HALL
3231 Main Street
Oakley, CA 94561
925.625.7000 tel
925.625.9859 fax
www.ci.oakley.ca.us

HOPPER THOREN DAVID (TRE)
87 CONCANNON CT
OAKLEY, CA 94561

REPORT OF COSTS

(REVISED TO REFLECT NEW HEARING DATE)

In accordance with City of Oakley Resolution 148-16, actual costs incurred for Code Enforcement abatement services and re-inspection services, and attorneys' fees in accordance with Oakley Municipal Code Section 1.6.302, at 87 CONCANNON CT., Oakley, CA 94561 (APN: 037-234-033), Case CE 21-0050, are being charged and will be heard by the Oakley City Council as a proposed special assessment on the property during its regular meeting to be held **November 9, 2021,** beginning at 6:30 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California.

Date	Description	Total Cost
1/25/21	Re-inspection fee: CE OFC 20 mins	$24.75
1/25/21	Re-inspection fee: CE TECH 30 mins	$28.16
2/22/21	Re-inspection fee: CE OFC 60 mins	$74.31
2/25/21	Re-inspection fee: CE OFC 30 mins	$37.16
3/17/21	Re-inspection fee: CE OFC 15 mins	$18.58
3/23/21	Re-inspection fee: CE TECH 15 mins	$14.08
3/31/21	Re-inspection fee: CE OFC 30 mins / TECH 30 mins	$65.32
4/1/21	Re-inspection fee: CE OFC 45 mins	$55.73
4/29/21	Re-inspection fee: CE OFC 30 mins	$37.16
5/4/21	Re-inspection fee: CE OFC 30 mins	$37.16
5/5/21	Re-inspection fee: CE OFC 75 mins	$92.89
5/5/21	Abatement Costs	$490.00
5/27/21	Re-inspection fee: CE OFC 75 mins	$92.89
2/15 – 5/27/21	City Attorney Fees	$4,730.46

Accounting Code: 100-5201

TOTAL COST PROPOSED AS ASSESSMENT	**$5,798.65**

CITY COUNCIL
Sue Higgins, Mayor
Randy Pope, Vice Mayor
Aaron Meadows
Anissa Williams
George Fuller

OAKLEY
CALIFORNIA

Attachment 25

CITY HALL
231 Main Street
Oakley, CA 94561
925.625.7000 tel
925.625.9859 fax
www.ci.oakley.ca.us

HOPPER THOREN DAVID (TRE)
87 CONCANNON COURT
OAKLEY, CA 94561

NOTICE OF HEARING OF SPECIAL ASSESSMENT OF COSTS

NOTICE IS HEREBY GIVEN that the City of Oakley has caused to be removed on May 5, 2021, from 87 Concannon Court, certain garbage, refuse and rubbish, which constituted a public nuisance. An itemized written report showing the costs of such removal is enclosed and is on file with the City Clerk's Office. Reference is hereby made to such report for further particulars. It is the intention of the City Council of the City of Oakley to make the costs of such removal a special assessment against the property on which said nuisance was maintained or from which said nuisance extended, said assessment to be collected at the same time and in the same manner as ordinary municipal taxes. The property to be assessed is described as follows:

87 Concannon Court, Oakley, California
(Contra Costa County Assessor's Parcel Number 037-234-033)

In accordance with Oakley Municipal Code Section 1.6.128, the City Council shall hear any objections of the owner(s) of the property to be assessed for the removal/abatement costs. Any person filing any protest or objection who is affected by the proposed assessment may file a written report of the objections with the City Clerk at any time prior to the time set for the hearing on the report of costs. Each such objection must contain a description of the property in which the signer thereof is interested and the grounds of the objection.

Any person filing any protest or objection as provided above is invited to attend the hearing of special assessment costs to be considered by the City Council of the City of Oakley on Tuesday, October 26, 2021, during its regular meeting to be held beginning at 6:30 p.m. at the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. Objections will be heard and given due consideration.

Joshua McMurray
Interim City Manager

Dated: October 14, 2021

Enclosure: Report of Costs

CITY COUNCIL
Sue Higgins, Mayor
Randy Pope, Vice Mayor
Aaron Meadows
Anissa Williams
George Fuller

OAKLEY
CALIFORNIA

CITY HALL
3231 Main Street
Oakley, CA 94561
925.625.7000 tel
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www.ci.oakley.ca.us

HOPPER THOREN DAVID (TRE)
87 CONCANNON CT
OAKLEY, CA 94561

REPORT OF COSTS

In accordance with City of Oakley Resolution 148-16, actual costs incurred for Code Enforcement abatement services and re-inspection services, and attorneys' fees in accordance with Oakley Municipal Code Section 1.6.302, at 87 CONCANNON CT., Oakley, CA 94561 (APN: 037-234-033), Case CE 21-0050, are being charged and will be heard by the Oakley City Council as a proposed special assessment on the property during its regular meeting to be held October 26, 2021, beginning at 6:30 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California.

Date	Description	Total Cost
1/25/21	Re-inspection fee: CE OFC 20 mins	$24.75
1/25/21	Re-inspection fee: CE TECH 30 mins	$28.16
2/22/21	Re-inspection fee: CE OFC 60 mins	$74.31
2/25/21	Re-inspection fee: CE OFC 30 mins	$37.16
3/17/21	Re-inspection fee: CE OFC 15 mins	$18.58
3/23/21	Re-inspection fee: CE TECH 15 mins	$14.08
3/31/21	Re-inspection fee: CE OFC 30 mins / TECH 30 mins	$65.32
4/1/21	Re-inspection fee: CE OFC 45 mins	$55.73
4/29/21	Re-inspection fee: CE OFC 30 mins	$37.16
5/4/21	Re-inspection fee: CE OFC 30 mins	$37.16
5/5/21	Re-inspection fee: CE OFC 75 mins	$92.89
5/5/21	Abatement Costs	$490.00
5/27/21	Re-inspection fee: CE OFC 75 mins	$92.89
2/15 – 5/27/21	City Attorney Fees	$4,730.46

Accounting Code: 100-5201

TOTAL COST PROPOSED AS ASSESSMENT	**$5,798.65**

CITY COUNCIL
Sue Higgins, Mayor
Randy Pope, Vice Mayor
Aaron Meadows
Anissa Williams
George Fuller

OAKLEY
CALIFORNIA

Attachment 26

CITY HALL
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925.625.7000 tel
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HOPPER THOREN DAVID (TRE)
87 CONCANNON COURT
OAKLEY, CA 94561

NOTICE OF HEARING OF SPECIAL ASSESSMENT OF COSTS
(REVISED TO REFLECT NEW HEARING DATE)

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Any person filing any protest or objection as provided above is invited to attend the hearing of special assessment costs to be considered by the City Council of the City of Oakley on Tuesday, November 9, 2021, during its regular meeting to be held beginning at 6:30 p.m. at the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. Objections will be heard and given due consideration.

Joshua McMurray
Interim City Manager

Dated: October 21, 2021

Enclosure: Report of Costs

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HOPPER THOREN DAVID (TRE)
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REPORT OF COSTS

(REVISED TO REFLECT NEW HEARING DATE)

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2/15 – 5/27/21	City Attorney Fees	$4,730.46

Accounting Code: 100-5201

TOTAL COST PROPOSED AS ASSESSMENT	**$5,798.65**

RESOLUTION NO. ___-21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CONFIRMING THE COST FOR ABATEMENT OF A PUBLIC NUISANCE AND DIRECTING SPECIAL ASSESSMENT UPON PROPERTY LOCATED AT 87 CONCANNON COURT, OAKLEY, CALIFORNIA (APN 037-234-033)

WHEREAS, the Oakley Municipal Code establishes standards in law to protect the health, safety and welfare of the community and the City's Code Enforcement Department is tasked with addressing violations of the Code, so as to ensure the health, safety and welfare of the community; and

WHEREAS, a public nuisance in violation of the Code was found to exist at property located at 87 Concannon Court, Oakley, California (APN 035-552-119) and abatement of such nuisance was conducted; and

WHEREAS, in accordance with Oakley City Council Resolution 148-16 and Oakley Municipal Code Sections 1.6.126 and 1.6.302, the cost incurred by the City to abate the nuisance, including the abatement, re-inspection fees and attorneys' fees have been documented on the Report of Costs on file with the City Clerk's Office in the total amount of $5,798.65, and

WHEREAS, such Report of Costs was posted and mailed to the property owner for payment and such cost remains unreimbursed by the property owner to date; and

WHEREAS, City staff seeks to confirm such cost, and if such cost remains unpaid after August 1, 2022, staff seeks confirmation to collect the amount via direct assessment for collection on the Contra Costa County Fiscal Year 2022-2023 property tax roll as authorized by Oakley Municipal Code Section 1.6.132.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that it hereby confirms the cost for abatement of a public nuisance in the amount of $5,798.65 and directs the special assessment of $5,798.65 upon property located at 87 Concannon Court, Oakley, California (APN 035-552-119) for collection on the Contra Costa County Fiscal Year 2022-2023 property tax roll, if the cost remain unpaid to the City of Oakley after August 1, 2022.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Oakley held on the 9th day of November, 2021 and adopted by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED: ATTEST:

Sue Higgins, Mayor Date: Libby Vreonis, City Clerk

STAFF REPORT

DATE: November 9, 2021

TO: Joshua McMurray, Interim City Manager

Approved and Forwarded to the City Council

FROM: Tim Przybyla, Finance Director

SUBJECT: **American Rescue Plan Act (ARPA) Update**

Background and Analysis

At the September 14th City Council meeting, HdL Companies' Senior Advisor, Sandra Meyer, gave an overview of the agenda staff report, providing an introduction to the American Rescue Plan Act (ARPA). She also presented a draft business needs survey, which is used to better understand the impact of the COVID-19 Pandemic on Oakley businesses. Included in the report to the Oakley City Council, Ms. Meyer presented a number of preliminary possibilities for ARPA funding. The City Council provided direction to undertake the survey and for City Staff to work closely with HdL representatives (Sandra Meyer and Barry Foster-Principal/Managing Director for HdL) in formulating recommendations for an initial first round of ARPA funding possibilities.

The Business Needs Survey provides an opportunity to hear what the impact of the Pandemic was on local businesses' operations during the past almost 20 months, as well as inquire about ways the City could best help them recover in the short-term, along with achieving more sustained long-term prosperity. HdL has assisted five cities including Oakley in completing Business Needs surveys and has five more Business Needs surveys that are underway with other cities. Oakley distributed the Business Needs Survey (with the assistance of City staff) on September 28th and that survey was open until the end of October. The Business Needs Survey was distributed in four ways, including:

- Newsletter/Social Media Outlets
- Direct email to 125 businesses from the Economic Development data base
- City Staff in-person visits to Downtown businesses
- Emails to active business license holders

It is estimated that the Business Needs Survey was distributed to over 350 Oakley businesses (with some getting it multiple times).

Business Needs Survey Results: 15 responses were received from Oakley businesses.

Summary of Results:

- 12 of the 15 responding businesses were either self-employed or had just 1 to 4 employees.
- 21% were restaurants and 29% were home-based businesses.
- 71% of the businesses that responded reported that their business operation has been negatively impacted by the COVID-19 Pandemic, with the biggest impacts being: 1) loss of revenue, 2) reduced customer demand and 3) temporary closure.
- 71% of the respondents have not received any type of financial assistance, with those that have receiving $1,000 to $5,000 from the Paycheck Protection Program.
- Ranking of the greatest challenges for the business/organization's recovery included: 1) paying rent (including back rent accumulated), 2) hiring or rehiring employees, 3) four way tie between cash flow & payroll, re-establishing customer base, marketing their business and obtaining inventory and supplies.
- All of the restaurants that responded have utilized outdoor dining and would like to see it continue and to be enhanced.
- The ranking of desired assistance by the City of the 15 business that responded included: 1) rent assistance grants, 2) access to small business resources and 1 on 1 counseling, 3) assistance with applying for small business relief grants, 4) a three way tie between assistance with applying for available COVID-19 relief grants and loans, shop local campaign, and improvements or enhancements to the Downtown area.
- Of those that responded to suggesting improvements or enhancements to the Downtown area, the two top suggestions were a Farmers Market and Food Truck Events.

Use of Fiscal Recovery Funds by the City of Oakley

The City of Oakley was awarded an ARPA funding allocation of $10,177,190. Half of the funding was received by Oakley in July of 2021 and the second half will be distributed to Oakley in July of 2022. ARPA recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.

ARPA fund recipients are required to calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021;

December 31, 2022; and December 31, 2023. Based on the Department of the Treasury's revenue loss formula, the City of Oakley did NOT experience a shortfall in general revenues for the period ending December 31, 2020 and is not expected to incur revenue losses in 2021, 2022 or 2023. The City of Oakley may have been able to claim losses if we had not experienced such growth in building revenues related to housing and commercial development.

However, the U.S. Senate just recently passed the "State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act" – SB 3011, which has now moved on to the U.S. House of Representatives. HdL staff are reviewing and monitoring this new bill, which may allow more flexibility and less reporting requirements for allocating the funds. Please note that there is uncertainty if and when this might be approved by the House and the President and what exactly the passage of this bill would change. However, this new legislation might broaden the types of infrastructure programs for which ARPA will allow funding (proposed to include roads, sidewalks, bridges and more traditional infrastructure projects) and possibly provide a new way to measure revenue loss, that could help Oakley. More to come on these potential legislative changes related to the usage of ARPA funds.

