



AGENDA

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

Tuesday, January 24, 2023

6:30 PM

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

Unless stated otherwise on the agenda, every item on the agenda is exempt from CEQA Guidelines Sections 15060(c), 15061(b)(3), 15273, 15378, 15301, 15323 and/or Public Resources Code Section 21065.

MISSION STATEMENT: The City of Oakley will create a resilient future that fosters and attracts a vibrant and evolving community that welcomes and values all people.

VISION STATEMENT: The City of Oakley celebrates our unique Delta lifestyle and small-town feel where we **Live** in a safe, dynamic community, **Work** together to build the future, and **Play** in our own backyard.

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.

The City of Oakley provides 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.

If you have a physically challenging condition and require special accommodations, please call the City

Clerk's office at (925) 625-7000.

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.

Information Regarding Public Comment

Members of the public may address the Council on items of interest that are within the City's jurisdiction. In compliance with State law, the council may not take action or have discussion on any item that is not specifically listed on the agenda. Public comment on items not listed on the agenda will be heard under the Public Comments section of the agenda. Public comments on items listed on the agenda will be heard as the Mayor calls the items. 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 public speaker card available in the lobby and submit it to the City Clerk seated in the Council Chamber **prior to the agenda item being called**. The Mayor will call you by name to the podium to hear your comment. PUBLIC COMMENTS ARE LIMITED TO THREE (3) MINUTES. Online public comments are accepted until 5 p.m. the day of the meeting and can be submitted at <https://www.ci.oakley.ca.us/online-public-comment-card/>.

1.OPENING MATTERS

- 1.1 Call to Order and Roll Call of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority**
- 1.2 Pledge of Allegiance to the Flag (JROTC students)**
- 1.3 Proclamation Recognizing January as Human Trafficking Prevention Month (Katrina Natale, Human Trafficking Task Force Director)**
[Proclamation](#)

2.PUBLIC COMMENTS

At this time, the public is permitted to address the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority on non-agendized items.

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. The public may request to remove an

item(s) to provide input by completing a public speaker card and submitting it to the City Clerk prior to the item(s) being called by the Mayor.

3.1 Adopt a Resolution approving a side letter to the Oakley Police Officers Association Memorandum of Understanding (Jeri Tejada, Human Resources Director)

Staff Report

1. Resolution
2. Side letter Red-lined
3. Signed Side Letter

3.2 Acceptance of work associated with the Senior Center Roof and HVAC Repair and Replacement Project – Capital Improvement Project Number 288 (Kevin Rohani, P.E., Public Works Director/City Engineer)

Staff Report

1. Resolution
2. Notice of Completion

3.3 Adopt a Resolution Approving a Recognized Obligations Payment Schedule (ROPS) and Administrative Budget for the Fiscal Year of July 2023 through June 2024 (Tim Przybyla, Finance Director)

Staff Report

1. Resolution
2. Recognized Obligations Payment Schedule for Fiscal Year 2023/2024
3. Administrative Budget for Fiscal Year 2023/2024

3.4 Adopt a Resolution adding standby pay to the approved compensation package (Jeri Tejada, Human Resources Director)

Staff Report

1. Resolution

4. PUBLIC HEARINGS

4.1 (Continued from October 11, 2022) Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“Special Land Uses”) – Adding Four Subsections to Address Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage (RZ 04-21) (Ken Strelo, Planning Manager)

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

Staff Report

1. Minutes from October 11, 2022 City Council Meeting (Applicable to Item only)
2. Staff Report from September 13, 2022 City Council Meeting (without attachments)
3. Minutes from September 13, 2022 City Council Meeting (Applicable to Item only)
4. Staff Report from May 24, 2022 Work Session (without attachments)
5. Proposed Ordinance with Tracked Changes from September 13, 2022 Version
6. Proposed Ordinance

5.REGULAR CALENDAR

5.1 Appeal of Hearing Officer's Decision Regarding the Illegal use of Fireworks (Libby Vreonis, City Clerk / Kim Snodgrass, Deputy City Clerk)

Staff Report

1. Administrative Citation dated July 6, 2022
2. Request for Appeal of Administrative Citation
3. Hearing Officer's Order to Continue
4. Hearing Officer's Decision
5. Request for Appeal of Hearing Officer's Decision
6. Statements from neighbors
7. Notice of Hearing

6.REPORTS

6.1 CITY MANAGER (a) City Manager

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

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

(b) Requests for Future Agendas

7.WORK SESSION

7.1 Work Session – Library Initial Feasibility Analysis (Joshua McMurray, City Manager)

Staff Report

1. Initial Feasibility Analysis for Oakley Library Mixed-Use Project
2. Staff Report dated April 26, 2022

8.CLOSED SESSIONS

8.1 CITY ATTORNEY PERFORMANCE EVALUATION Pursuant to Government Code Section 54957

8.2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to Government Code Section 54956.8 Property: 204 2nd Street, Oakley, CA, APN 035-132-002 Agency Negotiator: Joshua McMurray, City Manager Negotiating Party: Juli Del Barba Favalora Under Negotiation: Price and term of payment

9.ADJOURN



P R O C L A M A T I O N

Proclaiming January 2023 as “Human Trafficking Prevention Month in Oakley”

WHEREAS, human trafficking is a form of interpersonal violence in which force, fraud or coercion is used to control victims for the purpose of commercial sexual and labor exploitation; that occurs in many industries and affects individuals of all genders, ages and backgrounds; and

WHEREAS, human trafficking is a lucrative and fast-growing criminal industry which relies upon exploitive and sometimes violent tactics to target vulnerable members of our communities; and

WHEREAS, the crime of human trafficking violates an individual's privacy, dignity, security and humanity due to the systematic use of physical, emotional, sexual, psychological, and economic exploitation, control and abuse; and

WHEREAS, the impact of human trafficking is wide-ranging, affecting foreign nationals as well as U.S. citizens, and society as a whole; and though awareness and concern around this industry has grown in recent years, human trafficking is consistently underreported; and

WHEREAS, in 2020, 16,658 human trafficking victims were identified nationwide through reports to the National Human Trafficking Resource Center, and California led all other states in reported cases of human trafficking, accounting for nearly 13% of all such reported cases; and

WHEREAS, the County's Alliance to End Abuse convened the Contra Costa Human Trafficking Coalition with the aim of strengthening the County's comprehensive response to human trafficking initiated by county departments, law enforcement agencies, and numerous community-based organizations; and

WHEREAS, the Contra Costa Human Trafficking Task Force, jointly led by Community Violence Solutions and the District Attorney's Office, strives to proactively identify and provide services to survivors, investigate and prosecute all forms of human trafficking, and build capacity within the Task Force and the communities it serves to respond to and prevent human trafficking using a collaborative approach involving its more than 35 multidisciplinary partners; and

WHEREAS, In Contra Costa County between 2019 and 2021, 108 cases of sex and labor trafficking were investigated, 207 suspected victims of human trafficking were identified, and the District Attorney filed 42 human trafficking cases through the collaborative efforts of partners to the Contra Costa Human Trafficking Task Force; and

WHEREAS, the County of Contra Costa is working to raise awareness of human trafficking with the belief that a more informed public will better understand how their behavior contributes to a patriarchal culture that facilitates and tolerates the systemic abuse of vulnerable populations; and will take action to combat and prevent human trafficking

NOW, THEREFORE, I, Aaron Meadows, Mayor of the City of Oakley, on behalf of the City Council, do hereby declare January 2023 as “Human Trafficking Prevention Month in Oakley.”

January 24, 2023

Aaron Meadows, Mayor



STAFF REPORT

DATE: January 24, 2023

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Jeri Tejeda, Human Resources Director

SUBJECT: Adopt a Resolution approving a side letter to the Oakley Police Officers Association Memorandum of Understanding

Background and Analysis

The memorandum of understanding (MOU) with the Oakley Police Officers Associations (OPOA) was approved at the May 24, 2022 council meeting.

The MOU is a five-year document, starting July 1, 2022 and expiring June 30, 2027. From time to time and if agreed upon by both parties, there may be a need for updated language to help clarify an intent of an item, or to ensure consistency on how things are applied. When these are identified, we will look to improve upon the language in the form of a side letter.

After a recent compensation review by CalPERS it was determined that the Holiday for Employee Birthday is not reportable compensation to CalPERS as it is not a recognized holiday. The intent of the MOU was to provide 14 paid holidays that were reportable to CalPERS as compensation.

To ensure that all 14 holidays can be reported to CalPERS, OPOA has requested to remove the Employee Birthday and to add Cesar Chavez Day. This will ensure that all 14 holidays will be reportable as compensation to CalPERS as intended when the MOU was agreed upon.

City Staff, Police Management and the OPOA board have discussed this side letter and all agree this is in the best interest of all parties involved. It is further agreed that this will take effect as of January 1, 2023 and anyone with a birthday in January will not receive the employee birthday holiday pay.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with our strategic plan, sustainable organization goal. By clarifying language so that it can be applied consistently it will help us to build trust at City Hall as well as reinforce Team Oakley through communication and transparency.

Fiscal Impact

There is no fiscal impact related to this item.

Staff Recommendation

Adopt a Resolution approving a side letter to the Oakley Police Officers Association Memorandum of Understanding

Attachments

1. Resolution
2. Side Letter Red-lined
3. Signed Side letter

RESOLUTION NO. XX-23

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING A
SIDE LETTER TO THE OAKLEY POLICE OFFICERS ASSOCIATION MEMORANDUM
OF UNDERSTANDING**

WHEREAS, the Oakley Police Officers Association (OPOA) and the City have a memorandum of understanding (MOU) that was approved at the May 24, 2022 council meeting, and

WHEREAS, CalPERS has determined that the Employee Birthday Holiday is not reportable compensation as it is not a recognized holiday, and

WHEREAS, the intent in the MOU was to provide the OPOA with 14 paid holidays that are reportable compensation to CalPERS, and

WHEREAS, the OPOA board has requested to replace the Employee Birthday with Cesar Chavez Day, and

WHEREAS, it is agreed that updating language will allow for the holiday to be considered compensable by CalPERS, and

WHEREAS, it is further agreed that any employee with a January birthday will not receive the Employee Birthday holiday pay in 2023, and

WHEREAS, City Staff, Police Management and the OPOA board have discussed this side letter and all agree it is the best interest of all parties involved,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley hereby approves the Side Letter to the Memorandum of Understanding for the Oakley Police Officers Association.

PASSED AND ADOPTED by the City Council of the City of Oakley this 24th day of January 2023 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Aaron Meadows, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

SIDE LETTER OF AGREEMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE OAKLEY POLICE OFFICERS ASSOCIATION AND THE CITY OF OAKLEY

This Side Letter of Agreement is entered into by and between the Oakley Police Officers Association and the City of Oakley effective July 1, 2022. The items listed in this Agreement shall supersede any provisions included in the current Memorandum of Understanding (MOU). The parties agree to the following Terms and Conditions:

Formatted: Normal

9.1 Holidays

The following holidays are recognized as regular holidays for pay purposes. Regular full-time employees are entitled to receive eight (8) hours of holiday pay at a rate of one and one half (1.5) times their base hourly rate. Holiday pay may be used to increase the employee's compensatory time off accrual bank.

The City will observe the following holidays:

- December 31st- New Year's Eve Day
- January 1st- New Year's Day
- Third Monday in January- Martin Luther King Jr. Day
- Third Monday in February- President's Day
- March 31st – Cesar Chavez Day
- Last Monday in May - Memorial Day
- June 19th- Emancipation Day
- July 4th - Independence Day
- First Monday in September - Labor Day
- November 11th- Veteran's Day
- Fourth Thursday in November- Thanksgiving Day
- Fourth Friday in November- Day After Thanksgiving
- December 24th - Christmas Eve Day
- December 25th - Christmas Day
- ~~Employee's Birthday~~

Formatted: Superscript

An employee who wishes to be excused from work in observance of a religious holiday (not listed as a "Regular Holiday for Pay Purposes") shall request approval of such absence from the Police Chief. If approved, such time off shall be charged against the employee's accumulated compensatory time or vacation leave.

City of Oakley

Oakley Police Officers' Association

Joshua McMurray, City Manager

Date

Tyler Radcliffe, President

Date

SIDE LETTER OF AGREEMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE OAKLEY POLICE OFFICERS ASSOCIATION AND THE CITY OF OAKLEY

This Side Letter of Agreement is entered into by and between the Oakley Police Officers Association and the City of Oakley effective July 1, 2022. The items listed in this Agreement shall supersede any provisions included in the current Memorandum of Understanding (MOU). The parties agree to the following Terms and Conditions:

9.1 Holidays

The following holidays are recognized as regular holidays for pay purposes. Regular full-time employees are entitled to receive eight (8) hours of holiday pay at a rate of one and one half (1.5) times their base hourly rate. Holiday pay may be used to increase the employee's compensatory time off accrual bank.

The City will observe the following holidays:

- December 31st- New Year's Eve Day
- January 1st- New Year's Day
- Third Monday in January- Martin Luther King Jr. Day
- Third Monday in February- President's Day
- March 31st – Cesar Chavez Day
- Last Monday in May - Memorial Day
- June 19th- Emancipation Day
- July 4th - Independence Day
- First Monday in September - Labor Day
- November 11th- Veteran's Day
- Fourth Thursday in November- Thanksgiving Day
- Fourth Friday in November- Day After Thanksgiving
- December 24th - Christmas Eve Day
- December 25th - Christmas Day

An employee who wishes to be excused from work in observance of a religious holiday (not listed as a "Regular Holiday for Pay Purposes") shall request approval of such absence from the Police Chief. If approved, such time off shall be charged against the employee's accumulated compensatory time or vacation leave.

City of Oakley

Oakley Police Officers' Association

DocuSigned by:

Joshua McMurray

12/22/2022

2571533459F6461...

Joshua McMurray, City Manager

Date

DocuSigned by:

Tyler Radcliffe

E17607B7EBC443B...

Tyler Radcliffe, President

12/22/2022

Date



STAFF REPORT

DATE: January 24, 2023

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

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

SUBJECT: Acceptance of work associated with the Senior Center Roof and HVAC Repair and Replacement Project – Capital Improvement Project Number 288

Background and Analysis

The City's adopted FY 2022/23 Capital Improvement Program (CIP) Budget designates funding for various infrastructure repair and replacement projects. This is consistent with the City's goals to improve the quality of the City's public infrastructure and to enhance the quality of life for our residents.

The Oakley Senior Center, located at 215 2nd Street is a facility that had been used as a fire station decades ago. Since the construction of the more modern fire stations within East Contra Costa County, this facility had been vacant for many years. In more recent years, it has been used as a Senior Center to service the senior citizens of the Oakley community. There have not been any recent renovations to this building to upgrade and make functional for the Oakley senior citizens. This project performed much needed repairs to the roof of the building and replaced the HVAC system that was broken and nonfunctional.

On October 25, 2022, the City Council awarded a contract to Cairo Builder, Inc. for the Senior Center Roof and HVAC Repair and Replacement Project. This work has been successfully completed by Cairo Builder, Inc. ahead of the rain and winter months, and Oakley Seniors are now enjoying the new facility in comfort.

Consistency with the Oakley Strategic Plan 27+ This item is consistent with the Strategic Plan 27+ Community Health and Safety goals.

Fiscal Impact

The authorized budget for the construction of this project was \$75,000. This project was completed on time and within the authorized budget of \$75,000.

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

Staff Recommendation

Staff recommends that the City Council Adopt the Resolution accepting Capital Improvement Project Number 288 – Senior Center Roof and HVAC Repair and Replacement Project as constructed by Cairo Builder, Inc. to be complete, and to direct the City Clerk to file a Notice of Completion for the project with the County Recorder.

Attachments

1. Resolution
2. Notice of Completion

RESOLUTION NO. __-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ACCEPTING THE WORK AS COMPLETE BY CAIRO BUILDER INC., FOR CAPITAL IMPROVEMENT PROJECT NUMBER 288 – SENIOR CENTER ROOF AND HVAC REPAIR AND REPLACEMENT PROJECT

WHEREAS, on October 25, 2022, by adopting Resolution No. 116-22 the City Council awarded a construction contract to Cairo Builder Inc., for the construction of the Senior Center Roof and HVAC Repair and Replacement Project – CIP 288; and

WHEREAS, Cairo Builder Inc. has satisfied the contractual requirements necessary for the acceptance of the Senior Center Roof and HVAC Repair and Replacement Project to be deemed complete in the final amount of \$75,000.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oakley that the Senior Center Roof and HVAC Repair and Replacement Project – CIP 288 is hereby accepted as complete.