Use of ARPA Funds

Currently the American Rescue Plan Act provides that Fiscal Recovery Funds may be used (in addition to any calculated revenue loss to the City) for the following:

a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

c) To make necessary investments in water, sewer, or broadband infrastructure.

The Interim Final Rule implements the provisions of ARPA and identifies a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. In determining whether a program or service responds to the negative economic impacts of the COVID-19 public health emergency, the Interim Final Rule provides that payments from the Fiscal Recovery Funds should be designed to address economic harm resulting from or exacerbated by the public health emergency.

Cities are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by this public health emergency.

Please note that the use of ARPA funds is subject to compliance and reporting requirements to the US Treasury, along with possible audits.

Next Steps:

It is important to remember that the ARPA funds do not need to be allocated until December 31, 2024 and the funds don't need to be spent until December 31, 2026. However, there are clear needs in Oakley to address in the near term that can be financed with ARPA funding. Based on current ARPA rules, results of the Business Needs Survey, other options presented by the community, and consultation with HdL, City staff is presenting the following preliminary plan for use of the funds from the first tranche of ARPA funding of $5,098,180:

- **TECHNOLOGY ENHANCEMENTS:** including new Enterprise Resource Planning (ERP) system, new City web site & other possible software enhancements ($3,300,000)

- **CITY EMPLOYEE COVID-19 COSTS:** including COVID-19 testing and COVID-19 sick leave ($250,000)

- **SOCIAL SERVICE NEEDS IN THE COMMUNITY:** including the Food Bank of Contra Costa County, Meals on Wheels, Coco Kids Contra Costa County Child Care Resources and maybe other non-profits ($180,000)

- **BUSINESS SUPPORT:** including Small Business Relief Grants, Rent Assistance Grants for Businesses, outdoor enhancements for restaurants, business façade improvements program and E-Gift card pilot program to promote 'shop local' ($800,000)

- **ARPA CONSULTING SUPPORT:** ($50,000)

TOTAL PROPOSED COSTS=$4,580,000

The remaining balance of the first tranche of $5,098,000 in ARPA funds = $518,180 (which is roughly 10% of the first tranche).

Fiscal Impact

There is no fiscal impact of this agenda item, at this point. The City of Oakley Fiscal Year 2021/2022 Budget already includes an ARPA Fund budget, and future amendments to that budget will be presented to the City Council for consideration of approval, based on direction that will be provided by the City Council to staff during this meeting and future meetings.

Staff Recommendation

Staff recommends that City Council discuss the categories and suggested uses of ARPA funds and provide direction to staff. After receiving City Council direction, staff will firm up the funding requests and options presented. Additionally, HdL and staff will continue to monitor the possible legislative changes being pursued for ARPA and the impact that such changes may have on funding a broader range of infrastructure projects for the City of Oakley.

Attachments

1. Business Needs Survey

Oakley--COVID-19 Business Recovery Survey

		Combined	
Question 1	What year was your business/organization established in Oakley?		
		1986	1
		2004	1
		2011	1
		2013	1
		2015	2
		2016	1
		2018	1
		2019	2
		2020	2
		2021	2
Question 2	How many employees do you currently have at your Oakley location?		
	Self-employed with no employees	6	43%
	1 to 4	6	43%
	5 to 9 (Including remote)	1	7%
	26 to 50	1	7%
Question 3	Please indicate your business type:		
	Childcare/Education/Tutoring	1	7%
	Grocery Store	1	7%
	Home-based Business	4	29%
	Restaurant/Bar/Brewpubs/Other Food & Drink	3	21%
	Retail Store	1	7%
	Other	2	14%
	Automobile-related	1	7%
	Construction	1	7%
Question 4	Has your business/organization been negatively impacted by COVID-19?		
	Yes	10	71%
	No	4	29%
		0	0%
Question 5	If yes, how was your business/organization negatively impacted? Select all that apply.		
	Loss of revenue	8	44%
	Temporary closure	3	17%
	Reduced customer demand	6	33%
	Layoff of one or more staff member(s)	1	6%
Question 6	What COVID-19 relief funding or assistance has your business/organization received? Select all that apply.		
	I have not received COVID-19 relief assistance	10	71%
	Paycheck Protection Program (PPP)	4	29%
Question 7	If you have received relief funding, how much total COVID-19 relief funding has your business received?		
	$1- $5,000 100.0	4	80%
	$10,001 - $20,000	1	20%
Question 8	What will be the greatest challenges to your business/organization's recovery? Select your top three choices.		
	Cash flow - paying for inventory and payroll	2	13%
	Paying rent and utilities (including back rent)	5	31%
	Re-establishing customer/client base	2	13%
	Marketing my business	2	13%
	Obtaining inventory and supplies	2	13%
	Hiring or re-hiring employees	3	19%
		16	
Question 9	If your business is a restaurant, have you used outdoor dining during the pandemic and would you like to continue or enhance outdoor dining?		
	Yes	3	21%
	Not applicable	11	79%
		14	
Question 10	What type of assistance would be helpful for your business/organization now and in the future? Select all that apply.		
	Small business resources and one-on-one counseling	4	24%
	Assistance with applying for available COVID-19 relief grants and loans	2	12%
	Rent assistance grants	5	29%

OAKLEY
CALIFORNIA

STAFF REPORT

DATE: November 9, 2021

TO: City Council

Approved and Forwarded to the City Council

FROM: Joshua McMurray, Interim City Manager

SUBJECT: **Ordinance to Amend Chapter 20 of Title 4 of the Oakley Municipal Code Dealing with Solid Waste and Recycling**

Background

A number of recent changes in the solid waste industry necessitate modifications to the Oakley municipal code. The changes are driven by Senate Bill (SB) 1383, which touches upon many aspects of solid waste management, many of which are currently the responsibility of MDRR via agreement, while others are jurisdictional responsibilities.

Senate Bill 1383 contains numerous requirements which have already begun to go into effect. The bill, which can be summed up as a requirement to divert food waste from being landfilled, is necessitating operational changes and capital improvements including where solid waste is hauled, and expansion and modification of existing facilities, not to mention new programs such as food waste recovery, education, and enforcement. The new regulations require the City to update its municipal code and this report discusses the proposed modifications. In parallel to the municipal code update will be amendments to the franchise agreement with MDRR, and completion of the Base Year Rate Review. That application is anticipated to be received on November 12, 2021.

In the coming months, City staff and its consultant will be reviewing MDRR's scheduled Base Year Rate Review which sets rates to cover the costs of providing solid waste service to the community. Commercial rates can be adjusted as necessary by MDRR; however, residential rates are subject to the discretion of the City Council. Once an application is submitted, the City and MDRR will complete a process outlined in the Rate-Setting Manual that is contained within the franchise agreement, in concert with negotiations for a franchise amendment which includes additional services and costs related to SB 1383 implementation. Staff anticipates this application would go in front of the City Council in early 2022.

Analysis

The municipal code update is provided as both a “clean” copy and a “tracked changes” copy (Attachments 1 and 2). In summary, SB 1383 requires all jurisdictions through the State to update their municipal codes to enable jurisdictions to enforce the following new requirements through an unfunded State mandate:

- Universal service for organic waste diversion;
- Penalties for non-compliant businesses (under the organics recycling requirements, the requirement to right-size containers, provide educational material, donate edible food for those generators required to do so, and subscribe to service);
- Penalties for haulers, including the self-haul sector for not diverting organic material according to the requirements;
- Penalties for regulated entities for not providing adequate reporting (this includes edible food recovery organizations);
- Investigation of complaints of non-compliance by members of the public or other entities;
- Contamination monitoring via annual route audits for every route and a representative portion of customers;
- A defined “waiver” system similar to the existing exemption system for AB 1826, except that organics generation thresholds are lower (10 gallons or less for customers below 2 cubic yards of solid waste service, and 20 gallons or less for customers at or above 2 cubic yards); physical space limitations also make businesses eligible for a waiver;
- Inspection of businesses subject to waiver, and re-inspection on a prescribed basis (every 5 years); and
- Enforcement of CALGreen construction and demolition debris recycling requirements and container design requirements; and the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations.

While MDRR can assist in implementation of many aspects of SB 1383, agencies ultimately bear responsibility for its implementation. The adoption of this amended municipal code will start that process but it is imperative the Franchise Agreement and Base Rate Application also be reviewed and approved in the near future as this unfunded mandate will require a change to the current rate structure.

Financial Impact

The financial impacts of the items discussed above will be determined once the Franchise Agreement and Base Rate Application is received and reviewed.

Attachments

1. Draft Ordinance
2. Draft Municipal Code Amendment, Tracked from Current

ORDINANCE NO. _____

AN AMENDMENT TO THE ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY REGARDING SOLID WASTE COLLECTION AND REGULATIONS

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

Section 1. The Oakley Municipal Code is hereby amended by amending Title 4, Chapter 20, entitled "SOLID WASTE COLLECTION AND REGULATIONS" to read in its entirety as follows:

CHAPTER 20
SOLID WASTE COLLECTION AND REGULATIONS

Article 1. DEFINITIONS

4.20.102 Definitions.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Act. The California Integrated Waste Management Act of 1989 (sometimes referred to as "AB 939"), Public Resources Code § 40000 and following as it may be amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.

Bulky Items. Discarded large household appliances such as washers and dryers, dishwashers and other appliances without freon (white goods), E-Waste, furniture, tires, carpets, mattresses and similar large items which require special handling due to their size, but can be collected without special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned vehicles.

City. The City of Oakley.

City Franchise Hauler. Any Person with whom the City shall have duly contracted under the terms hereinafter set out in this Article to collect and transport Solid Waste, Recyclables, and/or Organic Materials in, through, and from the City.

Construction and Demolition Debris (C&D Debris). Solid wastes such as building materials, packaging and Inert Debris resulting from C&D projects. Common C&D Debris include but are not limited to: lumber, metals, pipe, wire, sheet metal, asphalt, concrete, stone, brick, slate, masonry, drywall, carpet, carpet padding and foam, packing materials,

cardboard, paper, building materials, doors, windows, fixtures, plastics, appliances, ceiling or floor tiles, and Green Waste or landscape debris related to land development such as soil, brush, trees, rock, branches and stumps.

E-Waste. Discarded electronics equipment such as cell phones, personal digital assistant (PDA), computers, monitors, televisions, and other items containing cathode ray tubes (CRTS), LCD, LED or plasma screens and monitors.

Edible Food. Food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste or Organics if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

Exempt Waste. Biohazardous or biomedical waste, Hazardous Waste, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a Solid Waste landfill as defined in AB 939 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission.

Food Recovery Organization(s). An entity that engages in the collection or receipt of Edible Food from commercial edible food generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including food recovery services that transport food for recovery. This includes, but is not limited to:

a. A food bank as defined in Section 113783 of the Health and Safety Code;
b. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
c. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

Garbage. All putrescible and nonputrescible solid, semisolid, and liquid wastes generated or accumulated through the normal activities of a premises. All non-recyclable packaging and putrescible waste attributed to normal activities of a premises. Garbage must be generated by and at the Premises wherein the garbage is collected. Garbage does not include Recyclable Materials, Organic Materials, Construction and Demolition Debris, Bulky Items, E-Waste, Universal Waste, Hazardous Waste, Household Hazardous Waste or Exempt Waste.

Green Waste. Organic material from trees, shrubs, plants, weeds, branches, grass, lawn clippings, other vegetation, and material capable of being composted; provided that trees may not be more than six inches in diameter. Green Waste does not include plastic bags, bricks, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, loose

fruits and vegetables, tree trunks, stumps, branches more than six inches in diameter or three feet in length, or pet waste.

Hazardous Waste. Any waste materials or mixture of wastes defined as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. ("RCRA"), or the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§9601 et seq., and all future amendments to either of them, or as defined by the California Environmental Protection Agency or the California Department of Resources, Recycling and Recovery, or either of them. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction thereover, the term Hazardous Waste shall be construed to have the broader, more encompassing definition. Hazardous Waste shall also have the meaning as that term is defined in Public Resources Code Section 40141.

Household Hazardous Waste. Hazardous Waste generated at residential sites in the City, including normal residential amounts of household chemicals, pesticides, motor oil, paint, products containing mercury, E-Waste categorized as Universal Waste (such as television tubes or monitors), anti-freeze, and lead-acid batteries.

Inert Debris. Asphalt, brick, concrete, cinder block and other masonry products, stone, slate, or rock, whether reinforced or unreinforced. All Inert Debris materials are contained within the definition of "C&D Debris" for purposes of this article.

Multifamily Residential Dwelling ("MFD"). Residential premises with five (5) or more dwelling units located on a single parcel of land and any mobile home park located within the city. Multifamily Residential Dwellings do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

Organic Materials and Organics. Organic material that can biologically decompose into a specific mixture of decayed matter, including without limitation, Green Waste and food waste which means food scraps separated from Solid Waste that will decompose and/or putrefy including all residential and commercial kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs. The terms Organic Materials and Organics are used interchangeably.

Organic Waste Generator. A Person or entity that is responsible for the initial creation of Organic Materials, or as otherwise defined in 14 CCR Section 18982(a)(48) of SB 1383.

Person. Includes any individual, firm, partnership, co-partnership, corporation, limited liability company, trust, association,or any other form of business enterprise.

Premises. Any dwelling, place of residence, roominghouse, hotel, club, restaurant, boardinghouse, eating place, shop, place of business, and any other building, grounds, or location where Solid Waste is or may be produced or accumulated, including all sidewalk, curb, gutter, and street and alley areas adjacent thereto.

Recoverable Material. Material which is capable of being retrieved or diverted from disposal or transformation for the purpose of Recycling, Reuse, and composting. Recoverable Material does not include those materials generated from and reused on-site for manufacturing purposes.

Recyclable Materials. Any materials or by-products that are set aside, handled, and/or packaged for purposes of Recycling, including without limitation, glass, paper, cardboard, wood, concrete, plastic, used motor oil & filters, ferrous and non-ferrous metal, aluminum, and any other waste materials that are capable of being recycled. This definition includes Construction and Demolition Debris, including Inert Debris but excludes Hazardous Waste.

Recycling. The process by which material which would otherwise be disposed of is collected, sorted, cleansed, treated, reconstituted, and reused to make another product after its first use is completed and for which a market is identified for the collected materials.

Reuse. The recovery or reapplication of the material for uses similar or identical to its originally intended application, without manufacturing or preparation processes that significantly alter the material.

SB 1383. The Short-Lived Climate Pollutants: Methane Emissions: Dairy and Livestock: Organic Waste: Landfills Act of 2016. Article 4 Title 14, Division 4, Chapter 12 of the California Code of Regulations.

Self-Hauler(s). Means a Person who hauls Solid Waste, Recyclable Materials, or Organic Materials that he or she has generated to another Person. Self-Hauler also includes a Person who back-hauls Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Materials to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

Solid Waste. Garbage, Recyclable Materials, Organic Materials, Construction and Demolition Debris, Bulky Items, E-Waste, Universal Waste, and other discarded solid and semi-solid wastes as defined in the California Public Resource Code Section 40191, as that section may be amended from time to time. Solid Waste means all such materials defined in PRC 40191. Solid Waste does not include Exempt Waste or any of the following wastes: (1) Hazardous Waste other than E-Waste; (2) radioactive waste; and (3) medical waste regulated pursuant to the Medical Waste Management Act.

Source Reduction. Efforts taken to minimize the quantity of waste generated and entering the waste stream.

Special Handling Materials. All materials which are defined as requiring special handling for the public health and safety by federal, state or county laws or regulations.

Subscriber. All Persons, firms, corporations, or entities which generate, keep, or accumulate Solid Waste, Recyclable Materials, Organic Materials or salvageable materials, Hazardous Waste, infectious wastes or Special Handling Materials within the boundaries of the City.

Tier One Commercial Edible Food Generator*.* A commercial edible food generator that is one of the following:

A. Supermarkets with gross annual sales of $2,000,000 or more.
B. Grocery store with a total facility size equal to or greater than 10,000 square feet.
C. Food service provider.
D. Wholesale food vendor.

SB 1383 Tier One Commercial Edible Food Generators are required to comply with SB 1383 regulations by January 1, 2022 or face significant financial penalties.

Tier Two Commercial Edible Food Generator*.* A commercial edible food generator that is one of the following:

A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
B. Hotel with an on-site food facility and 200 or more rooms.
C. Health facility with an on-site food facility and 100 or more beds.
D. Large venue.
E. Large event.
F. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
G. A local education agency facility with an on-site food facility.

SB 1383 Tier Two Commercial Edible Food Generators are required to comply with SB 1383 regulations by January 1, 2024 or face significant financial penalties.

Universal Waste. Televisions, computer monitors, consumer electronics with circuit boards, fluorescent lamps, cathode ray tubes, non-empty aerosol cans, instruments and switches that contain mercury, and dry cell batteries containing cadmium copper or mercury.

Wastestream. The process of placing Solid Waste, Organic Materials, and Recyclable Materials for collection, the collection of same by the City Franchise Hauler, and the delivery of same by the City Franchise Hauler to a licensed sanitary landfill.

Article 2. SOLID WASTE COLLECTION FRANCHISES

4.20.202. Collection Franchises; Purpose and Declarations.

A. It is hereby declared and determined that the business of collecting, transporting, disposing and/or Recycling of Solid Waste, Recyclable Materials, and Organic Materials affects the health, safety and public welfare and quality of life of residents of the City. Therefore, one purpose of this Chapter is to regulate this business in order to ensure its orderly operation and to minimize any adverse effects on the environment.

B. It is also the intent of this Chapter to generate revenue for municipal purposes, including but not limited to, the maintenance of public streets and roadways impacted by the heavily-laden vehicles used in this business.

C. The City is required by state law to adopt and implement an integrated waste management plan and to reduce the Wastestream going into landfills. The Chapter is also designed to assist with these goals and further the City's compliance with the Act and SB 1383.

D. The City, by adoption of this Chapter, has elected to utilize the authority in state law to have the ability to grant franchises for the collection, transporting, disposing and/or Recycling of Solid Waste, Organic Materials, and Recyclable Materials.

4.20.204 Activities Which Are Unlawful Unless Authorized.

Except as specifically exempted in this Chapter, it is unlawful for any Person to engage in the business of collecting, transporting, removing, disposing, processing, and/or Recycling of Solid Waste, Recyclable Materials, and Organic Materials kept, accumulated or produced in the City unless a franchise therefore has been granted in writing pursuant to the provisions of this Chapter, and unless a written franchise agreement therefore has been signed between such City Franchise Hauler and the City, and unless such franchise and agreement is in full force and effect.

4.20.206 Exemptions.

The provisions of this Chapter shall not apply to:

A. The City of Oakley or any person employed by the City.

B. Persons or their employees hauling no more than one ton per month of Solid Waste which they generate pursuant to a construction project for whichthat Person holds a valid building permit.

C. Persons hauling source-separated Recyclable Materials who operate one vehicle and without an established route or billing system.

D. Persons operating a small collection facility and/or recycling center, to which

customers themselves deliver Recyclable Materials in exchange for cash orother consideration.

E. Self Haulers, as defined herein.

F. Persons collecting, transporting or disposing of Hazardous Wasteregulated by federal or state law when engaged in that activity.

4.20.208 City Council Authority To Grant Franchise.

The City Council may and is hereby empowered to grant to any Person, whether operating under an existing franchise agreement or not, a franchise, either exclusive or non-exclusive, to engage in the business of collecting, transporting, removing, disposing, processing, and/or Recycling of Solid Waste, Organic Materials, and Recyclable Materials kept, accumulated, or produced in the City.

4.20.210 Franchise; Terms and Conditions.

A. The services provided by the City Franchise Hauler do not constitute a "public work" and are not subject to California Labor Code Secs. 1720 - 1901.

B. All franchises granted pursuant to this Article shall be subject to the terms of the franchise agreement approved by the City Council and also by the terms of this Chapter and of the Oakley Municipal Code.

4.20.212 Granting of Franchise .

If the City Council wishes to grant a franchise agreement pursuant to this Article, it shall do so at a regular City Council meeting. No franchise shall be effective until a written franchise agreement has been presented at a regular CityCouncil meeting and approved by a majority vote of the City Council and has been signed and delivered by the person authorized by the City Franchise Hauler to do so, and until all other requirements set forth in this Chapter and in the franchise agreement have been satisfied, including but not limited to evidence of compliance with the insurance and indemnification requirements in a form acceptable to the City and specified in the franchise agreement.

4.20.214 Indemnification of City.

The City Franchise Hauler shall indemnify and hold the City, its officers, employees and agents harmless from and against any and all loss, damages, liability, claims, suits, costs and expenses, fines, charges or penalties whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, arising from or in any manner related to the services provided or business conducted by the City Franchise Hauler under this Chapter or under any

franchise granted pursuant to this Chapter.

4.20.216 Term of Franchise.

The term of any franchise shall be as stated in the franchise agreement, but generally shall not be for a period in excess of twenty years without extraordinary reason for a longer term. The franchise agreement may provide for the manner and procedure for renewal of the franchise.

4.20.218 Termination or Suspension of Franchise.

A. The City Council shall have the right to terminate any franchise issuedpursuant to this Article pursuant to the terms of the franchise agreement.

B. Unless provided otherwise in the franchise agreement, a notice of intent toterminate a franchise shall be personally delivered or mailed to the City Franchise Hauler at its address as identified in the franchise agreement. The notice shall state grounds for suspension or termination of the franchise and shall state the time, date and place of a hearing before the City Council, which shall be scheduled at least 30 days subsequent to the date of the notice.

C. Unless provided otherwise in the franchise agreement, the City Council shall have the right to terminate or suspend any franchise if it finds after a hearing that:

1. The franchisee has failed to substantially comply with a material provision of the franchise agreement, or to substantially perform any material covenant required of the City Franchise Hauler by this Chapter or the franchise agreement, or has violated any federal, state or local law, ordinance or regulation applicable to the operation of the franchise; or

2. Any provision of this Chapter or the franchise agreement is repealed or becomes or is declared invalid or unenforceable, and the City Council determines that such provision constitutes a material consideration to the grant or continuation of the franchise.

D. Unless provided otherwise in the franchise agreement, prior to giving notice of intent to terminate, the City shall first provide the City Franchise Hauler with a written notice of violation and order to correct, with such violation or correction to be made within 30 days or such other time as may be specified in the notice. If the City Franchise Hauler corrects the violation, then the City shall not pursue the termination or suspension of the franchise, unless the City Franchise Hauler has been given more than one notice of violation and order to correct, in which case the City may, but is not obligated to, pursue termination or suspension of the franchise.

4.20.220 Franchise Fees.

The City Franchise Hauler shall pay a franchise fee to the City during the term of the franchise. The franchise fee shall be in the amounts and shall be paid in the manner specified in the franchise agreement. The payment of the franchise fee shall be in addition to any license fee or business license tax or fee prescribed by the City for the same period.

4.20.222 City Inspection Authority.

The City Franchise Hauler shall maintain accurate and complete books and accounts ofall revenues and income arising out of its operations within the City under the franchise granted. The City Franchise Hauler's books, accounts and records related to its operations within the City pursuant to the franchise shall be open to inspection, examination and audit by authorized officers, employees and agents of the City during times and places that do not create an unreasonable burden for the City Franchise Hauler.

4.20.224 Regulation of Rates and Charges.

If a rate and charges setting procedure is set forth in the franchise agreement,the method for determining the rates and charges shall be determined by the franchise agreement. If the franchise agreement does not set forth a rate and charges method, the provisions of this section shall apply. The rates and chargesimposed by the City Franchise Hauler upon residential customers shall be regulated by the City and shall be approved by the City Council in advance of the rates and charges being established and collected by the City Franchise Hauler. The City Council shall approve rates and charges which cover the cost of providing the services and also provide a fair rate of return for the City Franchise Hauler. The City shall maintain supervisory control over the rates and charges imposed by the City Franchise Hauler on non-residential customers in that the City Manager shall be vested with the authority to hear complaints from such customers and to resolve such matters with the City Franchise Hauler.

The City Franchise Hauler shall notify the City Manager of proposed increases to its residential rates and charges at least 90 days prior to its intended commencement date for such rates and charges.

4.20.226 Violations of Franchise/Remedies and Enforcement.

(a) No Person shall collect, transport, dispose, or convey, or cause or permit to be collected, transported, disposed, or conveyed, any Solid Waste, Recyclable Materials, and/or Organic Materials unless the City has granted that Person a franchise pursuant to the terms of this Chapter and a written franchise agreement is entered into between the City and that Person. The City shall have the right to require any Person operating

in the City to provide any documentation and/or information requested by the City in order to determine whether a violation of this Chapter has occurred. Persons in violation of these requirements or any other provision of this Chapter relating to the unauthorized collection, transport, disposal, or conveyance of Solid Waste, Recyclable Materials, and/or Organic Materials shall be guilty of a misdemeanor pursuant to Chapter 1.5.002, et seq. and the City shall have the right to pursue all available legal and equitable remedies against such Person, including without limitation, those identified in Chapter 1.5.002, et seq. of the Code. No language in this Chapter shall be construed as limiting or modifying the right of the City Franchise Hauler to file a civil action against any Person that violates any of the terms of this Chapter or any of the rights granted to the City Franchise Hauler by the City under this Chapter or pursuant to a written franchise agreement between the City and the City Franchise Hauler.

(b) City Manager authorization. The City Manager is authorized to administer and enforce the provisions of this Chapter. The City Manager, or anyone designated by the City Manager to be an enforcement officer, may exercise such enforcement powers.

(c) Administrative citations and orders. If the City Manager determines that a Person is in violation of this Chapter, the City Manager may issue administrative citations or orders and fines pursuant to Chapter 1.5.002, et seq. for violations of this Chapter or of any rule or regulation adopted pursuant to this Chapter, except as otherwise provided in this Chapter. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety and shall govern the imposition, enforcement, collection and review of administrative citations or orders issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, provided, however, that the City Manager may adopt regulations providing for lesser penalty amounts. The City Manager has the authority to impose administrative penalties for the notices of violations.