BE IT FURTHER RESOLVED AND ORDERED, that the City Clerk is hereby directed to file a Notice of Completion for the Senior Center Roof and HVAC Repair and Replacement Project – CIP 288 with the County Recorder.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 24th of January 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

Aaron Meadows, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

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

WHEN RECORDED MAIL TO:

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

RECORDING REQUESTED BY:

City Of Oakley
3231 Main Street
Oakley, CA 94561

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

NOTICE OF COMPLETION

**Capital Improvement Project Number 288 – Senior Center Roof and HVAC
Repair and Replacement Project**

NOTICE IS HEREBY GIVEN THAT:

The CITY OF OAKLEY, a political subdivision of the State of California, did, on October 25, 2022, enter into an agreement with Cairo Builder Inc., for the construction of Capital Improvement Project (CIP) Number 288 – Senior Center Roof and HVAC Repair and Replacement Project, with work located on 215 2nd Street, Oakley, CA. 94561.

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

The work described in the contract documents was to furnish all material, labor, and equipment necessary to complete CIP Number 288 – Senior Center Roof and HVAC Repair and Replacement Project.

On January 24, 2023, said contract, as a whole was completed and the work was accepted by the City Council of the City of Oakley.

VERIFICATION

I have read the foregoing NOTICE OF COMPLETION and know the contents thereof; the same is true of my knowledge. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 24th day of January 2023 at Oakley, California.

Date: _____

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

STAFF REPORT

DATE: January 24, 2023

TO: Joshua McMurray, City Manager

FROM: Tim Przybyla, Finance Director

Approved and Forwarded to the City Council

SUBJECT: Adopt a Resolution Approving a Recognized Obligations Payment Schedule (ROPS) and Administrative Budget for the Fiscal Year of July 2023 through June 2024

Background and Analysis

SB 107 was signed into law on September 22, 2015, changing the ROPS filing cycle from semi-annual (July to December and January to June) to annual (July to June). Attached is the completed ROPS, in the form provided by the State Department of Finance (DOF). The attached ROPS must be approved by the Agency's Board and Oversight Board and submitted to DOF by February 1, 2023. DOF must also approve by April 15th before the County Auditor-Controller will release property taxes from its Redevelopment Property Tax Trust Fund to the Agency in July and January for the Fiscal Year 2023/2024.

The Health and Safety Code Section 34171(a), (b) and Section 34177(j) require the Successor Agency to approve annually an Administrative Budget for administrative costs of the Successor Agency. The administrative cost allowance is allocated to the Successor Agency each fiscal year to reimburse the agency for their expenses in winding-down the activities and debt service obligations of the former Redevelopment Agency.

Fiscal Impact

For items approved by DOF, the ROPS defines the payments allowed by the Successor Agency. The expenditures proposed are limited to paying remaining enforceable obligations, debt service, amounts necessary to maintain the Agency's properties, and to pay the City the administrative allowance allowed under statute. The administrative allowance is allowed under statute and is listed on the Successor Agency ROPS as an enforceable obligation.

Staff Recommendation

Staff recommends the Board adopt the attached Resolution approving the ROPS 2023/2024 and Administrative Budget attached for the next fiscal year July 1, 2023 through June 30, 2024.

Attachments

1. Resolution
2. Recognized Obligations Payment Schedule for Fiscal Year 2023/2024
3. Administrative Budget for Fiscal Year 2023/2024

RESOLUTION NO. SA XX-23

A RESOLUTION OF THE CITY COUNCIL, AS THE BOARD OF THE SUCCESSOR AGENCY TO THE OAKLEY REDEVELOPMENT AGENCY, APPROVING A RECOGNIZED OBLIGATIONS PAYMENT SCHEDULE AND ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2023/2024

WHEREAS, Senate Bill 107 was signed into law on September 22, 2015 changing the ROPS filing cycle from semi-annual (July to December and January to June) to annual (July to June). Attached is the completed ROPS, in the form provided by the State Department of Finance (DOF); and

WHEREAS, the attached ROPS must be approved by the Agency's Board and Oversight Board, and submitted to DOF by February 1, 2023; and

WHEREAS, the DOF must also approve by April 15th before the County Auditor-Controller will release property taxes from its Redevelopment Property Tax Trust Fund to the Agency in July and January for the Fiscal Year 2023/2024; and

WHEREAS, The Health and Safety Code Section 34171(a), (b) and Section 34177(j) require the Successor Agency to approve annually an Administrative Budget for administrative costs of the Successor Agency;

NOW, THEREFORE, BE IT RESOLVED that the City Council, as the Board of the Successor Agency of the Oakley Redevelopment Agency, approves the attached Recognized Obligations Payment Schedule for Fiscal Year 2023/2024, July 1, 2023 – June 30, 2024, attached hereto as Exhibit A and the attached Administrative Budget for Fiscal Year 2023/24, July 1, 2023 through June 30, 2024 attached hereto as Exhibit B.

PASSED AND APPROVED by the City Council of the City of Oakley acting as the Board of the Successor Agency to the Oakley Redevelopment Agency this 24th day of January 2023, by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

Aaron Meadows, Chair

ATTEST:

Libby Vreonis, Secretary

Date

Recognized Obligation Payment Schedule (ROPS 23-24) - Summary
Filed for the July 1, 2023 through June 30, 2024 Period

Successor Agency: Oakley

County: Contra Costa

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	23-24A Total (July - December)	23-24B Total (January - June)	ROPS 23-24 Total
A Enforceable Obligations Funded as Follows (B+C+D)	\$ 1,373,056	\$ -	\$ 1,373,056
B Bond Proceeds	-	-	-
C Reserve Balance	1,373,056	-	1,373,056
D Other Funds	-	-	-
E Redevelopment Property Tax Trust Fund (RPTTF) (F+G)	\$ 136,500	\$ 1,947,988	\$ 2,084,488
F RPTTF	11,500	1,822,988	1,834,488
G Administrative RPTTF	125,000	125,000	250,000
H Current Period Enforceable Obligations (A+E)	\$ 1,509,556	\$ 1,947,988	\$ 3,457,544

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/ _____
Signature Date

Oakley
Recognized Obligation Payment Schedule (ROPS 23-24) - ROPS Detail
July 1, 2023 through June 30, 2024

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Item #	Project Name	Obligation Type	Agreement Execution Date	Agreement Termination Date	Payee	Description	Project Area	Total Outstanding Obligation	Retired	ROPS 23-24 Total	ROPS 23-24A (Jul - Dec)					23-24A Total	ROPS 23-24B (Jan - Jun)					23-24B Total
											Fund Sources						Fund Sources					
											Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	
								\$22,690,494		\$3,457,544	\$-	\$1,373,056	\$-	\$11,500	\$125,000	\$1,509,556	\$-	\$-	\$-	\$1,822,988	\$125,000	\$1,947,988
11	SA Administrative Allowance	Admin Costs	07/01/2018	06/30/2019	City of Oakley	Administrative allowance for the 15-16A ROPS, as prescribed (\$125k, including the Annual External Audit)	Oakley	250,000	N	\$250,000	-	-	-	-	125,000	\$125,000	-	-	-	-	125,000	\$125,000
42	2015 TABS DS (Series A & B)	Refunding Bonds Issued After 6/27/12	05/18/2015	09/01/2028	US Bank Trust	Debt Service Payable in September and March of each year	Oakley	3,500,000	N	\$658,356	-	596,272	-	-	-	\$596,272	-	-	-	62,084	-	\$62,084
43	Annual Trustee/Fiscal Agent Fees	Fees	05/18/2015	09/01/2028	US Bank Trust	Annual Trustee Fees for 2015 Bonds (Series A & B)	Oakley	3,300	N	\$3,300	-	-	-	3,300	-	\$3,300	-	-	-	-	-	\$-
44	Continuing Disclosure Services	Fees	05/18/2015	09/01/2028	NBS Financial	Annual Continuing Disclosure Services for 2015 Bonds	Oakley	2,500	N	\$2,500	-	-	-	2,500	-	\$2,500	-	-	-	-	-	\$-
46	2018 TAB	Refunding Bonds Issued After 6/27/12	06/28/2018	09/01/2038	US Bank Trust	Debt Service Payable in September and March of each year		17,540,000	N	\$1,148,694	-	776,784	-	-	-	\$776,784	-	-	-	371,910	-	\$371,910
47	Annual Trustee/Fiscal Agent Fees	Fees	06/28/2018	09/01/2038	US Bank Trust	Annual Trustee Fees for 2018 Bonds		2,000	N	\$2,000	-	-	-	2,000	-	\$2,000	-	-	-	-	-	\$-
48	Continuing Disclosure Services	Fees	06/28/2018	09/01/2038	NBS Financial	Annual Continuing Disclosure Services for 2018 Bonds		3,700	N	\$3,700	-	-	-	3,700	-	\$3,700	-	-	-	-	-	\$-
49	2015 & 2018	Reserves	06/28/	09/01/2038	US Bank	Set aside for		1,388,994	N	\$1,388,994	-	-	-	-	-	\$-	-	-	-	1,388,994	-	\$1,388,994

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Item #	Project Name	Obligation Type	Agreement Execution Date	Agreement Termination Date	Payee	Description	Project Area	Total Outstanding Obligation	Retired	ROPS 23-24 Total	ROPS 23-24A (Jul - Dec)					23-24A Total	ROPS 23-24B (Jan - Jun)					23-24B Total
											Fund Sources						Fund Sources					
											Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	
	TAB Debt Reserve Fund		2018		Trust	debt service due in each calendar year, per bond covenant																

Oakley
Recognized Obligation Payment Schedule (ROPS 23-24) - Report of Cash Balances
July 1, 2020 through June 30, 2021
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.							
A	B	C	D	E	F	G	H
	ROPS 20-21 Cash Balances (07/01/20 - 06/30/21)	Fund Sources					Comments
		Bond Proceeds		Reserve Balance	Other Funds	RPTTF	
		Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS RPTTF and Reserve Balances retained for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	
1	Beginning Available Cash Balance (Actual 07/01/20) RPTTF amount should exclude "A" period distribution amount.			1,320,023	144,345		
2	Revenue/Income (Actual 06/30/21) RPTTF amount should tie to the ROPS 20-21 total distribution from the County Auditor-Controller				(214)	1,975,410	
3	Expenditures for ROPS 20-21 Enforceable Obligations (Actual 06/30/21)			1,320,023	108,358	640,548	
4	Retention of Available Cash Balance (Actual 06/30/21) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)				35,987	1,334,862	
5	ROPS 20-21 RPTTF Prior Period Adjustment RPTTF amount should tie to the Agency's ROPS 20-21 PPA form submitted to the CAC		No entry required				
6	Ending Actual Available Cash Balance (06/30/21) C to F = (1 + 2 - 3 - 4), G = (1 + 2 - 3 - 4 - 5)	\$-	\$-	\$-	\$(214)	\$-	

Oakley
Recognized Obligation Payment Schedule (ROPS 23-24) - Notes
July 1, 2023 through June 30, 2024

Item #	Notes/Comments
11	
42	
43	
44	
46	
47	
48	
49	



**SUCCESSOR AGENCY TO THE FORMER CITY OF OAKLEY
REDEVELOPMENT AGENCY**

**ADMINISTRATIVE BUDGET
JULY 1, 2023 TO JUNE 30, 2024**

CATEGORY	DEPARTMENT/DESCRIPTION	2023/2024
Wages & Benefits	City Manager	\$ 30,804
Wages & Benefits	Economic Development Management Analyst	\$ 42,684
Wages & Benefits	City Clerk	\$ 6,766
Wages & Benefits	Deputy City Clerk	\$ 4,830
Wages & Benefits	Director of Finance	\$ 41,803
Wages & Benefits	Community Development Director	\$ 16,370
Wages & Benefits	Accounting Manager	\$ 27,340
Wages & Benefits	City Council	\$ 3,184
Contract Services	Legal expenses for Successor Agency Admin	\$ 15,000
Contract Services	Audit Services	\$ 5,000
Information Technology	Computer and other equipment maintenance	\$ 10,000
Property Management	Property for future development costs	\$ 25,000
Agency Operations	Postage, utilities, office supplies, office space etc.	\$ 21,219
		\$ 250,000



STAFF REPORT

DATE: 01/24/2023

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Jeri Tejeda, Human Resources Director

SUBJECT: Adopt a Resolution adding standby pay to the approved compensation package.

Background and Analysis

As our City continues to grow, the need to implement policies and procedures consistent with others in the public sector is vital to our success.

Standby pay is a common benefit seen in the public works department as there is a need in every City to assign public works employees to be available, and fit for duty, for emergencies that may occur after hours.

Non-Exempt employees in the public works department will be assigned to a seven (7) day assignment and will be expected to be available and able to respond when needed after normal working hours. The implementation of this pay and policy will allow for greater efficiencies within the department as well as consistency in an emergency.

Employees in standby status will be compensated to be available at any time after normal working hours. Compensation will be thirty-six dollars (\$36) per day or two hundred and fifty-two dollars (\$252) per seven-day period. This is similar to our standby pay in our police memorandum of understanding.

Only one employee per day will receive standby pay and all emergency services will have a single phone number as a point of contact. This phone will be with whoever is assigned to standby status for that specific time period.

Staff is working to get an updated personnel policy to council that will include this benefit, but felt it was imperative to bring this item now as we continue to work our way through the storm season. Our public works crew has been working extremely hard to

mitigate any potential storm hazards and this pay will compensate them accordingly and provide much needed consistency to the process.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with our strategic plans, sustainable organization goal as well as our community health and safety goal. There are several objectives within these goals related to recruitment and retention, competitive compensation as well as meeting the needs of the community when it comes to safety.

Fiscal Impact

There is sufficient budget to cover the implementation of this pay beginning February 1, 2023 in the FY 2022/23 budget.

The adoption of this resolution is estimated to increase compensation costs for the Public Works Department by approximately \$13,000 per year and will be allocated as part of the annual salary and benefits in future budgets.

Staff Recommendation

Adopt a Resolution adding standby pay to the approved compensation package.

Attachments

1. Resolution

RESOLUTION NO. XX-23

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY ADDING
STANDBY PAY TO THE APPROVED COMPENSATION PACKAGE FOR PUBLIC
WORKS EMPLOYEES**

WHEREAS, the City of Oakley continues to strive to implement policies and procedures consistent with the public sector, and

WHEREAS, the standby pay is a common benefit provided to employees in the public works department in order to have employees available to respond to emergencies, and

WHEREAS, the implementation of this pay will allow for greater efficiencies within the department as well as consistency in emergencies,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley hereby approves the following:

Standby pay in the amount of thirty-six dollars (\$36) per day or two hundred and fifty two dollars (\$252) per seven (7) day period will be added to the compensation package for public works department non-exempt employees. Only one employee per day will receive standby pay. Standby pay will begin February 1, 2023.

PASSED AND ADOPTED by the City Council of the City of Oakley this 24th day of January 2023 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Aaron Meadows, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date



STAFF REPORT

Date: January 24, 2023

To: Joshua McMurray, City Manager *Approved and Forwarded to the City Council*

From: Kenneth W. Strelo, Planning Manager

Subject: **Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“Special Land Uses”) – Adding Four Subsections to Address Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage (RZ 04-21) – Continued from October 11, 2022**

Summary

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

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

Background

On October 11, 2022, the City Council voted 3 (Ayes) – 1 (Noes) to continue this item to a date certain (January 24, 2023). This continuation was based on the receipt of multiple comment letters from various legal firms representing developers, property owners, and businesses. At that time, the City Attorney requested the City Council provide adequate time for the City Attorney and Staff to review the letters and determine whether any modifications to the proposed ordinance would be recommended. On November 9, 2022, the City Council considered an urgency ordinance to impose a moratorium on the permitting of the four special land uses to allow time for evaluation of their land use and environmental impacts. That urgency ordinance failed due to not receiving the necessary 4/5ths vote needed to pass an urgency ordinance. The City Council voted 3 (Ayes) – 2 (Noes) in favor of passing the urgency ordinance.

The project has additional background and history including work sessions, public hearings, and comments from citizens, affected property owners, and potential

commercial businesses that could be impacts by the proposed ordinance. Details on that additional background and history on the project is available in the City Council Staff Report dated September 13, 2022 and attached to this Staff Report.

Letters Received from Legal Firms for September 13, 2022 Public Hearing

All public comments received in a timely manner are provided to the City Council prior to any given meeting. This section focuses solely on the three letters received from legal firms prior to the September 13, 2022 public hearing. Comments in these letters raised several issues some of which regarding the proposed buffer that would impact a small number of properties, the purpose of the additional traffic analysis for Drive-Through Restaurants, Carwashes, and Gas Stations, a number of operational standards related to the amount of responsibility being put onto business managers for dealing with unruly patrons or visitors to the property, and the setback required behind gas stations and other requirements within that standard. All three letters are attached as reference.