(d) The City Attorney may seek injunctive relief or civil penalties in the superior court in addition to the above remedies and penalties. Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the City or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any Person from a civil action brought by the City or its authorized collection agent(s). The fees and penalties imposed under this Chapter shall constitute a civil debt and liability owing to the City from the Persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law. Nothing in this Chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). This Chapter does not do any of the following:

1. Otherwise affect the authority of the City Manager to take any other action authorized by this Code or any other provision of law.

2. Restrict the power of a City attorney, district attorney or the attorney general to bring in the name of the people of the state, any criminal proceeding otherwise authorized by law.

3. Prevent the City Manager from cooperating with, or participating in, a proceeding specified in this Chapter.

4. Affect in any way existing contractual arrangements, including franchises, permits or licenses, previously granted or entered into between the City Franchise Hauler and City.

ARTICLE 3. REQUIRED SERVICE

4.20.302 Mandatory Service.

Every owner of a Premises located within the City that generates Solid Waste, Recyclable Materials, or Organic Materials shall subscribe with the City Franchise Hauler for the collection and disposal of such material. Nothing herein shall prohibit the tenants or users of property from subscribing with the City Franchise Hauler for service. However, the owner of the Premises shall remain ultimately responsible for establishing and maintaining a subscription for collection and disposal service with the City Franchise Hauler, and for paying the fees and charges therefore.

4.20.304 Exemptions.

The City Manager may exempt a Person from the requirement for mandatory service if the Premises are unoccupied or undeveloped, or if no Solid Waste, Recyclable Materials, or Organic Materials are produced, kept, or accumulated on the Premises.

4.20.306 Level of Service.

Every owner of a Premises located within the City as specified in Sec. 4.20.302 shall maintain a level of collection and disposal service that is adequate in terms of size of containers and frequency of collection so that the Solid Waste, Recyclable Materials, and Organic Materials container(s) remain closed with tops securely in place at all times. Solid Waste removal service shall be provided at least once weekly. Recyclable Materials and Organic Materials shall be collected at such times as are specified in the franchise agreement or by the City Council pursuant to Resolution.

4.20.308 Unlawful Collection or Transporting of Solid Waste.

It shall be unlawful for any Person, firm or corporation, other than a City Franchise Hauler or its employees, a City Franchise Hauler's authorized contractor, or a Person, firm or corporation otherwise exempted by state or federal law, to collect within the City or to transport or carry any Solid Waste, Recyclable Materials, Organic Materials, Hazardous Waste, infectious material or Special Handling

Material through the City, except Self-Haulers. Self-hauling is limited to occasional residential clearing and transporting of junk and non-putrescible solid wastes such as paper, cardboard, tin cans, yard clippings, wood, glass, crockery, and plastics from one's own property, or to contractors removing such materials fromtheir own job sites.

Self-Haulers shall source separate all Recyclable Materials and Organic Materials (materials that the City otherwise requires generators to separate for collection in the City's Organic Materials and Recyclable Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2.

Self-Haulers shall haul their Recyclable Materials to a facility that recovers those materials; and haul their Organic Materials to a solid waste facility, operation, activity, or property that processes or recovers Organic Materials.

Self-Haulers that are commercial businesses (including Multifamily Residential Dwellings) shall keep a record of the amount of Organic Materials delivered to each solid waste facility, operation, activity, or property that processes or recovers Organic Materials; this record shall be subject to inspection by the City. The records shall include the following information: (a) delivery receipts and weight tickets from the entity accepting the materials, and (b) the amount of material in cubic yards or tons transported by the generator to each entity. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Materials.

4.20.310 Burning and Burying Solid Waste.

It shall be unlawful for any Person, firm, corporation or entity to discard, burn, or bury any Solid Waste on any private or public property, except in a landfill licensed by the County Health Department. This section does not prohibitcomposting when accomplished consistent with criteria and standards from the County Health Department.

4.20.312 Time of Collection.

Unless dictated by an emergency, the City Franchise Hauler shall collect Solid Waste, Recyclable Materials and Organic Materials only during the hours specified inthe franchise agreement.

4.20.314 Unlawful to Dump on Public or Private Property.

It shall be unlawful for any Person, firm or corporation to deposit or dump anySolid Waste in any location on public or private property, unless in a location specifically authorized in writing by the City Manager.

4.20.316 Removal or Theft of Solid Waste, Recyclable Materials, and Organic Materials.

It shall be unlawful for any Person other than the City Franchise Hauler to remove or take any Solid Waste, Recyclable Materials, and/or Organic Materials from containers which are left at or near the sidewalk for the City Franchise Hauler's collection and removal. Containers having the City Franchise Hauler's name or initials indicated thereon shall be presumed to be left for its collection. Once placed for collection by a Subscriber, ownership of the Solid Waste, Recyclable Materials, and Organic Materials shall transfer to the City Franchise Hauler.

4.20.318 Collection; Nonpayment.

It shall be unlawful for any Subscriber to fail, neglect or refuse to pay the City Franchise Hauler the rates approved by the City Council for service. Upon an application by the City Franchise Hauler to the City, the City is authorized to use its enforcement authority, including but not limited to, the right to subscribe to Solid Waste, Recyclable Materials, and Organic Materials or other service for the subject Premises in six-month increments up to oneyear and place a special assessment lien on the Premises pursuant to procedures specified herein.

If the City Franchise Hauler terminates service to any nonpaying Subscriber, such Subscriber, as a condition precedent to the reestablishment of service, shall fully comply with the current billing practices and policies of the City Franchise Hauler, including but not limited to, requirements to pay in cash or cash equivalent, prepayment of one full billing cycle, payment of all costs of collection and payment of areinstatement fee.

All costs of collecting delinquent payments including, but not limited to, interest charges, collection agency charges, and attorney fees and costs shall be added to and become a part of the charges owed for the services rendered to the Subscriber by the City Franchise Hauler and shall be governed by this Chapter in the same manner as the original charges, and may be placed against the Premises as a special assessment lien.

4.20.320 Emergency Situations.

When in the opinion of the City Manager or his/her designee a Premises has become a public health and safety risk because of an accumulation of Solid Waste, Garbage, Recyclable Materials, or Organic Materials, the City may order the City Franchise Hauler to enter the Premises and to remove and dispose of all such materials creating a public healthand safety risk. The City may advance the City Franchise Hauler's cost for removing and disposing of such materials, but the responsibility for such cost resides in the owner of the Premises. If the owner of the

Premises does not pay the invoice from either the City or the City Franchise Hauler for such removal and disposal, such costs may be recovered through a special assessment lien, as provided for herein.

4.20.322 Collection of Unpaid Subscriptions; Special Assessment Lien Procedures.

The City may collect any past due subscription payments by use of all available legal means, including those methods available for the collection of judgments, special assessment liens and all actions for the recovery of money. The City may also recover its collection costs and reasonable attorney fees andcourt costs.

A) On a periodic basis as determined by the City Manager or his/her designee, a report shall be prepared and filed with the City Clerk with an assessment list which identifies each Premises with delinquent subscriptions and for which the City has ordered subscription pursuant to Sec. 4.20.318 or emergency service pursuant to Sec. 4.20.320. The report and assessment shall provide a description of the Premises, a description of the nature of the delinquency and the name and address of the owner of the Premises.

B) Upon receipt of the report, the City Clerk shall post a notice of filing of thereport in a conspicuous place in City Hall, with said notice specifying the filing date of the report and assessment list and the time and place when and where the report and assessment list will be submitted to the Administrative Hearing Officer as defined in Sec. 1.5.202(9) herein, for hearing and confirmation. The City Clerk shall also mail by regular first class mail, postage fully prepaid, a notice to each owner of a Premises identified in the report, at the last known address of the owner of the Premises as listed in the county tax assessor's or county records. If, after diligent search, the owner of the Premises cannot be found, the notice shall be served by posting a copy thereof in a conspicuous location upon the Premises for a period of ten days. Said notice shall provide a description of the Premises by street address and assessor's parcel number and the amount of the delinquency, including late payment fees and costs, and shall notify the owner that said delinquency and late payment fees and costs shall be assessed against the Premises unless objection is made by the owner in writing and submitted to the City Clerk at least three days before the hearing. The failure of any Person to receive notice shall not affect the validity of any proceedings herein.

C) The notice shall also specify the time and place when and where the proposed assessment will be presented to the Administrative HearingOfficer for hearing and confirmation.

D) Any owner who objects to the proposed assessment and who desires to challenge the proposed assessment at the hearing must submit any and all objections in writing to the City Clerk at least three days prior to the date of the hearing. The

failure of any owner to submit written objections to the City Clerk at least three days prior to the hearing shall constitute a waiver of any such objections and the matter may be placed on the consent calendar of the agenda of the Administrative Hearing Officer.

E) At the time and place fixed for hearing and confirming the proposed assessments, the Administrative Hearing Officer shall consider the same. If no objection has been submitted and the matter placed on the consent calendar, then the Administrative Hearing Officer may make his/her decision on the documentation presented. If a hearing is conducted, only those persons who have submitted timely written objections to the City Clerk will be heard by the Administrative Hearing Officer. At the hearing, the Administrative Hearing Officer may correct, modify or eliminate any proposed assessment that he/she may deem factually incorrect or in the interests of justice. Thereafter, the Administrative Hearing Officer shall confirm each assessment and the amount thereof, as proposed or as corrected and modified, and order it assessed against the Premises. The Officer shall also direct that the assessment be recorded on the tax assessment roll and thereafter the assessment shall constitute a special assessment and lien against the property. Judicial review of the order of the Administrative Hearing Officer may be made pursuant to Cal. Govt. Code Sec. 53069.4.

F) The special assessment lien shall be subject to the same penalties as are provided for other delinquent taxes or assessments of the City.

4.20.324 Construction and Demolition Debris Recycling.

For the purpose of this chapter, "Construction and Demolition Debris" shall be abbreviated as "C&D Debris" and shall have the meaning as defined in Section 4.20.102 above.

a. Any construction, demolition and renovation project within the City asfollows:

1. Any residential or commercial remodeling or building project wheretotal costs are valued at $30,000 or greater; or

2. Any City-owned or City-sponsored project regardless of permit value; or

3. Any residential or commercial demolition project regardless of permitvalue; or

4. Any newly constructed residential building three stories or less, andnon-residential occupancies. (CalGreen Sections 4.408 and 5.408); or

5. Any residential or commercial roofing or re-roofing project regardless ofpermit value.

b. Upon applying for a building permit, the applicant shall describe, on forms provided by the City, how the applicant will divert at least sixty-five percent (65%) or more of all C&D Debris from the Wastestream to a Processing Facility as defined in Section 17402 of the California Code of Regulations and at least seventy-five percent (75%) by weight of all Inert Debris to be diverted from a Processing Facility. Pursuant to Title 14, Article 6, Section 17402, (a)(20), "Processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines or volume reduction equipment. Processing does not include disposal at a landfill. The applicant shall demonstrate compliance with these diversion requirements, or the diversion rate required by the State of California Green Building Standards Code, whichever is more stringent.

c. The applicant may, on the form provided by the City, explain why it is infeasible to divert from the Wastestream the amount of C&D Debris from the Wastestream specified in subsection (b) of this section;

d. If the City Building Official determines that the applicant has not made a good faith effort to comply with this section for C&D Debris which is feasible to be diverted, he/she shall notify the applicant of such determination. An administrative citation may be issued if the applicant continues to fail to comply with this section or if the applicant refuses or fails to divert C&D Debris from the Wastestream as indicated on the form completed by him or her.

4.20.326 Collection and Sorting Requirements.

Organic Waste Generators subject to the requirements of the Act shall fully comply with all applicable requirements of the Act and SB 1383 or be subject to the penalties as prescribed in Section 18997.2 of SB 1383, as determined by the City. Except as provided in this section, the provision of collection services shall be governed by the franchise agreement between the City and the City Franchise Hauler.

(A) Residential Collection Services.

(1) Residential Collection Services. Each Subscriber shall use only the containers, provided by the City Franchise Hauler and approved by the City, for the purpose of depositing and accumulating residential Solid Waste from the Premises.

(2) Residential Recycling Collection Service. No materials other than Recyclable Materials may be placed in a recycling cart.

(3) Organic Materials Service. All Organic Materials must be generated by and at the Premises wherein the Organic Materials are collected. Only Organic Materials may be placed in an Organic Materials cart.

(4) All Subscribers shall be automatically enrolled in Solid Waste, Recyclable Materials, and Organic Materials service, and shall sort Recyclable Materials and Organic Materials and place them in the appropriate container.

(B) Multifamily Residential Dwelling Service.

(1) Each Multifamily Residential Dwelling development shall be provided with approved Solid Waste, Recyclable Materials, and Organic Materials cart(s) or bin(s). Such cart(s) or bin(s) shall be located at a central collection site or sites within the Multifamily Residential Dwelling development.

(2) Each Multifamily Residential Dwelling development shall negotiate the size of the container and the frequency of collection for collection service with the City Franchise Hauler. Such container size and collection frequency shall be sufficient to provide that no materials need be placed outside the collection container.

(3) MFD Collection Services. Only Solid Waste generated by persons occupying the Multifamily Residential Dwelling development or their guests shall be placed in the Solid Waste cart(s) or bin(s) serving the development.

(4) MFD Recycling Services. Only Recyclable Materials generated by persons occupying the Multifamily Residential Dwelling development or their guests shall be placed in the Recyclable Materials cart(s) or bin(s) serving the development.

(5) MFD Organic Materials Service. Only Organic Materials generated by persons occupying the Multifamily Residential Dwelling development or their guests shall be placed in the Organic Materials cart(s) or bin(s) serving the development.

(C) Commercial Service.

(1) Commercial Garbage Collection Services.

(a) Each place of business shall be provided with approved Solid Waste, Recyclable Materials, and Organic Materials cart(s) or bin(s), as required by this Code, as the same now exists or may hereafter be amended.

(b) Such container size and collection frequency shall be sufficient that no Solid Waste, Recyclable Materials, and Organic Materials need be placed outside the collection container.

(c) Only Solid Waste, Recyclable Materials, and Organic Materials generated by the operation of the business shall be placed in the container serving that place of business.
(d) All Subscribers shall be automatically enrolled in Solid Waste, Recyclable Materials, and Organic Materials service, and shall sort Solid Waste, Recyclable Materials, and Organic Materials and place them in the appropriate container unless Subscriber has an approved waiver.

(D) General Requirements:

a. Commingling of Organic Materials with other forms of Solid Waste is prohibited; no Person may place or cause to be placed for collection Organic Materials in any container designated for the collection of any other form of Solid Waste.

b. Each commercial premise and Multifamily Residential Dwelling complex owner shall be responsible for ensuring and demonstrating its compliance with the following requirements:

i. Provide Recyclable Materials containers for Recyclable Materials in Multifamily Residential Dwelling complex rental units and in maintenance and work areas where Recyclable Materials may be collected and/or stored.

ii. Prominently post and maintain one or more signs where Recyclable Materials and/or Organic Materials are collected and/or stored that set forth what materials are required to be source separated in addition to collection procedures for such materials.

iii. Notify and instruct employees and tenants of applicable source separation requirements, including a list of Recyclable Materials and/or Organic Materials that are required to be source separated for Recycling. A copy of such instructions shall be provided to the City, upon request.

iv. Ensure that Recyclable Materials and/or Organic Materials generated at their site will be taken only to a recycling facility and not to a landfill for disposal by complying with all requirements under this Chapter.

v. The self-haul form or other documents pertaining to this Chapter, shall be available for inspection by the City at the principal location of the Subscriber during normal business hours.

vi. No City Franchise Hauler shall be held liable for the failure of its customers to comply with such regulations.

vii. No Organic Material Generator shall be liable for the failure of the City Franchise Hauler to deliver designated Recyclable Materials or designated Organic Materials to a recycling or processing facility.

viii. It shall be the responsibility of the Premises or Multifamily Residential Dwelling complex owner whose Solid Waste was not removed because it contained Recyclable Materials or Organic Materials to properly separate Recyclable Materials or Organic Materials from the uncollected Solid Waste for proper Recycling. Allowing such unseparated Solid Waste to accumulate will be considered a violation of this Chapter.

4.20.328 Edible Food Recovery Required.

Tier One Commercial Edible Food Generators shall comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2022. Tier Two Commercial Edible Food Generators shall comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2024.

A large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations.

Tier One and Tier Two Commercial Edible Food Generators shall comply with the following requirements:

1. Arrange to recover the maximum amount of Edible Food for human consumption that would otherwise be disposed or diverted.

2. Contract with or enter into a written agreement with Food Recovery Organizations for: (i) the collection of Edible Food for food recovery; or, (ii) acceptance of the Edible Food that the commercial edible food generator self-hauls to the Food Recovery Organization for food recovery.

3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization.

4. Commercial edible food generators and Food Recovery Organizations shall maintain a record acceptable to City Manager and in compliance with applicable law.

5. Keep records that include the information as otherwise specified in 14 CCR Section 18991.4.

Food Recovery Organizations shall comply with the following requirements:

1. Food Recovery Organizations collecting or receiving Edible Food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the records as specified by 14 CCR Section 18991.5(a)(1) and (2)

2. Food Recovery Organizations that have their primary address physically located in the jurisdiction and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall report to the jurisdiction it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than July 1, 2022.

In order to support Edible Food recovery capacity planning assessments or other studies, Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request.

4.20.330 Waivers from Requirement for Solid Waste Service.

Owners, occupants or Persons in possession, charge or control of dwellings, buildings, places and Premises in the City in and from which it is claimed that no Solid Waste, Recyclable Materials, and Organic Materials are created, accumulated or produced so as to require collection services, or that other methods of Solid Waste, Recyclable Materials, and Organic Materials collection, processing or disposal are available and will be provided may apply for a waiver from the provisions of this Chapter by making application therefor to the City Manager.

Commercial businesses requesting a de minimis waiver shall submit an application specifying the services that they are requesting a waiver from and provide documentation that either:

(a) The commercial business's total Solid Waste collection service is two cubic yards or more per week and Organic Materials subject to collection in a Recyclable Materials container or Organic Materials container comprises less than 20 gallons per week per applicable container of the business' total waste; or,

(b) The commercial business's total Solid Waste collection service is less than two cubic yards per week and Organic Materials subject to collection in a Recyclable Materials container or Organic Materials container comprises less than 10 gallons per week per applicable container of the business' total waste.

Commercial businesses shall notify City if circumstances change such that commercial business' Organic Materials exceed the threshold required for waiver, in which case the waiver will be rescinded.

Commercial businesses or Premises owners may request a physical space waiver through the following process:

(a) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

(b) Provide documentation that the premises lack adequate space for Recyclable Materials containers and/or Organic Materials containers including documentation from the City Franchise Hauler, licensed architect, or licensed engineer.

(c) The City, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, Premises, business establishment or industry that subscribes to the City's three-container collection service to arrange for the collection

of their Recyclable Materials container, Solid Waste container, Organic Materials, or each of the three containers once every fourteen days, rather than once per week.

Waivers shall apply for up to, but no longer than five (5) years, as determined by the City Manager. Upon receiving an application for a waiver, the City Manager shall cause an investigation to be made concerning the matters contained in the application and into such other matters, as the City Manager may deem appropriate. If after investigation the City Manager determines that the requirements listed in this Section are met, the City Manager may grant an exemption from the provisions of this chapter. If a waiver is granted, the City Manager shall notify the City Franchise Hauler that a waiver has been granted. Said waiver may be revoked at any time thereafter if after subsequent investigation the City Manager determines that circumstances have changed and that Solid Waste, Recyclable Materials, and Organic Materials collection services are required.

The City Franchise Hauler is required to submit all waiver applications to the City for review which will be due on the 10th of each month for the previous reporting month. The City Franchise Hauler is required to maintain a list of any and all businesses and Multifamily Residential Dwelling properties that the City Franchise Hauler is providing Solid Waste collection services to but is not also providing Recyclable Materials and Organic Materials collection services. The City Franchise Hauler shall provide such list to the City, which will be due on the 10th of each month for the previous reporting month and shall be current as of that date.

4.20.332 Inspection of Sanitary Conditions; Disputes or Complaints Regarding Collection Service

The City Council, or other duly authorized representative of the City designated by the Council, shall visit all Premises within the City from time to time and examine the sanitary conditions of said Premises to determine whether the provisions of this Chapter are complied with. City representatives and/or its designated entity are authorized (but are not required) to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Subscribers, or Recyclable Materials, Organic Materials, or Construction and Demolition Debris to confirm compliance with this ordinance by Subscribers, the City Franchise Hauler, and Self-Haulers, subject to applicable laws. This section does not allow City representatives to enter the interior of a private residential Premises for inspection. Persons shall provide or arrange for access during all inspections and shall cooperate with the City representative or its designated entity during such inspections and investigations.

Upon notification by the Council, or other authorized representative thereof, all Persons, including the City Franchise Hauler, shall comply with the provisions of this Chapter or they may be deemed guilty of a misdemeanor. In all cases of disputes or complaints arising from or concerning the place where receptacles for any kinds of Solid Waste shall be placed awaiting removal of their contents, the quantities to be removed, the number

of times of removal, and the rates charged, the Council shall designate the place, the estimated quantities, the times and manner of removal, and the rates, and its decision shall be final.

4.20.334 Organic Materials Prohibited from Use as Alternative Daily Cover.

Pursuant to the provisions of Assembly Bill 1594 (AB 1594) a contractor or permittee, and any owners, occupants or Persons in possession, charge or control of all dwellings, buildings, places and Premises in the City who act as Self-Haulers of Organic Materials, may not direct their Organic Materials for use as alternative daily cover (ADC) or to disposal at a landfill. If the City Manager determines that a contractor or permittee, or any other applicable Person has directed any Organic Materials for use as ADC or for disposal at a landfill, the City Manager will notify the contractor, permittee, or Person of the requirements of this provision. Repeated instances of directing Organic Materials for use as ADC may result in enforcement action pursuant to the provisions of this Code.

4.20.336 Requirements for Special Events.

(a) The promoter or coordinator of a special event held in City must provide a level of Solid Waste service sufficient to contain the Solid Waste generated at the special event.
(b) The promoter or coordinator shall provide containers at appropriate locations at the special event to facilitate the source separation of Solid Waste, Organic Materials, and Recyclable Materials by event employees, vendors, and attendees.
(c) The three types of containers shall:
(1) Be appropriate in number and size with respect to the quantity of Solid Waste, Recyclable Materials, and Organic Materials to be generated at the Premises;
(2) Bear appropriate signage and be color-coded to identify the type of Solid Waste, Recyclable Materials, and Organic Materials to be contained; and
(3) Be placed together as a waste station to provide equally convenient access to users.
(d) If the promoter or coordinator determines that vendor booths at the special event will require Solid Waste containers, the vendors shall receive from the promoter or coordinator a set of Solid Waste containers that bear appropriate signage and are color-coded to identify the type of waste to be contained.
(e) The use of public Solid Waste, Recyclable Materials, and Organic Materials receptacles at special events is prohibited. The promoter or coordinator shall remove or cover all public Solid Waste, Recyclable Materials, and Organic Materials receptacles to prevent their use during the special event.

4.20.338 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is held to be invalid or unconstitutional including by any court with jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City Council declares that it would have passed this article, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more other sections, subsections, clauses, or phrases may be declared invalid or unconstitutional.

Section 2. Severability.

In the event that any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 3. California Environmental Quality Act ("CEQA") finding.

The City Council has analyzed this ordinance and determined it is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Section 4. Effective Date and Publication.

This ordinance shall take effect and be in force and effect 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 office of the City Clerk at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

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

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

_____

Sue Higgins, Mayor Date

ATTEST:

_____

Libby Vreonis, City Clerk Date

CHAPTER 20

SOLID WASTE COLLECTION AND REGULATIONS

Article 1. DEFINITIONS

4.20.102 Definitions.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Act. The California Integrated Waste Management Act of 1989 (sometimes referred to as "AB 939"), Public Resources Code § 40000 and following as it may be amended, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), and as implemented by the regulations of CalRecycle.

Bulky Items. Discarded large household appliances such as washers and dryers, dishwashers and other appliances without freon (white goods), E-Waste, furniture, tires, carpets, mattresses and similar large items which require special handling due to their size, but can be collected without special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include abandoned vehicles.

City. The City of Oakley.

City Franchise Hauler. Any Person with whom the City shall have duly contracted under the terms hereinafter set out in this Article to collect and transport Solid Waste, Recyclables, and/or Organic Materials in, through, and from the City.

Construction and Demolition Debris (C&D Debris). Solid wastes such as building materials, packaging and Inert Debris resulting from C&D projects. Common C&D Debris include but are not limited to: lumber, metals, pipe, wire, sheet metal, asphalt, concrete, stone, brick, slate, masonry, drywall, carpet, carpet padding and foam, packing materials, cardboard, paper, building materials, doors, windows, fixtures, plastics, appliances, ceiling or floor tiles, and Green Waste or landscape debris related to land development such as soil, brush, trees, rock, branches and stumps.

E-Waste. Discarded electronics equipment such as cell phones, personal digital assistant (PDA), computers, monitors, televisions, and other items containing cathode ray tubes (CRTS), LCD, LED or plasma screens and monitors.

Edible Food. Food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste or Organics if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

Exempt Waste. Biohazardous or biomedical waste, Hazardous Waste, waste treatment or processing sludge, contaminated soil and dirt, contaminated concrete, contaminated asphalt, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, any matter or materials which are not acceptable for disposal at a Solid Waste landfill as defined in AB 939 and subsequent legislation, and those wastes under the control of the Nuclear Regulatory Commission.