City Attorney Response to Letters

Based on legal review by the City Attorney, the very limited number of properties affected by the proposed buffers, coupled with the histories associated with those few properties, raise the appearance (though unintended) that the proposed ordinance is focused on just these specific properties, rather than on a broader class of commercial properties. Staff and the City Attorney were unable to identify other cities or counties in California that have enacted similar buffers, raising the concern that the novelty of the proposed buffer may support the perception the ordinance is targeted to a few specific properties, rather than commercial properties generally. In light of all the other performance standards incorporated into the Ordinance, Staff and the City Attorney believe the City has ample control over the proposed land uses, and the addition of the buffers is not necessary to achieve the Council's regulatory objectives.

Proposed Ordinance

In tune to the City Attorney's response to the letters and other discussion regarding the other topics covered in the comment letters, the proposed ordinance has been drafted with changes from the version presented to the City Council at the October 11, 2022 public hearing. A summary of those changes is listed below:

- The Performance Standards requiring any application for a proposed drive-through restaurant, carwash, or gas station to include a traffic analysis to specifically analyze pedestrian/bicycle safety and queuing have been amended to clarify the purpose of the traffic analysis is to provide recommendations to avoid conflicts between various modes of transportation.
- The Performance Standards requiring a minimum distance of 300-feet between the parcel lines of any school within the Antioch Unified School District,

Brentwood Union School District, Oakley Union Elementary School District, or Liberty Union High School District and a drive-through restaurant, a carwash, or a gas station have been removed from the ordinance.

- Operational Standards for all four uses have been amended to be more general and less harsh on requiring a manager to handle potentially dangerous situations. After the "hours of operation" condition, the rest is now condensed into two conditions requiring operational plans related to 1) litter control, and/or recycling, and 2) noise, loitering, or other potential nuisances (including graffiti removal). Operational plans subject to review and approval by the CDD.
- The Performance Standard requiring a minimum buffer of 500 feet between gas station unless located on an arterial intersection has been amended to include an intersection of any two streets that each include four lanes of travel. The standard also includes language that allows the applicable decision making body to allow a gas station on a corner when otherwise not allowed if that station is part of a larger master planned development consisting of at least 45,000 square feet of building floor area.

Analysis

Adoption of the proposed ordinance will implement the direction provided to Staff by a majority of the City Council from previous meetings combined with City Attorney and Staff recommended modifications based on the letters received at the September 13, 2022 meeting. The four special land uses will include a list of several performance and operational standards that will be required either at application phase, design phase, or operational phase in a manner consistent for any similar use. These standards would become ordinance and will serve as standard conditions of approval specific to each of the four special land uses in addition to any conditions of approval adopted for any conditional use permit related to an applicable use. Since some of the standards require studies (such as a traffic analysis for pedestrian/bicycle safety and drive-through vehicle queuing for "Drive-Through Restaurants"), the information and technical analysis gathered will allow Staff to conduct more thorough analysis of any given project and provide that analysis to the appropriate decision making body during a project's public hearing. In practice, the ordinance will assist project applicants, Staff, and the Planning Commission/City Council in processing and approving development applications through the use of tools to identify and address potential incompatibility with surrounding uses that may not otherwise be identified through existing established thresholds or less objective analysis. The ordinance will also provide a level of fairness and standards for all similar uses, as it will apply regardless of the specific location a use is proposed.

Environmental

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

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Strategic Plan 27+ Community and Economic Growth Goal and Strategic and Thoughtful Growth Sub-Goal.

Fiscal Impact

There is no fiscal impact to the General Fund in relation to this work session.

Recommendation

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

Attachments

1. Minutes from October 11, 2022 City Council Meeting (Applicable to Item only)
2. Staff Report from September 13, 2022 City Council Meeting (without attachments)
3. Minutes from September 13, 2022 City Council Meeting (Applicable to Item only)
4. Staff Report from May 24, 2022 Work Session (without attachments)
5. Proposed Ordinance with Tracked Changes from September 13, 2022 Version
6. Proposed Ordinance

**Minutes of Oakley City Council/Oakley City Council Acting as the
Successor Agency to the Oakley Redevelopment Agency/Oakley
Public Financing Authority held
October 11, 2022**

1) OPENING MATTERS

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

~~Mayor Randy Pope called the meeting to order at 6:30 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. Vice Mayor Aaron Meadows and Councilmembers Anissa Williams and George Fuller were also in attendance. Mayor Pope announced Councilmember Sue Higgins was absent due to attending a transportation conference in Seattle, Washington, representing the City and her committee assignment.~~

1.2 Pledge of Allegiance to the Flag

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

~~The City Council considered Public Comments and the Consent Calendar prior to presentation of proclamations while the City Clerk obtained the proclamations to present.~~

1.3 Presentation of Proclamations 1. National Friends of the Library Month (Lorena Campos, Friends of the Oakley Library President) 2. Domestic Violence Awareness Month (Shannon Starzyk, Contra Costa Family Justice Center) 3. Red Ribbon Week (Patricia Britton & Van Le, Pride & Purpose Project Youth Advocates, Shameka Bolds, Pride & Purpose Project Coordinator, Fatima Matal Sol, CCC Alcohol and Other Drugs Program Chief) 4. Breast Cancer Awareness Month (Janet Jule, Antioch Medical Center Chief Nursing Officer)

~~Mayor Pope presented the proclamations. Recipients accepted and shared information. Pride & Purpose Project Youth Advocates Patricia Britton and Van Le provided red ribbons to the City Council.~~

2) PUBLIC COMMENTS

~~None.~~

~~3.10 Adopt Resolution of Intention to Establish Community Facilities District No. 2022-2 (Summer Lake North Maintenance Services) (Kevin Rohani, P.E., Public Works Director/City Engineer)~~

~~3.11 Creating Zone 186 within the Oakley Special Police Tax Area consisting of the Summer Lake North project located on the northeast corner of the intersection of Bethel Island Road and East Cypress Road (Kevin Rohani, P.E., Public Works Director/City Engineer)~~

~~3.12 Review of Proclamation Request for Future Agenda (John Muir Community Health Fund Day) (Libby Vreonis, City Clerk)~~

~~One online public comment was submitted by Dwight Hodgen regarding item 3.8. He inquired about the impact of extraction of water from the well on private party wells in the area. Public Works Director/City Engineer Kevin Rohani spoke directly with Mr. Hodgen prior to the meeting to answer his question.~~

~~It was moved by Councilmember Fuller and seconded by Vice Mayor Meadows to approve the Consent Calendar. Motion was unanimous and so ordered. (4-0)~~

~~Presentation of proclamations occurred next, before Public Hearings.~~

4) PUBLIC HEARINGS

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

Planning Manager Ken Strelo shared staff recommends continuing this item to a date uncertain to allow time for staff to review and analyze comments submitted.

City Attorney Derek Cole explained there is a difference between continuing an item to a date certain or date uncertain. He shared if an item is continued to a date certain, staff does not have to re-notice. He mentioned the reason the agenda says a date uncertain doesn’t mean staff is going to push it off; it is because staff is looking for flexibility to do analysis and review, and respond to comments received. He mentioned the intention is to bring this item back at the beginning of the year, but staff does not yet have a date certain. He commented that the Council has the option to pick a date certain.

Mayor Pope called for public comments and shared that one written public comment was submitted (by Shelly Fitzgerald) inquiring about the delay which Mr. Cole explained.

Councilmember Fuller requested a moratorium on issuing any building permit, CUP, variance, or other item that would fall within the Zoning Code until the Council passes a zoning ordinance. He mentioned it has been 18 months since Councilmember Williams requested the item and it has gone back and forth since then, and the community is losing confidence that it will come together.

Councilmember Williams inquired what it would take to have moratorium.

Mr. Cole responded that they cannot discuss the substance of it because it is not on the agenda; it can be requested as a future agenda item; however, he can mention that a moratorium requires an urgency ordinance that would require time for him to draft and bring back.

Councilmember Fuller respectfully disagreed that it is not off the agenda.

Mr. Cole clarified if regarding the special land uses only, they could discuss further; however, if a blanket moratorium is desired, the Council may request it as a future agenda item.

Councilmember Fuller indicated he would accept special land uses for this meeting, but he wants a moratorium across the board to come back which he will request as a future agenda item, so the community has trust that the City is not just putting things off.

Mr. Cole commented the Council needs to give staff and legal counsel time to do the job well. He mentioned they may disagree with the developer request, but he wants to hear all comments and create zoning ordinances that work well for everyone. He also mentioned he can appreciate how people can say it is taking a long time, but he also appreciates considering all aspects to bring it forth while balancing all other tasks.

Councilmember Fuller mentioned he is not saying don't look at it, but until it comes back and passes, he wants a moratorium, and the community needs to know they are going to have a zoning ordinance.

Mayor Pope commented he won't be on the Council next year but would feel more comfortable to continue to a date certain in January 2023.

Councilmember Williams agreed with a moratorium for the special land uses until it is solidified and to bring the item back on a date certain, January 24, 2023. She mentioned she is not certain how many pending applications there may be or what affect this will have but she thinks a moratorium may be needed so the community knows the City is not just putting it off while more applications can potentially come in.

Mr. Cole commented it is up to the Council if a moratorium is wanted but he cannot draft it by Monday to meet the agenda deadline for the next Council meeting to be held October 25. He suggested he could bring it forth for the November Council meeting.

Councilmember Fuller inquired what happens if the Council passes a moratorium tonight.

Mr. Cole explained the Council cannot address a moratorium tonight as there has been no notice of it on the agenda.

Councilmember Fuller expressed concern regarding putting it off. He made a records request for every CUP, building permit, variance and design submitted until the item is brought back.

Vice Mayor Meadows inquired if Councilmember Williams' motion was only to continue the item to a date certain, January 24, 2023, not a moratorium.

Councilmember Williams indicated her motion is to continue the item to January 24, 2023. It was seconded by Vice Mayor Meadows. AYES: Meadows, Pope, Williams. NOES: Fuller. (3-1)

5) ~~REGULAR CALENDAR~~

~~None.~~

6) ~~REPORTS~~

~~6.1 CITY MANAGER (a) City Manager~~

~~City Manager Joshua McMurray reported the BNSF railroad signal arms have been malfunctioning. He shared BNSF indicated there were some faulty shunts on the track that have been fixed, but arms are still malfunctioning. He also shared that BNSF indicated technology warns the train operator of malfunction; however, he does not believe this creates comfort for residents or staff; BNSF needs to make sure the railroad arms are operational and safe, and staff has been in contact with BNSF repeatedly regarding this issue.~~

~~Councilmember Williams inquired if there is anything the City can do to hold BNSF accountable.~~

~~Mr. McMurray explained he wishes the City had more leverage but the railroad is higher on the totem pole than the City; however, contacts at BNSF have now been more responsive and he believes they are making positive traction. He mentioned the 1-800 number on the control cabinets has been ineffective. He expressed any comments the~~



Agenda Date: _____

Agenda Item: _____

STAFF REPORT

Date: September 13, 2022

To: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

From: Kenneth W. Strelo, Planning Manager

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

Summary

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

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

Background

On April 13, 2021, the City Council held a Zoning Code Update Discussion Work Session where it was discussed that a comprehensive Zoning Code Update would likely follow adoption of the current Focused General Plan Update, but that an opportunity existed to conduct more specific updates for certain uses that may warrant immediate attention. As a result of that work session, the four uses addressed in this Staff Report were further researched by Staff and brought back to the City Council at the July 13, 2021 meeting for a second, more focused work session. After receiving a Staff presentation and holding discussions regarding each of the four special land uses, the City Council directed Staff to bring back ordinance language for consideration.

On September 28, 2021, the City Council held a public hearing on a City-initiated request for approval of Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code (“OMC”), titled “Special Land Uses” (RZ 04-21). The proposed amendments consisted of adding four new subsections to address four special land uses as follows: Drive-Through Restaurants (Subsection 9.1.1236);

Carwashes (Subsection 9.1.1238); Gas Stations (Subsection 9.1.1240); and Self-Storage (Subsection 9.1.1242). After deliberations, no action was taken on the item and the City Council directed Staff to seek out additional information from stake holders and provide more analysis on the impacts created by potential buffers and bring the item back for additional consideration in a future work session setting.

On May 24, 2022, the City Council held a second Work Session to discuss the four special land uses, including draft performance and operational standards and establishing potential buffers. This work session included a summary of feedback from commercial developers, brokers and property owners (see attached May 24, 2022 Staff Report) and an analysis of potential required buffers between the special land uses and uses such as residentially zoned land and public schools. As part of the work session, Staff gave a presentation that provided examples of how a 300-foot buffer from residential land and public schools would affect nearby commercially designated properties, and the manner in which some of those properties would be impacted. The City Council considered Staff and public input and discussed the topic both with Staff and amongst itself. City Council feedback led to a consensus that applications would be handled on a case by case basis, with the anticipation of additional standards in place (as a result of this ordinance), and that the addition of a 300-foot buffer from schools seemed appropriate.

At the conclusion of the Work Session, it was agreed on by the City Council for each member to complete the checklist of performance and operational standards that was included as an attachment to the May 24, 2022 Work Session Staff Report for each of the four special land uses and return it to the City Clerk. It was agreed through consensus that the completed checklists would be used to determine which performance/operational standards had at least three Councilmembers "In Favor," and for those to be included in the proposed ordinance language. It was also agreed to by the Council that the answers from each Councilmember would be made a part of the packet for the ordinance introduction.

Results of Performance and Operational Standards Checklists

All five Councilmembers either returned a checklist to Staff or made their selections known, allowing Staff to tally the responses and draft the ordinance accordingly. Although the ordinance is proposed to reflect what a majority of the Council selected on their checklists, there are some standards that received comments with the submitted checklist. Staff has summarized the comments received on specific standards below.

Councilmembers' Comments on Standards for Drive-Through Uses

- #2: In relation to drive-through menu speakers. Okay with requiring spec sheet on menu board speaker and any sound reducing technologies it may incorporate, but not okay with requiring a detailed acoustical analysis.

- #4: In relation to drive-through queuing and access. Not in favor of whole standard, but in favor of the portion that states, "The drive-through shall not take ingress or egress from a local residential road." (Staff note: Any proposed standard can be separated into two or more standards).
- #5: In relation to drive-through lane screening. "Depends on public safety."
- #7: In relation to direction of menu board speakers. In favor of not pointing them toward adjacent residential uses.

Councilmembers' Comments on Standards for Carwashes

- #7: Same as #7 for Drive-Through Uses.

Councilmembers' Comments on Standards for Gas Stations

- None.

Councilmembers' Comments on Standards for Self-Storage

- None.

Proposed Ordinance

The proposed ordinance has been drafted to include all proposed standards in the checklist. The City Council may choose to hold further discussion on the comments received on some of the standards and summarized above. If the Council has any recommended changes to the ordinance, Staff may be able to make non-substantive changes, so long as the direction is clear, without the need to continue the item to a later date. Separating out parts of a standard into different standards in order to reach a full consensus would be a non-substantive modification. Clarifying language within a standard may also be considered non-substantive. Adding entirely new standards that would affect land use would likely be considered a substantive change and may require a revised ordinance that may need to be re-noticed before introducing.

Analysis

Adoption of the proposed ordinance will implement the direction provided to Staff by the City Council. The performance and operational standards that will become ordinance will serve as standard conditions of approval specific to each of the four special land uses. Since some of the standards require studies (such as a traffic analysis for pedestrian/bicycle safety and drive-through vehicle queuing for "Drive-Through Restaurants"), the information and technical analysis gathered will allow Staff to conduct more thorough analysis of any given project and provide that analysis to the appropriate decision making body during a project's public hearing. In practice, the ordinance will assist project applicants, Staff, and the Planning Commission/City Council in processing and approving development applications through the use of tools to identify and address potential incompatibility with surrounding uses that may not otherwise be identified through existing established thresholds or less objective analysis. The ordinance will

also provide a level of fairness and standards for all similar uses, as it will apply regardless of the specific location a use is proposed.

Environmental

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

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Strategic Plan 27+ Community and Economic Growth Goal and Strategic and Thoughtful Growth Sub-Goal.

Fiscal Impact

There is no fiscal impact to the General Fund in relation to this work session.

Recommendation

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

Attachments

- ~~1. Notice of Public Hearing~~
- ~~2. Staff Report from May 24, 2022 Work Session (without attachments)~~
- ~~3. Councilmembers' Responses to Checklist of Performance and Operational Standards~~
- ~~4. Proposed Ordinance~~

Minutes of the Joint Meeting of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency/Oakley Public Financing Authority held September 13, 2022

1) OPENING MATTERS

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

Mayor Randy Pope called the meeting to order at 6:31 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California. Vice Mayor Meadows and Councilmember Anissa Williams and George Fuller were in attendance. Mayor Pope announced Councilmember Higgins is out of state and would not be in attendance.

1.2 Pledge of Allegiance to the Flag (Angelina Gilbo, 5th Grade Student at Vintage Parkway Elementary School)

Vintage Parkway Elementary School 5th grade student Angelina Gilbo led the Pledge of Allegiance to the Flag.