Food Recovery Organization(s). An entity that engages in the collection or receipt of Edible Food from commercial edible food generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including food recovery services that transport food for recovery. This includes, but is not limited to:

a. A food bank as defined in Section 113783 of the Health and Safety Code;
b. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
c. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

Garbage. All putrescible and nonputrescible solid, semisolid, and liquid wastes generated or accumulated through the normal activities of a premises. All non-recyclable packaging and putrescible waste attributed to normal activities of a premises. Garbage must be generated by and at the Premises wherein the garbage is collected. Garbage does not include Recyclable Materials, Organic Materials, Construction and Demolition Debris, Bulky Items, E-Waste, Universal Waste, Hazardous Waste, Household Hazardous Waste or Exempt Waste.

Green Waste. Organic material from trees, shrubs, plants, weeds, branches, grass, lawn clippings, other vegetation, and material capable of being composted; provided that trees may not be more than six inches in diameter. Green Waste does not include plastic bags, bricks, rocks, gravel, large quantities of dirt, concrete, sod, non-organic wastes, loose fruits and vegetables, tree trunks, stumps, branches more than six inches in diameter or three feet in length, or pet waste.

Hazardous Waste. Any waste materials or mixture of wastes defined as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. ("RCRA"), or the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§9601 et seq., and all future amendments to either of them, or as defined by the California Environmental Protection Agency or the California Department of Resources, Recycling and Recovery, or either of them. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction thereover, the term Hazardous Waste shall be construed to have the broader, more encompassing definition. Hazardous Waste shall also have the meaning as that term is defined in Public Resources Code Section 40141.

Household Hazardous Waste. Hazardous Waste generated at residential sites in the City, including normal residential amounts of household chemicals, pesticides, motor oil, paint, products containing mercury, E-Waste categorized as Universal Waste (such as television tubes or monitors), anti-freeze, and lead-acid batteries.

Inert Debris. Asphalt, brick, concrete, cinder block and other masonry products, stone, slate, or rock, whether reinforced or unreinforced. All Inert Debris materials are contained within the definition of "C&D Debris" for purposes of this article.

Multifamily Residential Dwelling ("MFD"). Residential premises with five (5) or more dwelling units located on a single parcel of land and any mobile home park located within the city. Multifamily Residential Dwellings do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

Organic Materials and Organics. Organic material that can biologically decompose into a specific mixture of decayed matter, including without limitation, Green Waste and food waste which means food scraps separated from Solid Waste that will decompose and/or putrefy including all residential and commercial kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs. The terms Organic Materials and Organics are used interchangeably.

Organic Waste Generator. A Person or entity that is responsible for the initial creation of Organic Materials, or as otherwise defined in 14 CCR Section 18982(a)(48) of SB 1383.

Person. Includes any individual, firm, partnership, co-partnership, corporation, limited liability company, trust, association,or any other form of business enterprise.

Premises. Any dwelling, place of residence, roominghouse, hotel, club, restaurant, boardinghouse, eating place, shop, place of business, and any other building, grounds, or location where Solid Waste is or may be produced or accumulated, including all sidewalk, curb, gutter, and street and alley areas adjacent thereto.

Recoverable Material. Material which is capable of being retrieved or diverted from disposal or transformation for the purpose of Recycling, Reuse, and composting. Recoverable Material does not include those materials generated from and reused on-site for manufacturing purposes.

Recyclable Materials. Any materials or by-products that are set aside, handled, and/or packaged for purposes of Recycling, including without limitation, glass, paper, cardboard, wood, concrete, plastic, used motor oil & filters, ferrous and non-ferrous metal, aluminum, and any other waste materials that are capable of being recycled. This definition includes Construction and Demolition Debris, including Inert Debris but excludes Hazardous Waste.

Recycling. The process by which material which would otherwise be disposed of is collected, sorted, cleansed, treated, reconstituted, and reused to make another product after its first use is completed and for which a market is identified for the collected materials.

Reuse. The recovery or reapplication of the material for uses similar or identical to its originally intended application, without manufacturing or preparation processes that significantly alter the material.

SB 1383. The Short-Lived Climate Pollutants: Methane Emissions: Dairy and Livestock: Organic Waste: Landfills Act of 2016. Article 4 Title 14, Division 4, Chapter 12 of the California Code of Regulations.

Self-Hauler(s). Means a Person who hauls Solid Waste, Recyclable Materials, or Organic Materials that he or she has generated to another Person. Self-Hauler also includes a Person who back-hauls Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Materials to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

Solid Waste. Garbage, Recyclable Materials, Organic Materials, Construction and Demolition Debris, Bulky Items, E-Waste, Universal Waste, and other discarded solid and semi-solid wastes as defined in the California Public Resource Code Section 40191, as that section may be amended from time to time. Solid Waste means all such materials defined in PRC 40191. Solid Waste does not include Exempt Waste or any of the following wastes: (1) Hazardous Waste other than E-Waste; (2) radioactive waste; and (3) medical waste regulated pursuant to the Medical Waste Management Act.

Source Reduction*.* Efforts taken to minimize the quantity of waste generated and entering the waste stream.

Special Handling Materials. All materials which are defined as requiring special handling for the public health and safety by federal, state or county laws or regulations.

Subscriber. All Persons, firms, corporations, or entities which generate, keep, or accumulate Solid Waste, Recyclable Materials, Organic Materials or salvageable materials, Hazardous Waste, infectious wastes or Special Handling Materials within the boundaries of the City.

Tier One Commercial Edible Food Generator*.* A commercial edible food generator that is one of the following:

A. Supermarkets with gross annual sales of $2,000,000 or more.
B. Grocery store with a total facility size equal to or greater than 10,000 square feet.
C. Food service provider.
D. Wholesale food vendor.

SB 1383 Tier One Commercial Edible Food Generators are required to comply with SB 1383 regulations by January 1, 2022 or face significant financial penalties.

Tier Two Commercial Edible Food Generator*.* A commercial edible food generator that is one of the following:

A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
B. Hotel with an on-site food facility and 200 or more rooms.
C. Health facility with an on-site food facility and 100 or more beds.
D. Large venue.
E. Large event.
F. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.

G. A local education agency facility with an on-site food facility.

SB 1383 Tier Two Commercial Edible Food Generators are required to comply with SB 1383 regulations by January 1, 2024 or face significant financial penalties.

Universal Waste. Televisions, computer monitors, consumer electronics with circuit boards, fluorescent lamps, cathode ray tubes, non-empty aerosol cans, instruments and switches that contain mercury, and dry cell batteries containing cadmium copper or mercury.

Wastestream. The process of placing Solid Waste, Organic Materials, and Recyclable Materials for collection, the collection of same by the City Franchise Hauler, and the delivery of same by the City Franchise Hauler to a licensed sanitary landfill.

Article 2. SOLID WASTE COLLECTION FRANCHISES

4.20.202. Collection Franchises; Purpose and Declarations.

A. It is hereby declared and determined that the business of collecting, transporting, disposing and/or Recycling of Solid Waste, Recyclable Materials, and Organic Materials affects the health, safety and public welfare and quality of life of residents of the City. Therefore, one purpose of this Chapter is to regulate this business in order to ensure its orderly operation and to minimize any adverse effects on the environment.
B. It is also the intent of this Chapter to generate revenue for municipal purposes, including but not limited to, the maintenance of public streets and roadways impacted by the heavily-laden vehicles used in this business.
C. The City is required by state law to adopt and implement an integrated waste management plan and to reduce the Wastestream going into landfills. The Chapter is also designed to assist with these goals and further the City's compliance with the Act and SB 1383.
D. The City, by adoption of this Chapter, has elected to utilize the authority in state law to have the ability to grant franchises for the collection, transporting, disposing and/or Recycling of Solid Waste, Organic Materials, and Recyclable Materials.

4.20.204 Activities Which Are Unlawful Unless Authorized.

Except as specifically exempted in this Chapter, it is unlawful for any Person to engage in the business of collecting, transporting, removing, disposing, processing, and/or Recycling of Solid Waste, Recyclable Materials, and Organic Materials kept, accumulated or produced in the City unless a franchise therefore has been granted in writing pursuant to the provisions of this Chapter, and unless a written franchise agreement therefore has been signed between such City Franchise Hauler and the City, and unless such franchise and agreement is in full force and effect.

4.20.206 Exemptions.

The provisions of this Chapter shall not apply to:

A. The City of Oakley or any person employed by the City.
B. Persons or their employees hauling no more than one ton per month of Solid Waste which they generate pursuant to a construction project for whichthat Person holds a valid building permit.
C. Persons hauling source-separated Recyclable Materials who operate one vehicle and without an established route or billing system.
D. Persons operating a small collection facility and/or recycling center, to which customers themselves deliver Recyclable Materials in exchange for cash or other consideration.
E. Self Haulers, as defined herein.
F. Persons collecting, transporting or disposing of Hazardous Waste regulated by federal or state law when engaged in that activity.

4.20.208 City Council Authority To Grant Franchise.

The City Council may and is hereby empowered to grant to any Person, whether operating under an existing franchise agreement or not, a franchise, either exclusive or non-exclusive, to engage in the business of collecting, transporting, removing, disposing, processing, and/or Recycling of Solid Waste, Organic Materials, and Recyclable Materials kept, accumulated, or produced in the City.

4.20.210 Franchise; Terms and Conditions.

A. The services provided by the City Franchise Hauler do not constitute a "public work"and are not subject to California Labor Code Secs. 1720 - 1901.
B. All franchises granted pursuant to this Article shall be subject to the terms of the franchise agreement approved by the City Council and also by the terms of this Chapter and of the Oakley Municipal Code.

4.20.212 Granting of Franchise .

If the City Council wishes to grant a franchise agreement pursuant to this Article, it shall do so at a regular City Council meeting. No franchise shall be effective until a written franchise agreement has been presented at a regular City Council meeting and approved by a majority vote of the City Council and has been signed and delivered by the person authorized by the City Franchise Hauler to do so, and until all other requirements set forth in this Chapter and in the franchise agreement have been satisfied, including but not limited to evidence of compliance with the insurance and indemnification requirements in a form acceptable to the City and specified in the franchise agreement.

4.20.214 Indemnification of City.

The City Franchise Hauler shall indemnify and hold the City, its officers, employees and agents harmless from and against any and all loss, damages, liability, claims, suits, costs and expenses, fines, charges or penalties whatsoever, including reasonable attorney's fees, regardless of the merit or outcome of any such claim or suit, arising from or in any manner related to the services provided or business conducted by the City Franchise Hauler under this Chapter or under any franchise granted pursuant to this Chapter.

4.20.216 Term of Franchise.

The term of any franchise shall be as stated in the franchise agreement, but generally shall not be for a period in excess of twenty years without extraordinary reason for a longer term. The franchise agreement may provide for the manner and procedure for renewal of the franchise.

4.20.218 Termination or Suspension of Franchise.

A. The City Council shall have the right to terminate any franchise issued pursuant to this Article pursuant to the terms of the franchise agreement.
B. Unless provided otherwise in the franchise agreement, a notice of intent to terminate a franchise shall be personally delivered or mailed to the City Franchise Hauler at its address as identified in the franchise agreement. The notice shall state grounds for suspension or termination of the franchise and shall state the time, date and place of a hearing before the City Council, which shall be scheduled at least 30 days subsequent to the date of the notice.
C. Unless provided otherwise in the franchise agreement, the City Council shall have the right to terminate or suspend any franchise if it finds after a hearing that:
1. The franchisee has failed to substantially comply with a material provision of the franchise agreement, or to substantially perform any material covenant required of the City Franchise Hauler by this Chapter or

the franchise agreement, or has violated any federal, state or local law, ordinance or regulation applicable to the operation of the franchise; or

2. Any provision of this Chapter or the franchise agreement is repealed or becomes or is declared invalid or unenforceable, and the City Council determines that such provision constitutes a material consideration to the grant or continuation of the franchise.

D. Unless provided otherwise in the franchise agreement, prior to giving notice of intent to terminate, the City shall first provide the City Franchise Hauler with a written notice of violation and order to correct, with such violation or correction to be made within 30 days or such other time as may be specified in the notice. If the City Franchise Hauler corrects the violation, then the City shall not pursue the termination or suspension of the franchise, unless the City Franchise Hauler has been given more than one notice of violation and order to correct, in which case the City may, but is not obligated to, pursue termination or suspension of the franchise.

4.20.220 Franchise Fees.

The City Franchise Hauler shall pay a franchise fee to the City during the term of the franchise. The franchise fee shall be in the amounts and shall be paid in the manner specified in the franchise agreement. The payment of the franchise fee shall be in addition to any license fee or business license tax or fee prescribed by the City for the same period.

4.20.222 City Inspection Authority.

The City Franchise Hauler shall maintain accurate and complete books and accounts ofall revenues and income arising out of its operations within the City under the franchise granted. The City Franchise Hauler's books, accounts and records related to its operations within the City pursuant to the franchise shall be open to inspection, examination and audit by authorized officers, employees and agents of the City during times and places that do not create an unreasonable burden for the City Franchise Hauler.

4.20.224 Regulation of Rates and Charges.

If a rate and charges setting procedure is set forth in the franchise agreement, the method for determining the rates and charges shall be determined by the franchise agreement. If the franchise agreement does not set forth a rate and charges method, the provisions of this section shall apply. The rates and charges imposed by the City Franchise Hauler upon residential customers shall be regulated by the City and shall be approved by the City Council in advance of the rates and charges being established and collected by the City Franchise Hauler. The City Council shall approve rates and charges which cover the cost of providing the services and also provide a fair rate of return for the City Franchise Hauler. The City shall maintain

supervisory control over the rates and charges imposed by the City Franchise Hauler on non-residential customers in that the City Manager shall be vested with the authority to hear complaints from such customers and to resolve such matters with the City Franchise Hauler.