1.3 Reading/Presentation of Proclamations

Mayor Pope presented the following proclamations:

1. Library Card Sign up Month (Lisa Cano-Loomis, Contra Costa Library Manager)

Contra Costa Library Manager Lisa Cano-Loomis accepted the proclamation for Library Card Sign Up Month and shared current and upcoming programs. She introduced Lorena Campos, President of Friends of the Oakley Library. She provided library card applications, stickers and bookmarks.

2. Falls Prevention Week (Allen Perry, Oakley Seniors)

Oakley Seniors President Allen Perry accepted the proclamation. He mentioned Oakley Seniors are accepting memberships for new members and they provide free grocery give away every Thursday.

3. National Hispanic Heritage Month (Annalouisa Gonzalez-Ortega, Freedom High School Latinos Unidos Club Advisor)

Freedom High School Latinos Unidos Club Advisor Annalouisa Gonzalez-Ortega accepted the proclamation along with Latinos Unidos Club President Maria Rafael, Club Vice President Naomi Romero, and Club Treasurer Jose Ordonez. Ms. Gonzalez-Ortega mentioned they hold two meetings each month, share cultural events, and fundraise for scholarships for students to use post-high school.

~~Ken Strelo presented the staff report and PowerPoint presentation.~~

~~Councilmember Fuller inquired about existing artificial turf in Oakley.~~

~~Mr. Strelo explained non-functional turf in place prior to this ordinance would be allowed; future non-functional turf would be subject to the new ordinance.~~

~~Councilmember Williams inquired if it is 500 square feet for each lot or the development for landscaping in new developments and she inquired about the impact on water conservation.~~

~~Mr. Strelo responded it is the entire project, all front yards combined. He mentioned developers will use drought tolerant landscape in new front yards and the impact on water conservation is about the same as now.~~

~~Mayor Pope opened the public hearing.~~

Public Comment

~~Randi Adler shared she notices people are not taking care of landscaping and she called Code Enforcement because neighborhood landscaping in her area is overgrown and they didn't return her calls, and the same for her call regarding her neighbor parking a giant RV in his driveway. She mentioned she will not call law enforcement; she was just told to leave by the Chief of Police after she told the Council she was sexually harassed by them.~~

~~Mayor Pope closed the public hearing.~~

~~Councilmember Fuller commented that the ordinance works for him.~~

~~Mayor Pope inquired if new developments are required to do a physical barrier for weeds.~~

~~Mr. McMurray mentioned there are strict landscape requirements for new homes to control weeds. He also mentioned anyone with concerns about landscaping or other matters can call Code Enforcement and they will investigate it and work with the property owner to bring the property up to code.~~

~~It was moved by Councilmember Fuller and seconded by Councilmember Williams to waive the first reading and introduce the ordinance. Motion was unanimous and so ordered. (4-0)~~

4.2 Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code ("Special Land Uses?") --Adding Four Subsections to Address Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage (RZ 04-21) (Ken Strelo, Planning Manager)

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

City Attorney Derek Cole mentioned there is no Brown Act issue here as mentioned in a comment letter. He explained the Council filled out a questionnaire that was provided to the City Clerk, it was presented to the Council and public at the same time, and the missing piece of the letter presented is that a majority of the Council must have communicated among each other and that didn't happen; there is nothing here outside of proper procedure and careful measures were taken. He requested time to take a deeper look into comments received and report back at the October 11, 2022 Council meeting.

Mayor Pope opened the public hearing.

Councilmember Williams inquired if this ordinance will only affect new entitlements or existing entitlements as well.

Mr. Strelo responded it will only affect new applications, not existing entitlements.

Councilmember Fuller inquired if this will impact the Council's decision already taken on the northwest corner of Laurel and O'Hara.

Mr. Strelo confirmed this ordinance will not affect any previous decisions.

Vice Mayor Meadows inquired how many properties at the 4 corners of Laurel & O'Hara are entitled.

Mr. Strelo responded that Laurel Plaza is entitled, but no other entitlements exist on the other three corners.

Mayor Pope inquired if there is a procedure for exceptions if an applicant's project doesn't satisfy one of the requirements.

Mr. Strelo mentioned it is not written in the ordinance now and it would be rare, but there is always an option for a variance if regarding a development regulation, i.e., set-backs, height, etc.

Public Comments

Four public comments were submitted to staff electronically from Matthew Francois, Rutan & Tucker, LLP, Andrew Sabey, Cox Castle Nicholson, William Mitchell, WT Mitchell Group, and Richard Randles.

Matthew Francois, Rutan & Tucker, LLP, legal counsel for Safeway, requested the Council to consider comments and make Safeway's requested changes prior to acting on the Zoning Amendments.

Andrew Sabey, Cox Castle Nicholson, legal counsel for O'Hara Properties, LLC, indicated that approval of the current amendments would expose the City to substantial legal liability and as the process has unfolded, approval following the City's actions to shield public review would violate the Brown Act.

William Mitchell, WT Mitchell Group, a commercial real estate developer evaluating sites in Oakley, supported the staff report with exception to Performance Standard 9.1.1240 c.3.

Richard Randles indicated the ordinance will hinder commercially zoned properties along Laurel and Main Street.

Randi Adler inquired if it is more profitable for the City to approve a new business if the City receives a franchise fee. She mentioned Comcast and Mt. Diablo Resource Recovery pay a franchise fee and that made garbage rates increase. She inquired how far the City will go for franchise fees for car washes and fast-food at the expense of the health of its residents.

Natalie Mattei, Director of Real Estate for Safeway, introduced herself and Seth Burman. She mentioned the Council has received the letter submitted from Safeway's land use counsel regarding its 8.7-acre land on the northeast corner of Laurel and O'Hara. She shared Safeway doesn't have an immediate plan for this location but will develop. She expressed they have non-controversial comments on drive-throughs and car washes as entitlement have expired and they are neutral on car washes and self-storage. She commented that arterial streets and uses are clean ups and they support traffic studies for pedestrian and bicyclist safety. She mentioned they request clarification on standards. She mentioned it is not a matter of if they will develop, but when they will develop. She requested minor edits be incorporated into the ordinance and staff's recommendation to include these comments. She supported Mr. Cole's request for continuance.

Liz Elias commented that the City doesn't need any additional quantity of these uses; it has enough. She expressed the City needs more family friendly recreation, i.e., skate parks, roller rinks, things to do, other than underused parks.

Councilmember Fuller agreed with Ms. Mattei and expressed he would appreciate Mr. Cole's analysis of the letters.

It was moved by Councilmember Fuller and seconded by Vice Mayor Meadows to continue the items to October 11, 2022. Motion was unanimous and so ordered. (3-1)

5) REGULAR CALENDAR

5.1 Urgency Ordinance Imposing a Moratorium on the Permitting of Hydrocarbon Development within City Limits to Allow for Evaluation of the Public Health and Environmental Impacts and the Enactment of Further and Appropriate Regulations Concerning the Same (Ken Strelo, Planning Manager)

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

City Attorney Derek Cole explained the urgency ordinance is premised under the Government Code, in the Planning and Zoning Code. He mentioned he received an email inquiry regarding why this is urgent and he directed it to the Council as a public comment. He explained urgency in this context of the ordinance doesn't mean means someone will put in an application tomorrow, but if the Council finds that someone could put in an application, the current ordinance is dated, changes in technology have taken place, and the Council doesn't want to take a chance in next 2 years to receive an application, but rather take time to develop the appropriate changes to the ordinance, that would meet requirements for an urgency ordinance and moratorium under Government Code 65858. He added that "urgency" is parlance used but in government doesn't always mean urgent. He mentioned a 4/5 vote is required to enact the urgency ordinance therefore with Councilmember Higgin's absence, it would require unanimous vote of members of the Council present.

Vice Mayor Meadows inquired if the State is currently working on regulations.

Mr. Cole responded he understands the State is well along in the process but can't say when they will have the regulations.



Agenda Date: _____

Agenda Item: _____

STAFF REPORT

Date: May 24, 2022

To: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

From: Kenneth W. Strelo, Planning Manager

Subject: **Work Session #2 to Discuss Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage**

Summary

This is a City Council Work Session to revisit discussion on Drive-Through Restaurants, Carwashes, Gas Stations, and Self-Storage. Specifically, this work session is intended to discuss the feasibility of 1) potentially establishing buffers between residential and commercially zoned properties, and 2) implementing other performance and operational standards, both in relation to the four special uses, as applicable.

Background

On April 13, 2021, the City Council held a Zoning Code Update Discussion Work Session where it was discussed that a comprehensive Zoning Code Update would likely follow adoption of the current Focused General Plan Update, but that an opportunity existed to conduct more specific updates for certain uses that may warrant immediate attention. As a result of that work session, the four uses addressed in this Staff Report were further researched by Staff and brought back to the City Council at the July 13, 2021 meeting for a second, more focused work session. After receiving a Staff presentation and holding discussions regarding each of the four special land uses, the City Council directed Staff to bring back ordinance language for consideration.

On September 28, 2021, the City Council held a public hearing on a City-initiated request for approval of Zoning Ordinance Text Amendments to Article 12 of Chapter 1 of Title 9 of the Oakley Municipal Code ("OMC"), titled "Special Land Uses" (RZ 04-21). The proposed amendments consisted of adding four new subsections to address four special land uses as follows: Drive-Through Restaurants (Subsection 9.1.1236); Carwashes (Subsection 9.1.1238); Gas Stations (Subsection 9.1.1240); and Self-Storage (Subsection 9.1.1242). After deliberations, no action was taken on the item and the City Council directed Staff to seek out additional information from stake holders and provide more analysis on the impacts created by potential buffers, and bring the item back for additional consideration in a future work session setting.

Main Items of Discussion

Potential Buffers

One of the main items discussed during the September 28, 2021 public hearing was the Performance Standards related to buffers between “Sensitive Uses” and proposed drive-through restaurants, carwashes, and gas stations. In these cases, “sensitive uses” was defined as follows:

“[A]ny Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.”

The buffer from sensitive uses was proposed at 300 feet as measured from a sensitive use’s property line to specific locations of the proposed use. For drive-through restaurants it was the building, drive-through lane, or entry driveways; for carwashes it was the building; and for gas stations it was the parcel lines, building, or entry driveways. There were other discussions on buffers, such as a minimum distance between gas stations of at least 500 feet except that two may be located on corners at arterial road intersections, minimum distance between carwashes of 500 feet, and minimum distance between self-storage facilities of 1,000 feet.

Performance and Operational Standards

The buffers mentioned above are part of what were included as performance standards in the previously proposed zoning ordinance text amendments considered by the City Council on September 28, 2021. In addition to those performance standards were operational standards. Examples of some of the other standards for the four uses included items such as litter control plans, requirements for acoustical analysis of specific noise generating sources, additional pedestrian circulation analysis, vehicle queuing requirements, and standards for self-storage mixed use project.

Analysis

Part of the City Council’s direction to Staff at the conclusion of the September 28, 2022 hearing was to speak to some of the commercial brokers or property owners for input. Staff was able to speak with not only existing brokers and owners in the City, but also potential developers at a conference attended by the City’s Economic Development Analyst. The results of those conversations varied, but the theme centered around the challenges establishing such buffers would present for developability of affected commercial parcels, and as a direct result, the developability of the remainder of those commercial centers with affected parcels.

300-Foot Buffer from Residential, etc.

One exercise Staff conducted as part of this analysis was to look at several areas in the City where commercial land abuts residential land and analyze the impacts of a 300-foot buffer. The analysis showed the buffer would impact several undeveloped commercial sites and that portions of future commercial centers would be impacted, including:

- Land at the Laurel Road and O'Hara Avenue intersection;
- The remaining portion of the commercial site on Laurel Road where ARCO is located;
- The vacant parcel to the west of Oakley Town Center (Lucky Shopping Center);
- Northwest corner of Main Street and East Cypress Road; and
- Most of the commercial properties along Main Street near the City's southern border.

In addition to the vacant commercial land, Staff conducted an analysis on how such a buffer could have impacted the City's current commercial businesses. Results of that analysis showed that several of the City's current businesses that have been approved since incorporation would not have been allowed in their current location with such a buffer in place. Some of those businesses include the following:

- Starbucks at Main Street and Carol Lane;
- Popeye's at Main Street and Carol Lane;
- Chevron gas station at Main Street and East Cypress Road;
- Drive-through in Bopari Plaza on Main Street south of East Cypress Road;
- ARCO gas station at Main Street and East Cypress Road;
- 7/11 gas station at Main Street and Empire Avenue; and
- The relative uses in the Emerson Commercial site.

Another factor that may not be as obvious is how future infill residential development could alter developability of commercial properties if such a buffer existed. For example, the City is currently updating the Housing Element and part of that process includes looking at additional sites for the Affordable Housing Overlay ("AHO") District. Some of those sites are allowed to be zoned commercial, and some of the currently proposed AHO are zoned commercial.

Placing the AHO on commercial properties is allowed by the state, and it serves two main purposes. The first is it allows more flexibility in site selection. Residential sites are often partially developed or in already established neighborhoods with much lower density than what the AHO would permit, potentially creating more difficulty on acceptance of the site by the state, or as a density conflict with the existing surrounding areas. The second main purpose is to bring more people to existing commercial uses, which results in a benefit to the City in meeting its housing needs, and to existing commercial uses by bringing potential customers within walking distance to those businesses which may offer commercial goods and services. As more commercial sites

are rezoned with the AHO, one less foreseeable impact of a buffer from residential uses would be if a commercial site with the AHO were to be developed with residential uses, thus creating a new buffer over viable commercial property located on major arterials or nearer the freeways. Bridgehead Road is one such example.

Based on the above analysis, Staff is recommending the applicability of 300-foot buffers from sensitive uses is no longer implemented, and instead, Staff and decision makers rely on the tools already provided by the Oakley Municipal Code, such as:

- The three uses previously proposed to be subject to the buffer already require the discretionary approval of conditional use permits;
- Staff is recommending several other performance and operational standards for the uses, which could be adopted as ordinance and integrated into the zoning code; and
- Accompanying design review applications can include design to increase compatibility between uses on a case-by-case basis.

Proposed 300-Foot School Buffer

One other factor considered by Staff was to apply the 300-foot buffer to the parcel lines of schools that are part of the four school districts within the City. It was found that although a few commercial sites would be affected, the impact City-wide was far less extreme than the 300-foot buffer from residential. The most notable affected sites were a residential site zoned Retail Business District across O'Hara Avenue from O'Hara Park Middle School, portions of the commercial sites on the northwest corner and southwest corners of Laurel Road and O'Hara Avenue near Laurel Elementary School, and a vacant site fronting Carpenter Road between La Grande and Almond Grove School.

The intent of this buffer would be to implement it from schools that are part of the Antioch Unified School District, Brentwood Elementary School District, Oakley Union Elementary School District, and Liberty Union High School District. The proposed standard would not include uses such as day care centers (which are typically in commercial zones) or locations where students are homeschooled. If the City Council is in favor of this buffer, it may consider directing Staff to craft more specific language to ensure the standard is applied as intended.

Presentation

A presentation will be given by Staff as a part of the oral report. The presentation will show how the 300-foot buffer from residential land impacts some of the areas discussed in this report. It will also show how the 300-foot buffer from schools will affect adjacent commercial land.

Performance and Operational Standards Checklist

Staff has created a checklist of the proposed performance and operational standards. That checklist is attached to this Staff Report and has been provided to each Councilmember in hard copy. Staff is requesting that each Councilmember complete the list and provide a response of “In favor” or “Not in favor” for each standard listed. The completed checklists can then be returned to the City Clerk at each Councilmember’s earliest convenience. The lists are not required to be completed during this Council Meeting. Staff will use the lists to assist in the deciding which standards to include in the future proposed ordinance. The results of each Councilmember’s list will also be made public in any future packet for consideration of ordinance language related to this topic.

Summary Analysis

In summary, due to the significant effect on existing commercial properties and foreseeable and unforeseeable effects on existing commercial properties that may be caused by future infill residential development, Staff is recommending the land use decisions remain on a case-by-case basis and rely on the existing discretion allowed by Staff and decisions makers and the conditional use process rather than establishing a buffer between certain commercial uses and residential uses. In addition, several performance and operational standards will further ensure the related uses perform and operate in specific manners as eventually ordained into the zoning code. Staff also recommends the Council consider establishing a buffer of 300 feet between schools in the City’s four school districts and the specific uses discussed in this Staff Report.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Strategic Plan 27+ Community and Economic Growth Goal and Strategic and Thoughtful Growth Sub-Goal.

Fiscal Impact

There is no fiscal impact to the General Fund in relation to this work session.

Recommendation

Staff recommends the City Council receive the Staff Report and Staff Presentation, hold the Work Session, including receiving public comments, and provide Staff with oral and/or written direction on the topic of regulating all or some of the discussed uses.

Attachments

- ~~1. Notice of Work Session~~
- ~~2. Staff Report from July 13, 2021 Work Session~~
- ~~3. Staff Report from September 28, 2021 Public Hearing~~
- ~~4. Checklist of Draft Performance and Operational Standards~~

ORDINANCE NO. _____

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

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

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

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

“9.1.1236 Drive-Through Restaurants.

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

transportation. This analysis is in addition to any Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.

- 2) An application for a proposed drive-through restaurant shall include either a detailed acoustical analysis of the menu board speaker consistent with the proposed site plan, or a detailed specification sheet on the menu board speaker and any sound reducing technologies it may incorporate. All menu board speakers shall function in compliance with the City of Oakley General Plan.

~~3) Any proposed drive-through restaurant shall be a minimum of 300 feet (three-hundred feet) from the parcel lines of any school within the Antioch Unified School District, Brentwood Elementary School District, Oakley Union Elementary School District, and Liberty Union High School District, as measured by the shortest distance in a straight line on a map to the limits of the drive-through restaurant's drive-through lane, building dimensions, or entry driveways, whichever is nearest.~~

4)3) No portion of the drive-through lane or its required queuing as determined in the traffic analysis shall obstruct any drive aisles or off-street parking. The drive-through shall not take ingress or egress from a local residential road.

5)4) The entire drive-through lane shall be screened from adjacent street and residential views to a height of at least three feet. Screening devices shall be a combination of berming, hedge and landscape materials, and solid walls as approved by the Community Development Director.

6)5) Menu boards shall be oriented or screened to avoid direct visibility from adjacent public streets.

7)6) The speaker box on menu boards shall be oriented away from adjacent residential uses or other commercial uses with an outdoor setting.

8)7) Pedestrian access to the building either from the parking lot or public right of way shall not cross the drive-through lane at any point between the last queuing area and end of the building facade where the pick-up window is located.

d. Operational Standards.

- 1) Hours of operation may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.

2) The applicant shall prepare and submit an operational plan related to a litter control, and/or recycling ~~plan~~ as a part of the conditional use permit

application, subject.—In addition to the review and approval of the Community Development Director.

~~2)3) The applicantlitter control plan, the site shall prepare and submit an operational plan addressing noise, loitering or other potential nuisances that may be caused by employees, patrons, or other citizens whilemaintained in a litter free condition and no unreasonable odors shall be generated on the premises, subjectsite. The on-site manager shall make all reasonable efforts to see that trash and litter originating from the use or its patrons is not deposited on adjacent properties, or left on the grounds of the use overnight. Employees shall be required daily to the reviewpick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and approvalwithin 300 feet of the Community Development Director. The operational plan shall include plans to ensureperimeter. Any graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses.”-~~

~~3) The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities than may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.~~

~~The~~

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

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

“9.1.1238 Carwashes.

a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for carwashes.

1) This subsection shall apply to any carwash use proposed within the City of Oakley, including carwashes ancillary to gas stations, self-service carwashes, stand-alone automated carwashes, and carwash businesses that may include additional detailing whether indoors or under a shade structure.

b. Definitions and Meanings.

1) For the purposes of this subsection “Carwash” may include the types of carwashes listed above. If a part of this subsection only applies to specific type of carwash, it will be explicitly stated as such. Otherwise, the part applies to all types of carwashes.

- 2) “Sensitive Uses,” as referenced in this subsection shall mean any Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not be considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.

c. Performance Standards.

- 1) An application for a proposed carwash shall include a traffic analysis that specifically analyzes onsite and nearby pedestrian/bicycle safety and queuing for the purposes of providing recommendations to avoid conflicts between various modes of transportation. This analysis is in addition to any Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.
- 2) An application for a proposed carwash shall include a detailed acoustical analysis of noise generated by the use, and confirm that the use complies with the noise thresholds in the City of Oakley General Plan in relation to noise impacts on sensitive uses. If a generally accepted decibel variance allowance would result in the noise exceeding a threshold, the noise source shall be reduced until the analysis shows the noise, including any decibel variance allowance, falls within the thresholds in the General Plan.
- ~~3) Any proposed carwash shall be a minimum of 300 feet (three hundred feet) from the parcel lines of any school within the Antioch Unified School District, Brentwood Elementary School District, Oakley Union Elementary School District, and Liberty Union High School District, as measured by the shortest distance in a straight line on a map to the limits of the carwash building.~~
- 4)3) There shall be no more than one carwash located within any shopping center or contiguous commercial properties that have internally shared access. In addition, no new carwash shall be proposed within 1,000 feet of an existing carwash as measured between the shortest distance from either the perimeter of the carwash operations or parcel lines, subject to the determination by the Community Development Director.
- 5)4) No portion of the required queuing as determined in the traffic analysis shall obstruct any drive aisles or off-street parking.
- 6)5) The entire carwash queuing lane shall be screened from adjacent street and residential views to a height of at least three feet. Screening devices shall be a combination of berming, hedge and landscape materials, and solid walls as approved by the Community Development Director.

~~7)6)~~ Any speaker box on automated payment machine shall be oriented away from adjacent residential uses or other commercial uses with an outdoor setting.

~~8)7)~~ Pedestrian access to the building either from the parking lot or public right of way shall not cross the queuing lane at any point between the automated payment machine and entrance to the carwash. Nor should it be located within 25 feet of the exit of the carwash.

d. Operational Standards.

1) Hours of operation may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.

~~2)~~ The applicant shall prepare and submit an operational plan related to a litter control, and/or recycling plan as a part of the conditional use permit application, subject. ~~In addition~~ to the review and approval of the Community Development Director.

~~litter control plan, the site~~

~~2)3)~~ The applicant shall prepare and submit an operational plan addressing noise, loitering or other potential nuisances that may be caused by employees, patrons, or other citizens while maintained in a litter free condition and no unreasonable odors shall be generated on the premises, subject site. The on-site manager shall make all reasonable efforts to see that trash and litter originating from the use or its patrons is not deposited on adjacent properties, or left on the grounds of the use overnight. Employees shall be required daily to the review pick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and approval within 300 feet of the Community Development Director. The operational plan shall include plans to ensure perimeter. Any graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses."

~~3)~~ The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities than may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.

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

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

“9.1.1240 Gas Stations.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for gas stations.
 - 1) This subsection shall apply to any gas station use proposed within the City of Oakley, whether or not they include a convenience store, carwash, or vacuum stations.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection “Gas Station” is interchangeable with “Gasoline Service Station” found elsewhere in the Oakley Municipal Code.
 - 2) “Sensitive Uses,” as referenced in this subsection shall mean any Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not ~~be~~ considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.
- c. Performance Standards.
 - 1) An application for a gas station shall include a traffic analysis that specifically analyzes onsite and nearby pedestrian/bicycle safety for the purposes of providing recommendations to avoid conflicts between various modes of transportation. This analysis is in addition to any Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.
 - ~~2) Any proposed gas station shall be a minimum of 300 feet (three hundred feet) from the parcel lines of any school within the Antioch Unified School District, Brentwood Elementary School District, Oakley Union Elementary School District, and Liberty Union High School District, as measured by the shortest distance in a straight line on a map from to the limits of the gas station’s parcel lines, building dimensions, or entry driveways, whichever is nearest.~~
 - ~~3)2)~~ Any proposed gas station shall be minimum of 500 feet from an existing gas station, as measured between the shortest distance from either the perimeter of the gas station operations or parcel lines, subject to the determination by the Community Development Director, except—Except that any intersection of two arterial streets (as defined in the City’s General Plan) or of any two existing streets each with at least four travel lanes (two

~~in each direction)~~ may have two gas stations on separate corners. An exception to the 500 foot buffer may also be considered if a case where there are two gas stations is part of a larger master development plan consisting of at least 45,000 square feet of building floor area, subject to two corner, efforts should be made so the approval of the applicable decision making body two gas stations mainly serve opposite flows of traffic.

~~4)3)~~ The speakers on gas pumps shall comply with all applicable noise regulations in the Oakley General Plan.

~~5)4)~~ Any new gas station shall include a parking location for fueling trucks that does not block or cross over any required drive aisles or off-street parking spaces.

~~6)5)~~ Any new gas station shall consider including alternative fuels pumps as an option to customers with alternative fuel vehicles.

d. Operational Standards.

1) Hours of operation for all or any individual component of a gas station (i.e., pumps, convenience store, carwash, or vacuum stations) may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.

~~2)~~ The applicant shall prepare and submit an operational plan related to a litter control, and/or recycling ~~plan~~ as a part of the conditional use permit application, subject. ~~In addition~~ to the review and approval of the Community Development Director.

~~litter control plan, the site~~

~~2)3)~~ The applicant shall prepare and submit an operational plan addressing noise, loitering or other potential nuisances that may be caused by employees, patrons, or other citizens while maintained in a litter free condition and no unreasonable odors shall be generated on the premises, subjectsite. The on-site manager shall make all reasonable efforts to see that trash and litter originating from the use or its patrons is not deposited on adjacent properties, or left on the grounds of the use overnight. Employees shall be required daily to the reviewpick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and approvalwithin 300 feet of the Community Development Director. The operational plan shall include plans to ensureperimeter. Any graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses."

~~3)~~ The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities than may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.

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

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

"9.1.1242 Self-Storage.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for self-storage.
 - 1) This subsection shall apply to any self-storage use proposed within the City of Oakley, including self-storage uses that incorporate a component of frontage retail or other commercial activities.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection "Self-Storage" is interchangeable with "Mini-storage Facility" found elsewhere in the Oakley Municipal Code. Self-storage does not refer to any sort of outdoor storage of materials, vehicles, equipment, etc. It applies to the conventional self-storage use where customers rent lockable space to store personal goods
- c. Performance Standards.
 - 1) Any application for approval of a conditional use permit for a self-storage use shall include a demand study that supports the need for the new business in order to accommodate population growth within the City of Oakley rather than growth of surrounding jurisdictions.
 - 2) Any self-storage proposed as a part of a mixed-use project with a retail/commercial frontage in the C (General Commercial) District shall meet the following minimum standards:
 - i. The project shall be designed so only the storefronts for the retail component and tenant spaces/buildings are directly accessible and visible from the main street frontage, with the exception of the self-storage leasing office, which may also be accessible and visible. All building area for self-storage shall be located behind the frontage buildings.
 - ii. Off-street parking for the commercial component shall provide at least 1 parking space per 200 square feet of gross floor area, regardless of any known uses at the time of the conditional use permit application, unless those uses require a higher number of

parking spaces for the relative floor area, in which case that number should be applied to that area.

- iii. The storing or renting of moving vans/trucks shall only be allowed if explicitly stated in the conditional use permit. Moving vehicles may only consist of self-motorized vehicles and shall be stored in designated areas that do not occupy required parking or drive aisles associated with the self-storage. No moving vehicles may be stored in areas visible from the adjacent right of way(s) or be used as signage.

d. Operational Standards.

- 1) Hours of operation for entrance to the self-storage area may be limited as a condition of approval in the conditional use permit.
- 2) The applicant shall prepare and submit an operational plan related to a litter control, and/or recycling plan as a part of the conditional use permit application, subject to that shall be included in the reviewleasing contract for all future tenants of the site (if part of a mixed-use project). In addition to the litter control plan, the site shall be maintained in a litter free condition and approval of the Community Development Director.
- 2)3) no unreasonable odors shall be generated on the site. The applicant shall prepareon-site manager shall make all reasonable efforts to see that trash and submit an operational plan addressing noise, loiteringlitter originating from the use or other potential nuisances that may be caused by employees,its patrons is not deposited on adjacent properties, or other citizens whileleft on the premises, subjectgrounds of the use overnight. Employees shall be required daily to the reviewpick up trash or litter on or adjacent to the site, as well as any visible litter originating from the site and approval of the Community Development Director. The operational plan shall include plans to ensurewithin 300 feet of the perimeter. Any graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses."
- 3) The on-site manager shall not permit and shall make an attempt to prohibit any loud music, noise, or other amplified sounds, as well as parking lot loitering, gatherings, or other activities than may disrupt the quiet and peace of the premises, surrounding commercial uses, and surrounding land uses.
- 4) The on-site manager shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises."

SECTION 6. California Environmental Quality Act (CEQA).

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

SECTION 7. Effective Date and Posting.

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

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, ~~2023~~2022 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

~~Aaron Meadows~~Randy Pope, Mayor
Date

ATTEST:

Libby Vreonis, City Clerk Date

ORDINANCE NO. _____

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

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

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

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

“9.1.1236 Drive-Through Restaurants.

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

transportation. This analysis is in addition to any Vehicle Miles Traveled ("VMT") or Level of Service ("LOS") analysis that may already be required.

- 2) An application for a proposed drive-through restaurant shall include either a detailed acoustical analysis of the menu board speaker consistent with the proposed site plan, or a detailed specification sheet on the menu board speaker and any sound reducing technologies it may incorporate. All menu board speakers shall function in compliance with the City of Oakley General Plan.
- 3) No portion of the drive-through lane or its required queuing as determined in the traffic analysis shall obstruct any drive aisles or off-street parking. The drive-through shall not take ingress or egress from a local residential road.
- 4) The entire drive-through lane shall be screened from adjacent street and residential views to a height of at least three feet. Screening devices shall be a combination of berming, hedge and landscape materials, and solid walls as approved by the Community Development Director.
- 5) Menu boards shall be oriented or screened to avoid direct visibility from adjacent public streets.
- 6) The speaker box on menu boards shall be oriented away from adjacent residential uses or other commercial uses with an outdoor setting.
- 7) Pedestrian access to the building either from the parking lot or public right of way shall not cross the drive-through lane at any point between the last queuing area and end of the building facade where the pick-up window is located.

d. Operational Standards.

- 1) Hours of operation may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.
- 2) The applicant shall prepare and submit an operational plan related to litter control, and/or recycling as a part of the conditional use permit application, subject to the review and approval of the Community Development Director.
- 3) The applicant shall prepare and submit an operational plan addressing noise, loitering or other potential nuisances that may be caused by employees, patrons, or other citizens while on the premises, subject to the review and approval of the Community Development Director. The operational plan shall include plans to ensure graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses."

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

“9.1.1238 Carwashes.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for carwashes.
 - 1) This subsection shall apply to any carwash use proposed within the City of Oakley, including carwashes ancillary to gas stations, self-service carwashes, stand-alone automated carwashes, and carwash businesses that may include additional detailing whether indoors or under a shade structure.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection “Carwash” may include the types of carwashes listed above. If a part of this subsection only applies to specific type of carwash, it will be explicitly stated as such. Otherwise, the part applies to all types of carwashes.
 - 2) “Sensitive Uses,” as referenced in this subsection shall mean any Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not be considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.
- c. Performance Standards.
 - 1) An application for a proposed carwash shall include a traffic analysis that specifically analyzes onsite and nearby pedestrian/bicycle safety and queuing for the purposes of providing recommendations to avoid conflicts between various modes of transportation. This analysis is in addition to any Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.
 - 2) An application for a proposed carwash shall include a detailed acoustical analysis of noise generated by the use, and confirm that the use complies with the noise thresholds in the City of Oakley General Plan in relation to noise impacts on sensitive uses. If a generally accepted decibel variance allowance would result in the noise exceeding a threshold, the noise source

shall be reduced until the analysis shows the noise, including any decibel variance allowance, falls within the thresholds in the General Plan.

- 3) There shall be no more than one carwash located within any shopping center or contiguous commercial properties that have internally shared access. In addition, no new carwash shall be proposed within 1,000 feet of an existing carwash as measured between the shortest distance from either the perimeter of the carwash operations or parcel lines, subject to the determination by the Community Development Director.
- 4) No portion of the required queuing as determined in the traffic analysis shall obstruct any drive aisles or off-street parking.
- 5) The entire carwash queuing lane shall be screened from adjacent street and residential views to a height of at least three feet. Screening devices shall be a combination of berming, hedge and landscape materials, and solid walls as approved by the Community Development Director.
- 6) Any speaker box on automated payment machine shall be oriented away from adjacent residential uses or other commercial uses with an outdoor setting.
- 7) Pedestrian access to the building either from the parking lot or public right of way shall not cross the queuing lane at any point between the automated payment machine and entrance to the carwash. Nor should it be located within 25 feet of the exit of the carwash.

d. Operational Standards.

- 1) Hours of operation may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.
- 2) The applicant shall prepare and submit an operational plan related to litter control, and/or recycling as a part of the conditional use permit application, subject to the review and approval of the Community Development Director.
- 3) The applicant shall prepare and submit an operational plan addressing noise, loitering or other potential nuisances that may be caused by employees, patrons, or other citizens while on the premises, subject to the review and approval of the Community Development Director. The operational plan shall include plans to ensure graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses.”

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

“9.1.1240 Gas Stations.