The City Franchise Hauler shall notify the City Manager of proposed increases to its residential rates and charges at least 90 days prior to its intended commencement date for such rates and charges.

4.20.226 Violations of Franchise/Remedies and Enforcement.

(a) No Person shall collect, transport, dispose, or convey, or cause or permit to be collected, transported, disposed, or conveyed, any Solid Waste, Recyclable Materials, and/or Organic Materials unless the City has granted that Person a franchise pursuant to the terms of this Chapter and a written franchise agreement is entered into between the City and that Person. The City shall have the right to require any Person operating in the City to provide any documentation and/or information requested by the City in order to determine whether a violation of this Chapter has occurred. Persons in violation of these requirements or any other provision of this Chapter relating to the unauthorized collection, transport, disposal, or conveyance of Solid Waste, Recyclable Materials, and/or Organic Materials shall be guilty of a misdemeanor pursuant to Chapter 1.5.002, et seq. and the City shall have the right to pursue all available legal and equitable remedies against such Person, including without limitation, those identified in Chapter 1.5.002, et seq. of the Code. No language in this Chapter shall be construed as limiting or modifying the right of the City Franchise Hauler to file a civil action against any Person that violates any of the terms of this Chapter or any of the rights granted to the City Franchise Hauler by the City under this Chapter or pursuant to a written franchise agreement between the City and the City Franchise Hauler.

(b) City Manager authorization. The City Manager is authorized to administer and enforce the provisions of this Chapter. The City Manager, or anyone designated by the City Manager to be an enforcement officer, may exercise such enforcement powers.

(c) Administrative citations and orders. If the City Manager determines that a Person is in violation of this Chapter, the City Manager may issue administrative citations or orders and fines pursuant to Chapter 1.5.002, et seq. for violations of this Chapter or of any rule or regulation adopted pursuant to this Chapter, except as otherwise provided in this Chapter. The City's procedures on imposition of administrative fines are hereby incorporated in their entirety and shall govern the imposition, enforcement, collection and review of administrative citations or orders issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, provided, however, that the City Manager may adopt regulations providing for lesser penalty amounts. The City Manager has the authority to impose administrative penalties for the notices of violations.

(d) The City Attorney may seek injunctive relief or civil penalties in the superior court in addition to the above remedies and penalties. Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this chapter shall be deemed to limit the right of the City or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any Person from a

civil action brought by the City or its authorized collection agent(s). The fees and penalties imposed under this Chapter shall constitute a civil debt and liability owing to the City from the Persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law. Nothing in this Chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). This Chapter does not do any of the following:

1. Otherwise affect the authority of the City Manager to take any other action authorized by this Code or any other provision of law.
2. Restrict the power of a City attorney, district attorney or the attorney general to bring in the name of the people of the state, any criminal proceeding otherwise authorized by law.
3. Prevent the City Manager from cooperating with, or participating in, a proceeding specified in this Chapter.
4. Affect in any way existing contractual arrangements, including franchises, permits or licenses, previously granted or entered into between the City Franchise Hauler and City.

ARTICLE 3. REQUIRED SERVICE

4.20.302 Mandatory Service.

Every owner of a Premises located within the City that generates Solid Waste, Recyclable Materials, or Organic Materials shall subscribe with the City Franchise Hauler for the collection and disposal of such material. Nothing herein shall prohibit the tenants or users of property from subscribing with the City Franchise Hauler for service. However, the owner of the Premises shall remain ultimately responsible for establishing and maintaining a subscription for collection and disposal service with the City Franchise Hauler, and for paying the fees and charges therefore.

4.20.304 Exemptions.

The City Manager may exempt a Person from the requirement for mandatory service if the Premises are unoccupied or undeveloped, or if no Solid Waste, Recyclable Materials, or Organic Materials are produced, kept, or accumulated on the Premises.

4.20.306 Level of Service.

Every owner of a Premises located within the City as specified in Sec. 4.20.302 shall maintain a level of collection and disposal service that is adequate in terms of size of containers and frequency of collection so that the Solid Waste, Recyclable Materials, and Organic Materials container(s) remain closed with tops securely in place at all times. Solid Waste removal service shall be provided at least once weekly. Recyclable Materials and Organic Materials shall be collected at such times as are specified in the franchise agreement or by the CityCouncil pursuant to

Resolution.

4.20.308 Unlawful Collection or Transporting of Solid Waste.

It shall be unlawful for any Person, firm or corporation, other than a City Franchise Hauler or its employees, a City Franchise Hauler's authorized contractor, or a Person, firm or corporation otherwise exempted by state or federal law, to collect within the City or to transport or carry any Solid Waste, Recyclable Materials, Organic Materials, Hazardous Waste, infectious material or Special Handling Material through the City, except Self-Haulers. Self-hauling is limited to occasional

residential clearing and transporting of junk and non-putrescible solid wastes such as paper, cardboard, tin cans, yard clippings, wood, glass, crockery, and plastics from one's own property, or to contractors removing such materials fromtheir own job sites.

Self-Haulers shall source separate all Recyclable Materials and Organic Materials (materials that the City otherwise requires generators to separate for collection in the City's Organic Materials and Recyclable Materials collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2.

Self-Haulers shall haul their Recyclable Materials to a facility that recovers those materials; and haul their Organic Materials to a solid waste facility, operation, activity, or property that processes or recovers Organic Materials.

Self-Haulers that are commercial businesses (including Multifamily Residential Dwellings) shall keep a record of the amount of Organic Materials delivered to each solid waste facility, operation, activity, or property that processes or recovers Organic Materials; this record shall be subject to inspection by the City. The records shall include the following information: (a) delivery receipts and weight tickets from the entity accepting the materials, and (b) the amount of material in cubic yards or tons transported by the generator to each entity. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Materials.

4.20.310 Burning and Burying Solid Waste.

It shall be unlawful for any Person, firm, corporation or entity to discard, burn, or bury any Solid Waste on any private or public property, except in a landfill licensed by the County Health Department. This section does not prohibit composting when accomplished consistent with criteria and standards from the County Health Department.

4.20.312 Time of Collection.

Unless dictated by an emergency, the City Franchise Hauler shall collect Solid Waste, Recyclable Materials and Organic Materials only during the hours specified inthe franchise agreement.

4.20.314 Unlawful to Dump on Public or Private Property.

It shall be unlawful for any Person, firm or corporation to deposit or dump any Solid Waste in any location on public or private property, unless in a location specifically authorized in writing by the City Manager.

4.20.316 Removal or Theft of Solid Waste, Recyclable Materials, and Organic Materials.

It shall be unlawful for any Person other than the City Franchise Hauler to remove or take any Solid Waste, Recyclable Materials, and/or Organic Materials from containers which are left at or near the sidewalk for the City Franchise Hauler's collection and removal. Containers having the City Franchise Hauler's name or initials indicated thereon shall be presumed to be left for its collection. Once placed for collection by a Subscriber, ownership of the Solid Waste, Recyclable Materials, and Organic Materials shall transfer to the City Franchise Hauler.

4.20.318 Collection; Nonpayment.

It shall be unlawful for any Subscriber to fail, neglect or refuse to pay the City Franchise Hauler the rates approved by the City Council for service. Upon an application by the City Franchise Hauler to the City, the City is authorized to use its enforcement authority, including but not limited to, the right to subscribe to Solid Waste, Recyclable Materials, and Organic Materials or other service for the subject Premises in six-month increments up to oneyear and place a special assessment lien on the Premises pursuant to proceduresspecified herein.

If the City Franchise Hauler terminates service to any nonpaying Subscriber, such Subscriber, as a condition precedent to the reestablishment of service, shall fully comply with the current billing practices and policies of the City Franchise Hauler, including but not limited to, requirements to pay in cash or cash equivalent, prepayment of

one full billing cycle, payment of all costs of collection and payment of a reinstatement fee.

All costs of collecting delinquent payments including, but not limited to, interest charges, collection agency charges, and attorney fees and costs shall be added to and become a part of the charges owed for the services rendered to the Subscriber by the City Franchise Hauler and shall be governed by this Chapter in the same manner as the original charges, and may be placed against the Premises as a special assessment lien.

4.20.320 Emergency Situations.

When in the opinion of the City Manager or his/her designee a Premises has become a public health and safety risk because of an accumulation of Solid Waste, Garbage, Recyclable Materials, or Organic Materials, the City may order the City Franchise Hauler to enter the Premises and to remove and dispose of all such materials creating a public healthand safety risk. The City may advance the City Franchise Hauler's cost for removing and disposing of such materials, but the responsibility for such cost resides in the owner of the Premises. If the owner of the Premises does not pay the invoice from either the City or the City Franchise Hauler for such removal and disposal, such costs may be recovered through a special assessment lien, as provided for herein.

4.20.322 Collection of Unpaid Subscriptions; Special Assessment Lien Procedures.

The City may collect any past due subscription payments by use of all available legal means, including those methods available for the collection of judgments, special assessment liens and all actions for the recovery of money. The City may also recover its collection costs and reasonable attorney fees and court costs.

A) On a periodic basis as determined by the City Manager or his/her designee, a report shall be prepared and filed with the City Clerk with an assessment list which identifies each Premises with delinquent subscriptions and for which the City has ordered subscription pursuant to Sec. 4.20.318 or emergency service pursuant to Sec. 4.20.320. The report and assessment shall provide a description of the Premises, a description of the nature of the delinquency and the name and address of the owner of the Premises.
B) Upon receipt of the report, the City Clerk shall post a notice of filing of thereport in a conspicuous place in City Hall, with said notice specifying the filing date of the report and assessment list and the time and place when and where the report and assessment list will be submitted to the Administrative Hearing Officer as defined in Sec. 1.5.202(9) herein, for hearing and confirmation. The City Clerk shall also mail by regular first

class mail, postage fully prepaid, a notice to each owner of a Premises identified in the report, at the last known address of the owner of the Premises as listed in the county tax assessor's or county records. If, after diligent search, the owner of the Premises cannot be found, the notice shall be served by posting a copy thereof in a conspicuous location upon the Premises for a period of ten days. Said notice shall provide a description of the Premises by street address and assessor's parcel number and the amount of the delinquency, including late payment fees and costs, and shall notify the owner that said delinquency and late payment fees and costs shall be assessed against the Premises unless objection is made by the owner in writing and submitted to the City Clerk at least three days before the hearing. The failure of any Person to receive notice shall not affect the validity of any proceedings herein.

C) The notice shall also specify the time and place when and where the proposed assessment will be presented to the Administrative HearingOfficer for hearing and confirmation.

D) Any owner who objects to the proposed assessment and who desires to challenge the proposed assessment at the hearing must submit any and all objections in writing to the City Clerk at least three days prior to the date of the hearing. The failure of any owner to submit written objections to the City Clerk at least three days prior to the hearing shall constitute a waiver of any such objections and the matter may be placed on the consent calendar of the agenda of the Administrative Hearing Officer.

E) At the time and place fixed for hearing and confirming the proposed assessments, the Administrative Hearing Officer shall consider the same. If no objection has been submitted and the matter placed on the consent calendar, then the Administrative Hearing Officer may make his/her decision on the documentation presented. If a hearing is conducted, only those persons who have submitted timely written objections to the City Clerk will be heard by the Administrative Hearing Officer. At the hearing, the Administrative Hearing Officer may correct, modify or eliminate any proposed assessment that he/she may deem factually incorrect or in the interests of justice. Thereafter, the Administrative Hearing Officer shall confirm each assessment and the amount thereof, as proposed or as corrected and modified, and order it assessed against the Premises. The Officer shall also direct that the assessment be recorded on the tax assessment roll and thereafter the assessment shall constitute a special assessment and lien against the property. Judicial review of the order of the Administrative Hearing Officer may be made pursuant to Cal. Govt. Code Sec. 53069.4.

F) The special assessment lien shall be subject to the same penalties as are provided for other delinquent taxes or assessments of the City.

4.20.324 Construction and Demolition Debris Recycling.

For the purpose of this chapter, "Construction and Demolition Debris" shall be abbreviated as "C&D Debris" and shall have the meaning as defined in Section 4.20.102 above.

a. Any construction, demolition and renovation project within the City

asfollows:

1. Any residential or commercial remodeling or building project wheretotal costs are valued at $30,000 or greater; or

2. Any City-owned or City-sponsored project regardless of permit value;
or

3. Any residential or commercial demolition project regardless of permitvalue; or

4. Any newly constructed residential building three stories or less, andnon-residential occupancies. (CalGreen Sections 4.408 and 5.408); or

5. Any residential or commercial roofing or re-roofing project regardless ofpermit value.

b. Upon applying for a building permit, the applicant shall describe, on forms provided by the City, how the applicant will divert at least sixty-five percent (65%) or more of all C&D Debris from the Wastestream to a Processing Facility as defined in Section 17402 of the California Code of Regulations and at least seventy-five percent (75%) by weight of all Inert Debris to be diverted from a Processing Facility. Pursuant to Title 14, Article 6, Section 17402, (a)(20), "Processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, butnot limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines or volume reduction equipment. Processing does not include disposal at a landfill. The applicant shall demonstrate compliance with these diversion requirements, or the diversion rate required by the State of California Green Building Standards Code, whichever is more stringent.

c. The applicant may, on the form provided by the City, explain why it is infeasible to divert from the Wastestream the amount of C&D Debris from the Wastestream specified in subsection (b) of this section;

d. If the City Building Official determines that the applicant has not made a good faith effort to comply with this section for C&D Debris which is feasible to be diverted, he/she shall notify the applicant of such determination. An administrative citation may be issued if the applicant continues to fail to comply with this section or if the applicant refuses or fails to divert C&D Debris from the Wastestream as indicated on the form completed by him or her.