- a. Purpose and Intent. It is the purpose of this subsection to specify performance and operational standards for gas stations.
 - 1) This subsection shall apply to any gas station use proposed within the City of Oakley, whether or not they include a convenience store, carwash, or vacuum stations.
- b. Definitions and Meanings.
 - 1) For the purposes of this subsection “Gas Station” is interchangeable with “Gasoline Service Station” found elsewhere in the Oakley Municipal Code.
 - 2) “Sensitive Uses,” as referenced in this subsection shall mean any Residential or Agricultural designated property, whether occupied or vacant, on the Oakley General Plan Land Use Map, any legal and conforming residential use, or any public or private school with students in any grade ranging from K-12. Residential uses located in non-residential zoning districts and General Plan land use designations are not considered “Sensitive Uses” for the purposes of this subsection. Other uses may be considered as “Sensitive Uses” subject to the discretion of the Community Development Director.
- c. Performance Standards.
 - 1) An application for a gas station shall include a traffic analysis that specifically analyzes onsite and nearby pedestrian/bicycle safety for the purposes of providing recommendations to avoid conflicts between various modes of transportation. This analysis is in addition to any Vehicle Miles Traveled (“VMT”) or Level of Service (“LOS”) analysis that may already be required.
 - 2) Any proposed gas station shall be minimum of 500 feet from an existing gas station, as measured between the shortest distance from either the perimeter of the gas station operations or parcel lines, subject to the determination by the Community Development Director, except that any intersection of two arterial streets (as defined in the City’s General Plan) or of any two existing streets each with at least four travel lanes (two in each direction) may have two gas stations on separate corners. An exception to the 500 foot buffer may also be considered if a gas station is part of a larger master development plan consisting of at least 45,000 square feet of building floor area, subject to the approval of the applicable decision making body.
 - 3) The speakers on gas pumps shall comply with all applicable noise regulations in the Oakley General Plan.

- 4) Any new gas station shall include a parking location for fueling trucks that does not block or cross over any required drive aisles or off-street parking spaces.
 - 5) Any new gas station shall consider including alternative fuels pumps as an option to customers with alternative fuel vehicles.
- d. Operational Standards.
- 1) Hours of operation for all or any individual component of a gas station (i.e., pumps, convenience store, carwash, or vacuum stations) may be limited as a condition of approval in the conditional use permit as necessary to achieve compatibility with adjacent sensitive land uses.
 - 2) The applicant shall prepare and submit an operational plan related to litter control, and/or recycling as a part of the conditional use permit application, subject to the review and approval of the Community Development Director.
 - 3) The applicant shall prepare and submit an operational plan addressing noise, loitering or other potential nuisances that may be caused by employees, patrons, or other citizens while on the premises, subject to the review and approval of the Community Development Director. The operational plan shall include plans to ensure graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses.”

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

“9.1.1242 Self-Storage.

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

- 1) Any application for approval of a conditional use permit for a self-storage use shall include a demand study that supports the need for the new business in order to accommodate population growth within the City of Oakley rather than growth of surrounding jurisdictions.
- 2) Any self-storage proposed as a part of a mixed-use project with a retail/commercial frontage in the C (General Commercial) District shall meet the following minimum standards:
 - i. The project shall be designed so only the storefronts for the retail component and tenant spaces/buildings are directly accessible and visible from the main street frontage, with the exception of the self-storage leasing office, which may also be accessible and visible. All building area for self-storage shall be located behind the frontage buildings.
 - ii. Off-street parking for the commercial component shall provide at least 1 parking space per 200 square feet of gross floor area, regardless of any known uses at the time of the conditional use permit application, unless those uses require a higher number of parking spaces for the relative floor area, in which case that number should be applied to that area.
 - iii. The storing or renting of moving vans/trucks shall only be allowed if explicitly stated in the conditional use permit. Moving vehicles may only consist of self-motorized vehicles and shall be stored in designated areas that do not occupy required parking or drive aisles associated with the self-storage. No moving vehicles may be stored in areas visible from the adjacent right of way(s) or be used as signage.
- d. Operational Standards.
 - 1) Hours of operation for entrance to the self-storage area may be limited as a condition of approval in the conditional use permit.
 - 2) The applicant shall prepare and submit an operational plan related to litter control, and/or recycling as a part of the conditional use permit application, subject to the review and approval of the Community Development Director.
 - 3) The applicant shall prepare and submit an operational plan addressing noise, loitering or other potential nuisances that may be caused by employees, patrons, or other citizens while on the premises, subject to the review and approval of the Community Development Director. The operational plan shall include plans to ensure graffiti shall be removed within 48 hours of it being discovered by or reported to the businesses."

SECTION 6. California Environmental Quality Act (CEQA).

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

SECTION 7. Effective Date and Posting.

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

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2023 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Aaron Meadows, Mayor

Date

ATTEST:

Libby Vreonis, City Clerk

Date

STAFF REPORT

DATE: January 24, 2023

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

FROM: Libby Vreonis, City Clerk; Kim Snodgrass, Deputy City Clerk

Cc: Brent Smith, Community Development Director

SUBJECT: Appeal of Hearing Officer's Decision Regarding the Illegal use of Fireworks

Background and Analysis

Appellant is the property owner of 4799 Bayside Way, Oakley, California. On July 1, 2022, an Oakley Police officer on patrol saw several significantly large mortar style fireworks coming from the area of Bayside Way. As the officer approached the residence at 4799 Bayside Way, he observed several subjects gathered in the driveway who ran into the house upon the officer's arrival. The officer saw smoke and firework remnants in the driveway and observed several juveniles taking the spent firework shells and running into the garage while the property owner was watering the front lawn where the fireworks were being launched from. The officer spoke with an adult male who said all the fireworks were gone and that he was done for the night. The officer did not see who was physically lighting the fireworks off, but the adult male acknowledged hosting the fireworks show and his statement was recorded on the officer's body worn camera.

On July 6, 2022, Code Enforcement mailed Administrative Citation AC-22-000206 to the property owner.

On July 12, the property owner submitted the request for Appeal of Administrative Citation form along with the hardship waiver, the hardship waiver was denied, and a denial letter was sent to the property owner informing him that to secure a hearing he would be required to make a deposit of \$250.

On July 22, 2022, the Community Development Director spoke to the property owner and informed him that he would need to make the deposit to secure a hearing. The property owner was adamant that he was not responsible, and that Police had spoken to his neighbor.

On July 25, 2022, the property owner paid the deposit to secure a hearing.

On August 17, 2022, the matter was heard before an administrative hearing officer with the property owner and Chief of Police present. During the hearing, the Chief of Police testified that the patrol officer had body worn camera footage of the property owner admitting he had hosted the fireworks display. The property owner denied speaking to the officer and making such a statement. The camera footage was not available at this hearing; therefore, the hearing officer ordered a continuation of the hearing so that the body worn camera footage could be made available for review by him as well as the property owner.

On September 28, 2022, a continued hearing was held. The hearing officer, Chief of Police and property owner were present. The camera footage was reviewed during the continued hearing. The hearing officer's decision affirmed the citation and denied the appeal, indicating, "...irrelevant that the officer was talking to "a neighbor" or whether that person admitted to being involved... The Oakley ordinance holds property owners responsible for the use of fireworks on their property, whether or not they personally were involved in setting them off."

On September 29, 2022, a copy of the decision was mailed to the property owner.

On October 19, 2022, the property owner called Code Enforcement to say that his neighbor admitted to discharging the fireworks in the street in front of his home and agreed to take full responsibility. Code Enforcement documented this in their case notes and requested that he have the neighbor contact Code Enforcement to pay the fine.

On October 20, 2022, the property owner called and requested a refund of his deposit and informed Code Enforcement that he wants responsibility to be put on his neighbor. He was informed that he would need to go through the appeal process to present the new information.

On October 24, 2022, the neighbor called Code Enforcement for an update, he was provided an update, and it was suggested he contact the property owner to coordinate since another appeal would have to be submitted for further consideration.

The property owner was informed that he could have the neighbor pay the fine and the case would be closed but he was adamant about having his name removed from the case.

On November 3, 2022, when the property owner was contacted by Code Enforcement, he advised Code Enforcement that he would like to continue with the appeal of the hearing officer's decision to the City Council and acknowledged he understood the appeal would not be on the calendar until January 2023.

On December 15, 2022, staff mailed a Notice of Hearing to the property owner advising of the hearing date, time, and location.

Staff Recommendation

Staff recommends that the City Council review the Hearing Officer's decision and either confirm or deny the decision.

Attachments

1. Administrative Citation dated July 6, 2022
2. Request for Appeal of Administrative Citation
3. Hearing Officer's Order to Continue
4. Hearing Officer's Decision
5. Request for Appeal of Hearing Officer's Decision
6. Statements from neighbors
7. Notice of Hearing

ADMINISTRATIVE CITATION

Mailing Date: July 6, 2022
FLORES DARRELL & ELIDE
4799 BAYSIDE WAY
OAKLEY, CA 94561-3245

Citation No: AC-22-000206
Responsible Party: FLORES DARRELL & ELIDE
Property Address: 4799 BAYSIDE WAY
Parcel Number: 035-740-035
Case Number: CE-22-0701

To FLORES DARRELL & ELIDE,

Date: July 6, 2022

The property listed above has been found to be in violation of the City of Oakley's Municipal Code. As a result of the inspection on July 1, 2022, an Administrative Citation is being issued. The violation(s) below require immediate action by the property owner/resident. **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 § 4.1.104 - Use, Discharge, Possession, Storage or Sale of Fireworks states:

- a. It is unlawful and a public nuisance for any person to use, discharge, possess, store or sell fireworks on public or private property without a written, advance authorization issued by the Chief of Police for supervised public displays of fireworks by a jurisdiction, fair association, amusement park, or other organization.*
- b. It is unlawful and a public nuisance for a responsible person to allow the use, discharge, possession, storage or sale of fireworks on private property when the responsible person knows or should know of the use, discharge, possession, storage or sale of fireworks at the property.*

CITATION AMOUNT: \$1,000.00

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 \$1,000 per violation.

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** and must be paid by mail or in person to the City of Oakley by **August 5, 2022**, 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-22-000206** on your check or money order.

If the citation is not paid within thirty (30) days or appealed within 10 days from **July 6, 2022**, 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



Finance Department
3231 Main Street
Oakley, CA 94561
Tel (925)625-7000 Fax (925)625-9859

Credit Card Authorization Form

Business Name/Company Name: _____

Business Address: _____

Cardholder's Name (as it appears on the credit card): _____

Billing Address (if different than business address): _____

City: _____ State: _____ Zip Code: _____

Telephone Number: (____) _____

Amount to be Charged: \$ _____

Authorized Signature: _____ Date: _____

Card Type: ☐ Mastercard

☐ Visa

Card #: _____

Card ID#: _____

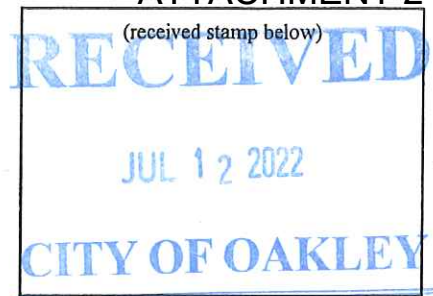
Expiration Date: _____

CITY STAFF: ONCE YOU HAVE PROCESSED CHARGES THROUGH THE REGISTER, PLEASE ATTACH THE CREDIT CARD RECEIPT AND FORWARD THIS COMPLETED FORM TO THE FINANCE DEPARTMENT AT THE END OF EACH DAY.

OAKLEY



CALIFORNIA



REQUEST FOR ADVANCE DEPOSIT HARDSHIP WAIVER

This request must be filed with the Community Development Director or designee within ten (10) regular business days of the date of issuance of the notice regarding initial review as set forth in Oakley Municipal Code Section 1.5.209(b). Please return this form to City of Oakley, Community Development Director, 3231 Main Street, Oakley, CA 94561.

Name: DARRELL FLORES

Citation No.: AC-22-000206

Date Citation Issued: JUL 6 2022

Penalty Amount: \$ 1,000

PLEASE READ THE FOLLOWING INFORMATION:

The hardship waiver program is voluntary. The person requesting this hardship waiver must show by substantial evidence that he or she does not have the financial ability to make the advance deposit of the fine amount for an appeal hearing. Failure to provide sufficient information or falsification of information can result in a determination of ineligibility for this hardship waiver.

The information you provide will assist the City in deciding whether you qualify for a hardship waiver of the advance deposit. It may include any document(s) verifying your sources of income such as social security, general assistance, AFDC, current paycheck, etc. It may also include any document(s) verifying your monthly expenses such as a rental agreement or mortgage statement, utility bills (including low-income utility eligibility verification, if applicable), loans or credit card statements, etc. **All information supporting your hardship waiver request must be submitted with this form.**

The Director shall make a decision on the hardship waiver request within ten (10) days of receipt of the request and shall mail the decision to the citee at the address provided in the Request for Appeal of Administrative Citation. The decision of the Director is final.

PLEASE NOTE: If the waiver is denied, you must submit the advance deposit to the City within ten (10) regular business days after the date shown on the decision. Failure to do so will result in forfeiture of your appeal request. If the request for a hardship waiver is granted, but the administrative citation is upheld by the administrative hearing officer, the fine shall be due and payable within ten (10) working days after the date the administrative hearing officer's decision is issued.

I hereby request a waiver of the advance deposit for the appeal of administrative citation and declare hardship based on the information I have provided to the City of Oakley. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing statement and all information provided on this Request for Advance Deposit Hardship Waiver and in support of this Request for Advance Deposit Hardship Waiver is true and correct.

Signature: [Signature]

Date: 7-11-22, 2022

(FOR CITY OF OAKLEY USE ONLY)

Received by:

[Signature]

Routing:

City Clerk

City Attorney

Code Enforcement

Finance

Community Development

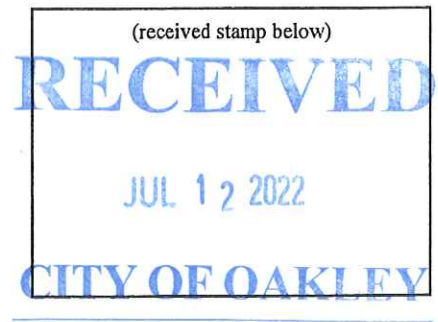
Received via:

Mail

Person ☒

Other ☐

OAKLEY
— —
CALIFORNIA



REQUEST FOR APPEAL OF ADMINISTRATIVE CITATION

Return this form to: City of Oakley
Office of the City Clerk
3231 Main Street
Oakley, CA 94561

Appellant/Citee Information

Appellant/Citee Name(s): DARREN FLORES
Mailing Address: 4799 BAYSIDE WAY
City: OAKLEY State: CA Zip Code: 94561
Phone: (925) 628-2972 Fax: ()
E-mail: crazyddarren@aol.com

Citation Information

Citation Number: AC-22-000206 Date of Citation: JULY 6 2022
Amount of Citation: \$ 1,600

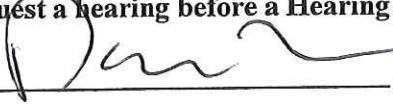
I request an appeal of administrative citation for the following reason (check at least one box):

- ☒ I deny that a violation has occurred.
☐ I deny that the citation was not corrected within the correction period.
☐ I deny that I am a responsible person (as set forth in Title 1, Article 2, Chapter 5, Section 1.5.202.i. of the Oakley Municipal Code) for the violation.

Please explain the basis for your appeal. You may attach as many additional sheets as necessary.

I DID NOT DISCHARGE, POSSESS, STORE, OR SELL
FIREWORKS, I HAVE LETTERS FROM NEIGHBORS
AND MY FAMILY TO VERIFY.

I hereby request a hearing before a Hearing Officer on this citation:

Signature:  Date: JULY 11, 2022

(FOR CITY OF OAKLEY USE ONLY)

Received by: K. Snodgrass

Received via: Mail
Person
Other

Payment:

Routing:

Cashier Reference
Receipt Acct. #:
Admin. Citation Acct. #:

Advance Deposit Hardship Waiver
Code Enforcement City Attorney
City Clerk Finance

ADMINISTRATIVE CITATION HEARING

Oakley, California

In the matter of)
)
 DARRELL FLORES)
)
 Citation #AC22-000206)

ORDER

The parties appeared for hearing on August 17, 2022 regarding this citation dealing with illegal fireworks. The Chief of Police testified that a patrol officer spoke with Mr. Flores on the evening of July 1, 2022 and recorded Mr. Flores on the police body camera admitting that he had hosted the fireworks display. Mr. Flores denied speaking to the officer and making such a statement. It appears that the body camera footage will be somewhat dispositive of this case. Therefore I wish to view the body camera footage along with any other photographic or recorded evidence that the City wishes to present. Mr. Flores has the right to review such evidence and to comment on it. While his presence at a continued hearing is not mandatory, the City should notify him of the continued hearing date and accommodate his schedule so that all parties who wish to attend may do so.

IT IS SO ORDERED.

Dated: 8-19-22



WILLIAM R. GALSTAN
 Administrative Hearing Officer

ADMINISTRATIVE CITATION HEARING

Oakley, California

In the matter of	)	
	)	
DARRELL FLORES	)	DECISION
	)	
Citation #AC22-000206	)	
_____	)	

Hearing: The continued hearing was held on Sept. 28, 2022. The Citee appeared, as did Police Chief Rust.

Violation: OMC 4.1.104, illegal use of fireworks or allowing on property.

Decision: The citation is AFFIRMED and the appeal is DENIED. The \$1,000.00 fine is approved.

Reasons: This case seemed to be heading in Mr. Flores' favor. The City said that an on-duty patrol officer saw fireworks in the neighborhood, the officer had contact with an adult male who acknowledged hosting the fireworks, and that these comments were captured on the officer's body camera. Mr. Flores said that the officer spoke to his neighbor. I requested an opportunity to review the body camera tape, which was done at the hearing. Clearly the man on the tape was not Mr. Flores, indeed, Mr. Flores can be seen in the background watering his lawn.

The incident occurred on July 1, 2022 at 11:09 p.m. in Mr. Flores' driveway. I inquired of Mr. Flores why "the neighbor" was on his property, and he responded that the neighbor was returning a tool to Mr. Flores' garage. I also inquired as to why Mr. Flores was watering his lawn at 11:00 at night, to which he responded that he heard the fireworks and came out to water the lawn, which had some brown spots. I noted from watching the video that Mr. Flores also appeared to be directing some water on the sidewalk, which Mr. Flores denied.

At this point, although some of Mr. Flores' testimony seemed improbable or were remarkable coincidences ("the neighbor" returning a tool just as the police officer arrived), the fact that the person on the video was not Mr. Flores seemed to be strong evidence that he should not be cited.

However, I decided to re-read the officer's report. Here is what was said: "He saw several subjects gathered around the driveway of 4799 Bayside Way and ran into the house upon arrival. He also saw smoke and remnants of fireworks in the driveway. Several juveniles were taking the spent firework shells and running into the garage while the homeowner was watering the front lawn where the fireworks were being launched from."

These comments put an entirely different twist on the story and, frankly, makes it irrelevant that the officer was talking to "a neighbor" or whether that person admitted to being involved.

The Oakley ordinance holds property owners responsible for the use of fireworks on their property, whether or not they personally were involved in setting them off. Here there is evidence from a sworn peace officer that several persons were gathering in Mr. Flores' driveway, juveniles were taking spent fireworks shells into his garage, and the officer had seen fireworks coming from that location. It seems unlikely that "the neighbor" would have come returning a tool at 11:00 at night just as a police car was pulling into the driveway, and improbable that Mr. Flores would have been interested in landscape irrigation at that time of night. While Mr. Flores did not directly speak a mistruth to me, I feel that he was not being entirely candid about his participation in this incident.

This is a civil proceeding, not a criminal one. Thus the standard of proof for the City is "more likely than not" rather than the more strict criminal standard of "beyond a reasonable doubt." I find it more probable than not that fireworks were being used on Mr. Flores' property as alleged in the citation. If a deposit for the appeal has been posted, it shall be credited toward payment of the \$1,000.00 fine.

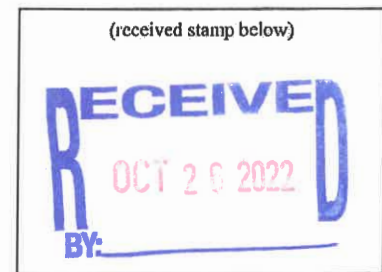
Deadline for Compliance: The violation has already occurred so there is nothing Citee needs to do to get into compliance other than pay the fine.

Deadline for Further Appeal: If Appellant desires to appeal this decision to the Oakley City Council, he must file a written appeal with the City Clerk not later than ~~5:00~~ ^{12:00} p.m. on October 27, 2022. *WRG*

Dated: September 28, 2020



WILLIAM R. GALSTAN
Administrative Hearing Officer



REQUEST FOR APPEAL OF ADMINISTRATIVE CITATION

Return this form to: **City of Oakley
Office of the City Clerk
3231 Main Street
Oakley, CA 94561**

Appellant/Citee Information

Appellant/Citee Name(s): DARRELL FLORES
 Mailing Address: 4799 BAYSIDE WAY
 City: OAKLEY State: CA Zip Code: 94561
 Phone: (925) 628-2972 Fax: ()
 E-mail: crazyddarrell@aol.com

Citation Information

Citation Number: AC-22-000206 Date of Citation: JULY 1 2022
 Amount of Citation: \$ 1,000

I request an appeal of administrative citation for the following reason (check at least one box):

- ☒ I deny that a violation has occurred.
☐ I deny that the citation was not corrected within the correction period.
☒ I deny that I am a responsible person (as set forth in Title 1, Article 2, Chapter 5, Section 1.5.202.i. of the Oakley Municipal Code) for the violation.

Please explain the basis for your appeal. You may attach as many additional sheets as necessary.

I WAS CITED FOR FIREWORKS USE,
THE NEIGHBOR HAS CONFESSED TO
DISCHARGING THE FIREWORKS

I hereby request a hearing before a Hearing Officer on this citation:

Signature: [Signature] Date: 10.26, 2022

(FOR CITY OF OAKLEY USE ONLY)

Received by: _____

Received via:

- ☐ Mail
☐ Person
☐ Other _____

Payment:

Routing:

Cashier Reference

Receipt Acct. #:

Admin. Citation Acct. #:

- ☐ Advance Deposit ☐ Hardship Waiver
☐ Code Enforcement ☐ City Attorney
☐ City Clerk ☐ Finance

To Whom it May
Concern My Name is
Gerald Washington and
I did not witness or
see Mr Flores setting
off Fire Works on July 1st
of 2022 I am the neighbor
across the street.

Gerald Washington

To whom this may concern:

I am Gonzalo Chayrez, I live next to Darrell. I have not seen Darrell discharge any fireworks.

On July 1st, 2022, I was returning a tool back to Darrell. He was watering his front lawn and asked if I would place it into his garage. As I placed it into his garage the Oakley P.D pulled up.

~~Gonzalo Chayrez~~

~~8/15/2022~~
Date

CITY COUNCIL
Aaron Meadows, Mayor
Anissa Williams, Vice Mayor
George Fuller
Shannon Shaw
Hugh Henderson



CITY HALL
3231 Main Street
Oakley, CA 94561
925.625.7000 tel
925.625.9859 fax
www.ci.oakley.ca.us

December 15, 2022

Sent via certified mail

DARRELL & ELIDE FLORES
4799 BAYSIDE WAY
OAKLEY, CA 94561

NOTICE OF HEARING

Re: Appeal of Administrative Hearing Officer's Decision
Administrative Citation # AC-22-000206 issued by the City of Oakley 07/06/22
4799 Bayside Way (APN 035-740-035), Oakley, California 94561

Mr. and Mrs. Flores,

In response to your request for an appeal of the Administrative Hearing Officer's Decision, you are hereby notified that an appeal hearing will be held on Tuesday, January 24, 2022, beginning at 6:30 p.m. or soon thereafter before the Oakley City Council during the Regular City Council Meeting located in the Oakley City Council Chambers located at 3231 Main Street, Oakley, CA 94561. Please confirm your attendance upon receipt of this Notice by contacting the undersigned at (925) 625-7013 or vreonis@ci.oakley.ca.us. Enclosed is a copy of Oakley Municipal Code Section 1.5.212 for your reference.

Libby Vreonis, City Clerk
City of Oakley

Cc: Joshua McMurray, City Manager
Kim Carmody, Deputy City Clerk
Brent Smith, Community Development Director

1.5.212 City Council Review.

If the Citee is dissatisfied with decision of the Hearing Officer, he or she may request review of the matter by the City Council. Such request shall be made on a form provided by the City and filed with the City Clerk on or before the fine due date indicated on the Hearing Officer's decision. The Citee may file with the City Council any written argument or explanation that the Citee wishes the City Council to consider. The Council may review the matter based upon the written record presented to it, or at its discretion may allow oral argument to be made by the parties. The City Council shall announce its decision on the review of the matter at the meeting where the matter is considered, or at such a meeting to which the matter may be continued by the Council. The City Clerk shall send a notice to the Citee indicating the decision made by the City Council and the time and procedure for seeking judicial review of the decision.

STAFF REPORT

DATE: January 24, 2023

TO: City Council

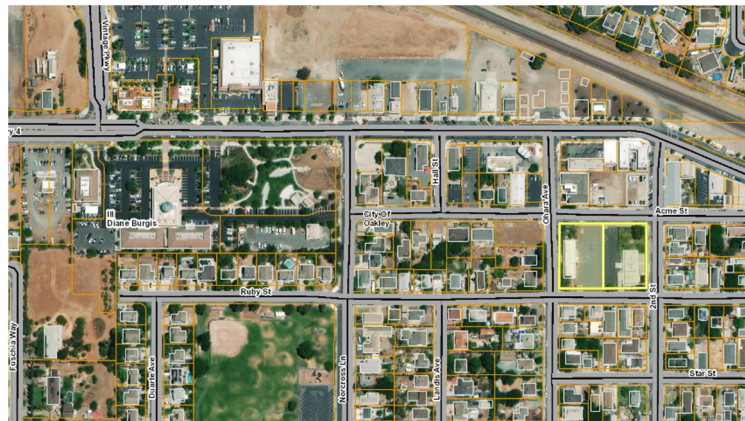
FROM: Joshua McMurray, City Manager

SUBJECT: Work Session – Library Initial Feasibility Analysis

Background

In April of 2022, the City Council approved a Cooperative Agreement with Contra Costa County that would allow the demolition of the former Contra Costa County Sheriff's Office substation located at 210 O'Hara Avenue. That demolition work is slated for early this year. The demolition of the structure would mean the City is then deeded the property by the County to find funding for both the construction and eventual ongoing maintenance of a future library building. At that time the City was focused on the parcel the substation sits on, which is half of a larger block bordered by O'Hara Avenue to the west, Acme Street to the north, 2nd Street to the east and Ruby Street to the south.

The other half of the block is owned by the City and houses the Oakley Seniors in the Senior Center located in a repurposed 1960's fire station. Each parcel is approximately 27,000 square feet and the entire City block is 54,000 square feet or 1.24-acres.



The two parcels are shown outlined in yellow.

Since that time, the City hired Management Partners (now Baker Tilly after an acquisition), to conduct a feasibility analysis on a potential new Library. The analysis focuses on the entire City block and has several options for the City Council to review and provide direction on. Staff gave the consultant simple parameters in that we wanted options that would include little to no debt service to the City, the desire to look for alternative funding arrangements that would not focus on asking the residents of Oakley for a new tax or assessment. We also wanted to ensure we look at possibly providing space for community groups, like the Oakley Seniors and Veterans of Oakley who have inadequate space in the City right now. In addition, the County Library routinely partners with other County services and a larger space in Oakley could lead to more partnerships.

All of the options to be presented have a mixed-use multi-family housing component incorporated into the project. The purpose of the housing component allows the City to utilize a Public Private Partnership (P3) model, which in this case would allow a developer to provide the City a public facility as part of a private development project. The attached analysis details how that is possible and how variations on the concept reduce or almost eliminate any debt service to the City.

There are many moving parts and some unanswered questions. One of those questions is how the County would view this change in direction as we are now discussing the possibility of adding housing on the parcels (both City and County). At the time the agreement was signed, the City was focused on the single parcel the substation currently sits on, without housing. The analysis, in my opinion, meets the intent of the agreement but does change the current arrangement which would need to be discussed with the County and possibly an amendment to the current agreement could be needed.

There are some decision points that need to be made and Staff would like direction after receiving the presentation from our consultant. Staff will discuss this in more detail at the work session and will guide the Council based on the analysis presented.

In response to a request made by Councilmember Fuller at the January 10th City Council Meeting, Staff has asked for an update on the Library Foundation of Contra Costa (LFCC). Contra Costa County Librarian Alison McKee and Nicole Gemmer, Chair of the LFCC Organizing committee, will be present to provide an update to the City Council.

Recommendation

Staff recommends the City Council provide direction to Staff based on the initial feasibility analysis presented during this work session.

Attachments

1. Initial Feasibility Analysis for Oakley Library Mixed-Use Project
2. Staff Report dated April 26, 2022



July 1, 2022

Mr. Joshua McMurray
City Manager
City of Oakley
3231 Main Street
Oakley, CA 94561

Dear Mr. McMurray:

Thank you for the opportunity to provide a proposal to help evaluate the feasibility of constructing a new library and potentially a new senior center in Downtown Oakley, consistent with the community and economic development goals of the City's Strategic Plan. As part of this effort, we understand that City leaders are interested in pursuing a public/private partnership for a mixed-use development, among other potential funding options.

Entering into a public/private partnership to construct public and private facilities is a complex undertaking with many variables to consider. Management Partners has the expertise and skills necessary to provide this assistance, and we would be pleased to do so. Before we discuss our approach, we would like to share some brief information about our firm.

About Management Partners

Management Partners was founded in 1994 with a specific mission to help local government leaders improve their service to the public. Since then, we have worked with cities, counties, towns, and special districts of all sizes across the United States to help them work more effectively and run more efficiently.

We offer a balance of perspectives with a practitioner's bias and a proven track record of successful consulting engagements. This experience gives us a sensitivity that produces positive outcomes. We are proud to say that as a result of our quality work, many of our clients ask us to complete subsequent assignments.

- *We Know Local Government.* Our associates have served in local governments, so we have a deep understanding of the operating and political environments in which you work.
- *We Take a Collaborative Approach.* We consider ourselves part of your team and strive to ensure our work supports your overall corporate strategy and goals.
- *We Have Extensive Experience.* Each of our more than 100 associates is an expert in one or more service areas, and our firm has assisted hundreds of jurisdictions in 44 states.
- *We Have Developed Proven Methodologies.* We understand the importance of a holistic approach to improving organizations, using field-tested methods for each aspect of the work.
- *Our Work Plan is Tailored to Your Needs.* Each of our projects is individually tailored to our client's unique needs, starting with a careful learning process.

- *We Take Pride in the Quality of Our Work.* Our internal processes ensure first-rate, complete staff work and adherence to the highest of ethical standards in public service.
- *We Are Focused on Implementation.* As practitioners, our recommendations make practical sense and are able to be implemented.
- *We Provide a Full Suite of Services.* Management Partners' services include everything required to support local government leaders, including organization assessments, performance management, process improvement, strategic planning, and financial planning, budgeting and analysis.

Understanding of the Engagement

Incorporated in 1999, Oakley is the eleventh newest city in California. An agricultural past gave rise to a growing community with landscaped parks, recreational opportunities, shopping centers and planned business and commercial development. Current and new residents alike desire a vibrant community with diverse amenities. A key amenity that the City lacks is a robust library in the downtown area. The current library space shared with the high school (3,000 square feet) is significantly limited in programming, community access, and available space.

In April 2022, leaders in Oakley adopted a five-year Strategic Plan that includes community and economic development goals to align residential, commercial, and industrial growth in part to:

- Develop the downtown area by adding mixed uses;
- Develop or sell City-owned property based on the community benefit; and
- Consider constructing a new library as a unifying location for seniors, youth, and veterans, and a potential satellite location for County services.

To further these goals, the City recently entered into a cooperative agreement with Contra Costa County to share the cost of demolishing a vacant Sheriff's Office substation, adjacent to City-owned property, that could pave the way for a downtown community library and other potential uses. The agreement includes a provision to transfer ownership of the building from the County to Oakley if library funding is secured by the City by July 30, 2024. Together, the parcels comprise a 1.1-acre site that could possibly support a library and a senior center.

City leaders now wish to engage a consulting firm to conduct preliminary site and financing analysis, and associated coordinating activities more fully described below in our proposed plan of work.

Proposed Plan of Work

Based on our experience with public/private partnerships and our understanding of the needs of the City of Oakley, we have prepared the following plan of work.

Activity 1 – Start Project

Management Partners will begin the project by meeting with you, the assigned project manager, and other appropriate staff. The project start-up activity forms the foundation of the relationship between Management Partners' team and the City's team. During this initial meeting, we will confirm deliverables and due dates to ensure the project is completed on time and on budget and that our proposed scope of work is aligned precisely to meet your goals.



We understand that the work associated with this review is in addition to the normal work of the organization. Our goal is to integrate our activities in a manner that is thoughtful and minimizes disruption to the department.

We will have provided a data request prior to this meeting and will review the material collected by staff to identify any other data needs.

Activity 2 – Gather and Review Background Information

Next, Management Partners will gather and review background information, including the following.

- *Review background material.* To develop an informed understanding of the potential opportunities and issues associated with financing and constructing a library, we will review available information on the (unsuccessful) Oakley Library Ballot Measure K, as well as existing agreements with Contra Costa County that may impact library financing and construction. These items will be detailed in the document request referenced in Activity 1.
- *Conduct interviews.* Management Partners will interview appropriate City leaders to learn about available land for residential development, existing development impact fees, and zoning standards for the site.