4.20.326 Collection and Sorting Requirements.

Organic Waste Generators subject to the requirements of the Act shall fully comply with all applicable requirements of the Act and SB 1383 or be subject to the penalties as prescribed in Section 18997.2 of SB 1383, as determined by the City. Except as provided in this section, the provision of collection services shall be governed by the franchise agreement between the City and the City Franchise Hauler.

(A) Residential Collection Services.

(1) Residential Collection Services. Each Subscriber shall use only the containers, provided by the City Franchise Hauler and approved by the City, for the purpose of depositing and accumulating residential Solid Waste from the Premises.

(2) Residential Recycling Collection Service. No materials other than Recyclable Materials may be placed in a recycling cart.

(3) Organic Materials Service. All Organic Materials must be generated by and at the Premises wherein the Organic Materials are collected. Only Organic Materials may be placed in an Organic Materials cart.

(4) All Subscribers shall be automatically enrolled in Solid Waste, Recyclable Materials, and Organic Materials service, and shall sort Recyclable Materials and Organic Materials and place them in the appropriate container.

(B) Multifamily Residential Dwelling Service.

(1) Each Multifamily Residential Dwelling development shall be provided with approved Solid Waste, Recyclable Materials, and Organic Materials cart(s) or bin(s). Such cart(s) or bin(s) shall be located at a central collection site or sites within the Multifamily Residential Dwelling development.

(2) Each Multifamily Residential Dwelling development shall negotiate the size of the container and the frequency of collection for collection service with the City Franchise Hauler. Such container size and collection frequency shall be sufficient to provide that no materials need be placed outside the collection container.

(3) MFD Collection Services. Only Solid Waste generated by persons occupying the Multifamily Residential Dwelling development or their guests shall be placed in the Solid Waste cart(s) or bin(s) serving the development.

(4) MFD Recycling Services. Only Recyclable Materials generated by persons occupying the Multifamily Residential Dwelling development or their guests shall be placed in the Recyclable Materials cart(s) or bin(s) serving the development.

(5) MFD Organic Materials Service. Only Organic Materials generated by persons occupying the Multifamily Residential Dwelling development or their guests shall be placed in the Organic Materials cart(s) or bin(s) serving the development.

(C) Commercial Service.

(1) Commercial Garbage Collection Services.

(a) Each place of business shall be provided with approved Solid Waste, Recyclable Materials, and Organic Materials cart(s) or bin(s), as required by this Code, as the same now exists or may hereafter be amended.

(b) Such container size and collection frequency shall be sufficient that no Solid Waste, Recyclable Materials, and Organic Materials need be placed outside the collection container.

(c) Only Solid Waste, Recyclable Materials, and Organic Materials generated by the operation of the business shall be placed in the container serving that place of business.

(d) All Subscribers shall be automatically enrolled in Solid Waste, Recyclable Materials, and Organic Materials service, and shall sort Solid Waste, Recyclable Materials, and Organic Materials and place them in the appropriate container unless Subscriber has an approved waiver.

(D) General Requirements:

a. Commingling of Organic Materials with other forms of Solid Waste is prohibited; no Person may place or cause to be placed for collection Organic Materials in any container designated for the collection of any other form of Solid Waste.

b. Each commercial premise and Multifamily Residential Dwelling complex owner shall be responsible for ensuring and demonstrating its compliance with the following requirements:

i. Provide Recyclable Materials containers for Recyclable Materials in Multifamily Residential Dwelling complex rental units and in maintenance and work areas where Recyclable Materials may be collected and/or stored.

ii. Prominently post and maintain one or more signs where Recyclable Materials and/or Organic Materials are collected and/or stored that set forth what materials are required to be source separated in addition to collection procedures for such materials.

iii. Notify and instruct employees and tenants of applicable source separation requirements, including a list of Recyclable Materials and/or Organic Materials that are required to be source separated for Recycling. A copy of such instructions shall be provided to the City, upon request.

iv. Ensure that Recyclable Materials and/or Organic Materials generated at their site will be taken only to a recycling facility and not to a landfill for disposal by complying with all requirements under this Chapter.

v. The self-haul form or other documents pertaining to this Chapter, shall be available for inspection by the City at the principal location of the Subscriber during normal business hours.

vi. No City Franchise Hauler shall be held liable for the failure of its customers to comply with such regulations.

vii. No Organic Material Generator shall be liable for the failure of the City Franchise Hauler to deliver designated Recyclable Materials or designated Organic Materials to a recycling or processing facility.

viii. It shall be the responsibility of the Premises or Multifamily Residential Dwelling complex owner whose Solid Waste was not removed because it contained Recyclable Materials or Organic Materials to properly separate Recyclable Materials or Organic Materials from the uncollected Solid Waste for proper Recycling. Allowing such unseparated Solid Waste to accumulate will be considered a violation of this Chapter.

4.20.328 Edible Food Recovery Required.

Tier One Commercial Edible Food Generators shall comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2022. Tier Two Commercial Edible Food Generators shall comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations commencing January 1, 2024.

A large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the requirements of Title 14, Division 7, Chapter 12 of the California Code of Regulations.

Tier One and Tier Two Commercial Edible Food Generators shall comply with the following requirements:

1. Arrange to recover the maximum amount of Edible Food for human consumption that would otherwise be disposed or diverted.
2. Contract with or enter into a written agreement with Food Recovery Organizations for: (i) the collection of Edible Food for food recovery; or, (ii) acceptance of the Edible Food that the commercial edible food generator self-hauls to the Food Recovery Organization for food recovery.
3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization.
4. Commercial edible food generators and Food Recovery Organizations shall maintain a record acceptable to City Manager and in compliance with applicable law.
5. Keep records that include the information as otherwise specified in 14 CCR Section 18991.4.

Food Recovery Organizations shall comply with the following requirements:

1. Food Recovery Organizations collecting or receiving Edible Food directly from commercial edible food generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the records as specified by 14 CCR Section 18991.5(a)(1) and (2)
2. Food Recovery Organizations that have their primary address physically located in the jurisdiction and contract with or have written agreements with one or more commercial edible food generators pursuant to 14 CCR Section 18991.3(b) shall report to the jurisdiction it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible

Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than July 1, 2022.

In order to support Edible Food recovery capacity planning assessments or other studies, Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request.

4.20.330 Waivers from Requirement for Solid Waste Service.

Owners, occupants or Persons in possession, charge or control of dwellings, buildings, places and Premises in the City in and from which it is claimed that no Solid Waste, Recyclable Materials, and Organic Materials are created, accumulated or produced so as to require collection services, or that other methods of Solid Waste, Recyclable Materials, and Organic Materials collection, processing or disposal are available and will be provided may apply for a waiver from the provisions of this Chapter by making application therefor to the City Manager.

Commercial businesses requesting a de minimis waiver shall submit an application specifying the services that they are requesting a waiver from and provide documentation that either:

(a) The commercial business's total Solid Waste collection service is two cubic yards or more per week and Organic Materials subject to collection in a Recyclable Materials container or Organic Materials container comprises less than 20 gallons per week per applicable container of the business' total waste; or,

(b) The commercial business's total Solid Waste collection service is less than two cubic yards per week and Organic Materials subject to collection in a Recyclable Materials container or Organic Materials container comprises less than 10 gallons per week per applicable container of the business' total waste.

Commercial businesses shall notify City if circumstances change such that commercial business' Organic Materials exceed the threshold required for waiver, in which case the waiver will be rescinded.

Commercial businesses or Premises owners may request a physical space waiver through the following process:

(a) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

(b) Provide documentation that the premises lack adequate space for Recyclable Materials containers and/or Organic Materials containers including documentation from the City Franchise Hauler, licensed architect, or licensed engineer.

(c) The City, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, Premises, business establishment or industry that subscribes to the City's three-container collection service to arrange for the collection of their Recyclable Materials container, Solid Waste container, Organic Materials, or each of the three containers once every fourteen days, rather than once per week.

Waivers shall apply for up to, but no longer than five (5) years, as determined by the City Manager

Upon receiving an application for a waiver, the City Manager shall cause an investigation to be made concerning the matters contained in the application and into such other matters, as the City Manager may deem appropriate. If after investigation the City Manager determines that the requirements listed in this Section are met, the City Manager may grant an exemption from the provisions of this chapter. If a waiver is granted, the City Manager shall notify the City Franchise Hauler that a waiver has been granted. Said waiver may be revoked at any time thereafter if after subsequent investigation the City Manager determines that circumstances have changed and that Solid Waste, Recyclable Materials, and Organic Materials collection services are required.

The City Franchise Hauler is required to submit all waiver applications to the City for review which will be due on the 10th of each month for the previous reporting month. The City Franchise Hauler is required to maintain a list of any and all businesses and Multifamily Residential Dwelling properties that the City Franchise Hauler is providing Solid Waste collection services to but is not also providing Recyclable Materials and Organic Materials collection services. The City Franchise Hauler shall provide such list to the City, which will be due on the 10th of each month for the previous reporting month and shall be current as of that date.

4.20.332 Inspection of Sanitary Conditions; Disputes or Complaints Regarding Collection Service

The City Council, or other duly authorized representative of the City designated by the Council, shall visit all Premises within the City from time to time and examine the sanitary conditions of said Premises to determine whether the provisions of this Chapter are complied with. City representatives and/or its designated entity are authorized (but are not required) to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Subscribers, or Recyclable Materials, Organic Materials, or Construction and Demolition Debris to confirm compliance with this ordinance by Subscribers, the City Franchise Hauler, and Self-Haulers, subject to applicable laws. This section does not allow City representatives to enter the interior of a private residential Premises for inspection. Persons shall provide or arrange for access during all inspections and shall cooperate with the City representative or its designated entity during such inspections and investigations.

Upon notification by the Council, or other authorized representative thereof, all Persons, including the City Franchise Hauler, shall comply with the provisions of this Chapter or they may be deemed guilty of a misdemeanor. In all cases of disputes or complaints arising from or concerning the place where receptacles for any kinds of Solid Waste shall be placed awaiting removal of their contents, the quantities to be removed, the number of times of removal, and the rates charged, the Council shall designate the place, the estimated quantities, the times and manner of removal, and the rates, and its decision shall be final.

4.20.334 Organic Materials Prohibited from Use as Alternative Daily Cover.

Pursuant to the provisions of Assembly Bill 1594 (AB 1594) a contractor or permittee, and any owners, occupants or Persons in possession, charge or control of all dwellings, buildings, places and Premises in the City who act as Self-Haulers of Organic Materials, may not direct their Organic Materials for use as alternative daily cover (ADC) or to disposal at a landfill. If the City Manager determines that a contractor or permittee, or any other applicable Person has directed any Organic Materials for use as ADC or for disposal at a landfill, the City Manager will notify the contractor, permittee, or Person of the requirements of this provision. Repeated instances of directing Organic Materials for use as ADC may result in enforcement action pursuant to the provisions of this Code.

4.20.336 Requirements for Special Events.

(a) The promoter or coordinator of a special event held in City must provide a level of Solid Waste service sufficient to contain the Solid Waste generated at the special event.
(b) The promoter or coordinator shall provide containers at appropriate locations at the special event to facilitate the source separation of Solid Waste, Organic Materials, and Recyclable Materials by event employees, vendors, and attendees.
(c) The three types of containers shall:
    (1) Be appropriate in number and size with respect to the quantity of Solid Waste, Recyclable Materials, and Organic Materials to be generated at the Premises;
    (2) Bear appropriate signage and be color-coded to identify the type of Solid Waste, Recyclable Materials, and Organic Materials to be contained; and
    (3) Be placed together as a waste station to provide equally convenient access to users.
(d) If the promoter or coordinator determines that vendor booths at the special event will require Solid Waste containers, the vendors shall receive from the promoter or coordinator a set of Solid Waste containers that bear appropriate signage and are color-coded to identify the type of waste to be contained.
(e) The use of public Solid Waste, Recyclable Materials, and Organic Materials receptacles at special events is prohibited. The promoter or coordinator shall remove or cover all public Solid Waste, Recyclable Materials, and Organic Materials receptacles to prevent their use during the special event.

4.20.338 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is held to be invalid or unconstitutional including by any court with jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City Council declares that it would have passed this article, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more other sections, subsections, clauses, or phrases may be declared invalid or unconstitutional