At the conclusion of this activity, we will summarize the results of our review, and identify any additional information that may be needed to conduct the preliminary analysis outlined in Activity 3.

Activity 3 – Conduct Preliminary Site and Financing Analysis

During this activity, we will conduct the following preliminary analysis to evaluate siting and financing options.

- Assess the potential amount of site development and size of library and senior center,
- Review affordable housing goals,
- Explore potential funding sources including development impact fees, grants, and public/private partnerships (3P), and
- Determine Surplus Land Act constraints on 3P approach with legal counsel.

The deliverable associated with this activity will be a report for staff and the City Council. The report will include our initial analysis and proposed elements of a request for proposals process to engage a team of development-related experts.

Activity 4 – Prepare a Request for Proposals (RFP) and Coordinate Solicitation Process

During this activity, we will perform the tasks outlined below to ensure that the right mix of consultants is engaged to achieve the City's desired goals.

- Determine consulting team required for detailed analysis that includes the disciplines of architecture, economic development, finance, and real estate development.
- Draft an RFP for review by staff and City Council.
- Coordinate the solicitation and review of proposals and the award of a consultant contract.

Activity 5 – Coordinate Detailed Site and Financing Analysis

Once the development consulting team is in place, a significant amount of work will be necessary to archive and organize the various analyses and documents that will be produced. During this activity, the Management Partners team will:

- Coordinate the development consulting team's analyses and assist with the preparation of associated summary reports.
- Facilitate internal stakeholder discussions to determine desired uses within site capacity.



- Provide expert advice to City leaders on available and practical financing options.
- Recommend action planning steps to create the new library and/or mixed-use facility.
- Prepare concise information for staff to include in City Council presentations and reports regarding the detailed site and financing analysis.

Our Experience and Qualifications

In addition to the references below, our website, managementpartners.com, has information about our past clients, which include hundreds of jurisdictions in 44 states, and you are welcome to contact any of them about our performance.

City of Hayward, California ⇒ Economic Development Management Services

Management Partners was engaged to provide expert consulting assistance for the disposition of surplus property the City acquired from Caltrans for the defunct 238 Freeway Bypass. Our work involved preparing work plans with tasks, deliverables, and timelines; preparing various reports for policy bodies; coordinating the work of third-party consultants to analyze parcels and California Environmental Quality Act (CEQA) review; coordinating research for the City of Hayward staff coordinating committee; and coordinating the transfer of property management for tenants.

Contact: Ms. Kelly McAdoo, City Manager
City of Hayward
777 B Street, 4th Floor
Hayward, CA 94541
(510) 583.4305
Kelly.McAdoo@hayward-ca.gov

Santa Barbara County, California ⇒ County Library Consulting Services

Management Partners was retained by Santa Barbara County to examine the library system and current funding model to identify improvements in sustainability, funding, equity among stakeholders and communities, and improvements in library services for Santa Barbara County residents. Our approach included conducting interviews with a variety of stakeholders, including County Supervisors, elected officials from cities served by the library system, library directors, Library Advisory Committee members, Friends' Groups members, and others interested in the future of the library; researching case studies from six county library systems with varying service delivery models; and reviewing budgets and numerous other documents. Recommendations focused on improvements to funding and service delivery.

Contact: Mr. George Chapjian, Director
Community Services Department
County of Santa Barbara
123 East Anapamu Street
Santa Barbara, CA 93101
(805) 568-2467
gchapjian@co.santa-barbara.ca.us

Midpeninsula Regional Open Space District, California ⇒ Organizational and Workforce Development

This special district owns and operates preserves and undeveloped open space within portions of San Mateo and Santa Clara Counties. In 2014 voters passed a \$300 million bond measure to enable the



District to develop and open more preserves and obtain additional open space. This doubled the District's capital improvement and acquisitions budget, and also represented a major increase in maintenance and operations responsibilities. Midpeninsula retained Management Partners to develop a plan to overhaul staffing and organizational arrangements in the District to be able to handle the additional responsibilities and expectations created by the passage of the bond measure. This represented a fundamental shift in the operational environment similar to that being confronted by OCERS. Management Partners has continued to assist Midpeninsula as they implement the staffing and operational changes recommended in the initial workforce analysis. The project resulted in the development of several new and substantially revised programs in response to a large bond measure.

Contact: Ms. Ana Ruiz, General Manager
Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022
(650) 691-1200
aruiz@openspace.org

Our Team

We have a strong project team that is well-qualified to complete this work for Oakley. Andy Belknap will serve as project director and will oversee the substantive work of the project. Patrick O'Keeffe will serve as project manager and will be responsible for execution of the project. They will be supported by Steve Mermell, Slater Matzke, Pete Gonda, and Management Partners' analyst staff. Brief qualifications of each team member are provided below. Additional subject matter experts will be available to assist as the engagement progresses and options are refined.

Andrew Belknap, Senior Vice President

- More than 20 years of local government experience, including service as a city manager, public works director, a variety of interim management positions, and as consultant to California municipalities and special districts.
- Expert in **local government financial management**; has **led numerous projects to address structural fiscal deficits** in diverse settings including the cities of San Jose, Fremont, Santa Ana, Santa Cruz, Bakersfield, Sacramento and Tracy, California as well as the Ports of Oakland and West Sacramento.
- During 2008 and 2009, Andy served as an expert witness in the City of Vallejo's bankruptcy proceeding. In 2011 and 2014 he served as project manager for the City of Stockton's AB 56 process mediation and subsequent chapter 9 bankruptcy and recovery. Between 2015 and 2017 he **managed the City of San Bernardino's bankruptcy and developed the plan of adjustment** for the City, which led to fundamental changes in governance and operations.
- As a result of bankruptcy recovery and other work, he is expert at developing alternative service delivery arrangements, as well as revenue development, over a broad array of municipal services including **law enforcement, fire, EMS, code enforcement, public works, parks and recreation and community development**.
- Andy has served well **over 200 California and Nevada local governments**, many on multiple occasions, including 19 of the largest 20 cities.
- A trained economist, Andy brings a special **expertise to fiscal analysis and public finance issues**. His blend of quantitative skills, coupled with a practitioner's understanding of public services and management systems, adds value to all types of organizational and policy analysis.



- Working with a detailed long term fiscal model Andy and Management Partners have developed **a tool for modeling “revenue loss” and other eligible funding uses, as specified in the American Rescue Plan (ARPA) legislation and Treasury rules.** The model can run a multitude of scenarios and be used in workshops considering alternative uses for ARPA funding.

Patrick O’Keeffe, Special Advisor

- 39 years of public sector management experience.
- Provides expert advice to public sector clients in a variety of disciplines, particularly focusing on economic development and real estate. He also serves as facilitator for policy level groups and team meetings and workshops.
- He has a strong understanding of policy issues as well as methods of effectively assisting groups to achieve consensus on critical issues.
- Extensive expertise in redevelopment, economic development, capital improvement programs, public-private partnerships, real estate management and financial analysis.
- Began his career with the City of Concord Redevelopment Agency where he served as project manager of public facility projects and public/private economic development partnerships.
- He then served as director of the Community Development Department/Redevelopment Agency for the City of El Cerrito.
- Served for 12 years as director of economic development and housing for the City of Emeryville, and was then appointed city manager.



Steve Mermell, Special Advisor

- More than 30 years of local government experience, including service as a city manager, assistant city manager, finance director, as well as a variety of other management positions.
- Expert in local government financial management; developed and implemented strategies to address structural budget deficits. Developed a funding plan to address a \$150 million unfunded pension liability. During the 2009 financial crisis, managed the refinancing of \$270 million in auction-rate certificates.
- Successfully obtained voter approval for measures related to an increase in local sales tax, cannabis regulation and taxation, a special tax to support library operations, and continuation of annual transfers from power utility fund to the city’s general fund.
- As assistant city manager restructured the Pasadena Public Health Department; eliminated millions of dollars of annual losses by shifting clinical programs to non-profit partners while improving service delivery. As city manager oversaw departments’ responses to the COVID-19 pandemic.



Slater Matzke, Special Advisor

- More than 20 years of experience in the public and private sectors with an emphasis on **economic development** and **management support**.
- Assistance to cities includes **organizational capacity building**, cross-department collaboration, and **making operations more efficient and results-oriented**.
- Began his career assisting growth-stage businesses with resource acquisition, operational support, and real estate deals, before moving



into **advising state and local governments on economic development initiatives.**

- Specializes in public-private partnerships and **managing projects through the design, strategy, and implementation phases.**
- Private sector experience fosters strong connections with the development community, supports complex deals, and enables leverage of private sector interests to maximize community benefits.

Pete Gonda, Senior Manager

- More than 20 years of experience in municipal government, with an emphasis on **analytics, budgeting, procurement management, contracts and performance measurement.**
- Holds **professional procurement certification** as a Certified Public Procurement Officer (CPPO).
- Served as purchasing officer for the City of Sunnyvale, California for nine years, where he **managed an award-winning centralized purchasing division with \$42 million in annual operational spending.** Bid and awarded \$80 million in capital projects under a federally funded local economic stimulus program at a 30% savings and implemented continuous process improvements for a variety of services.
- Served as a senior management analyst in Sunnyvale's Finance Department, where his responsibilities included **intergovernmental relations, policy analysis and revenue/expense management, including cost of service studies and related activities.**
- Also worked in Sunnyvale's Department of Public Safety, the City of San Jose's Office of Economic Development, and the City of Saratoga's City Manager's Office.
- Since joining Management Partners in 2017, Pete has **helped more than 20 jurisdictions in 7 states** to improve their procurement functions. Additionally, Pete has assisted with many engagements including finance and public works department assessments; budget and funding analyses/strategies; citywide innovation and efficiency studies; strategic planning sessions; and homelessness operational plans.
- Developed/conducted requests for proposals processes for various clients' **land use studies, engineering design services, and operational outsourcing.**



Hours and Cost

Management Partners anticipates devoting 180 hours of our staff time to complete the plan of work described above. The total cost of this project is \$40,000, which includes all fees and expenses. The ultimate test of a quality project is that the client is pleased with the results, and we are committed to achieving that goal.

Please let me know if we can provide any additional information.

Sincerely,

Jerry Newfarmer
President and CEO



Accepted for the City of Oakley by:

Name: _____

Title: _____

Date: _____





STAFF REPORT

DATE: April 26, 2022

TO: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

FROM: Felicia Escover, Assistant to the City Manager

SUBJECT: CONSIDERATION OF A COOPERATIVE AGREEMENT WITH CONTRA COSTA COUNTY FOR THE DEMOLITION OF THE FORMER COUNTY SHERIFF'S OFFICE DELTA SUBSTATION LOCATED AT 210 O'HARA AVENUE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

Background and Analysis

The former Contra Costa County Sheriff's Office substation located at 210 O'Hara Avenue has been vacant since September 2019. During this time, the building has been subject to vandalism and trespassing and has required regular clean-ups of the site, diverting resources from other efforts. Staff has partnered with the County on a cooperative agreement that would allow for beneficial use of the site, specifically, the construction of a community library.

The agreement includes the following key terms:

Demolition of the Building on the Property

The 4,220 square foot building is nearly 100 years old and in a dilapidated condition. The size and state of the structure are not conducive for a library or other public use, leaving demolition as the most judicious option.

Cost-sharing of Demolition Costs up to \$200,000

The current estimate of demolition costs is \$400,000. Upon completion of the demolition, the County would reimburse the City 50%, minus the costs associated with keeping the existing wireless communication tower operational which is estimated to be upwards of \$50,000.

Transfer of the Property from Contra Costa County to the City

The County will transfer ownership of the property to the City upon the City or community partner securing capital and operational funds for the library prior to July 30,

2024. The Contra Costa County Library provides each city with 40 base hours of staffing leaving the City with minimal operating costs. These additional operating costs would be limited to building upkeep and library hours above 40 hours a week.

The proposed agreement was executed by the County Board of Supervisors on September 7, 2021, and gives the City until July 30, 2024, to identify funding. If funding is not secured by the term date, the property will revert to the County. City Staff intends to explore every possibility to meet the timeline given that the library is part of the City's Strategic Plan and there is a great need in the community for a robust library.

The California Reading Coalition produced a report indicating that only 27% of socio-economically disadvantaged Hispanic/Latino (Latinx) third-grade students in Oakley Union Elementary are at a proficient reading level [1]. The California Department of Education also reports that 43% of the Oakley Union Elementary student population, or over 2,100 students, are eligible for free or reduced-price meals; or have parents/guardians who did not receive a high school diploma¹. These numbers suggest that many students and their families are experiencing challenges and may benefit from additional programs and services.

The City's current library is situated inside Freedom High School. This 3000-square-foot space adjacent to the high school's library was meant to be a temporary location pending a standalone site. This arrangement presents many challenges given its space limitations. Contra Costa County library staff do a tremendous job offering various programs and services such as virtual Dungeons and Dragons, Virtual Teen Advisory Group, and passive programs like take 'n' make crafts. However, programming and community accessibility are limited due to the following:

- Limited open hours: 40 hours/week due to lack of space for staff
- No study rooms
- No space for large events
- Limited number of computers (8 desktops and 12 laptops)
- No quiet study spaces
- Extremely limited seating
- Very limited space for early literacy educational toys
- Inadequate parking
- No handicap parking space & limited handicap accessibility
- School vehicle traffic

The space poses other barriers including lack of public transportation, sharing restrooms with students, and individuals being uncertain about being allowed onto a high school campus. Additionally, the Library staff has recognized the following challenges – (1) the facility doesn't have a water fountain or water bottle fill station for patrons or staff (2) there is no true break room on the library side; staff has to use the teachers' lounge on the other side of A building to get water and rinse out cups and

¹ <https://www.caschooldashboard.org/reports/07617620000000/2021>

dishes (3) volunteers do not have access to a sink to use for Library programs and has to use the restroom sinks to clean up which is troublesome and can be messy.

Collectively, these reasons may be responsible for the low library cardholder rates in Oakley compared to similar-sized cities in Contra Costa County. Currently, 8,538 Oakley residents have a library card compared to Martinez residents (16,912), San Pablo (16,940), and Pleasant Hill (11,571). Furthermore, the senior citizen usage is 75% lower at the Oakley branch when compared to libraries of similar size. Library data also shows that 6% of Brentwood Library's checkouts come from Oakley residents. Additional usage statistics and comparisons can be found in the agenda packet attachment "Contra Costa County Library Partnerships".

If inadequacies in the space are addressed, many of the aforementioned barriers and accessibility concerns would be eliminated. Additionally, the following programming could be offered to community members:

- Kindergarten Countdown
- Sensory Storytime
- Bilingual Storytime
- Maker Space
- STEAM Programs
- Craft/Art Activities
- Project Second Chance tutoring
- Computer instruction
- Any type of group instruction or assistance
- Community posting board
- ESL Conversation Group
- Friends of the Oakley Library book sale
- Book clubs

City Staff will work closely with the community to design a Library project that meets the needs of current and future residents. With that said, the City is committed to incorporating best practices from modern libraries. Features include co-location of community services (employment services, caseworkers, etc.), study rooms, meeting and event spaces, a bookstore, and a café. These features would serve youth, teens, adults, and special populations including veterans, seniors, and those who may be struggling financially.

The execution of the agreement would be the first step in pursuing the creation of a standalone City-owned community library. Site control and a shovel-ready project are critical to pursuing capital funding for a community library through earmarks, public-private partnerships, grants, and other means.

If the cooperative agreement is approved by the City Council, staff will pursue various funding strategies to bring back to the City Council for deliberation. City Staff will also work with the Friends of the Oakley Library and the County Library Foundation to consider fundraising strategies.

Consistency with the Oakley Strategic Plan 27+

The execution of this agreement is consistent with the Community and Economic goal of Strategic and Thoughtful Growth, specifically the third objective. Objective 3.5 tasks the City with revitalizing and drawing people downtown to live, work, and play through considering relocating the co-hosted City/High School Library to a downtown location that can be a unifying location for Seniors, Youth, Veterans, and a possible satellite location for County services.

Fiscal Impact

The County will reimburse the City 50% of the demolition costs estimated at \$400,000, minus the costs associated with keeping the existing wireless communication tower operational which is estimated to be upwards of \$50,000. In the event that the library funding cannot be secured before June 30, 2024, the City would be responsible for the full amount of the demolition. The City could be responsible for costs up to \$400,000; however, that number will likely be between \$200,000 to \$250,000. To date, \$200,000 has been budgeted.

Staff Recommendation

Staff recommends that the City Council approve and authorize the City Manager to execute a cooperative agreement with Contra Costa County for the demolition of the former County Sheriff's Office delta substation located at 210 O'Hara Avenue.

Attachments

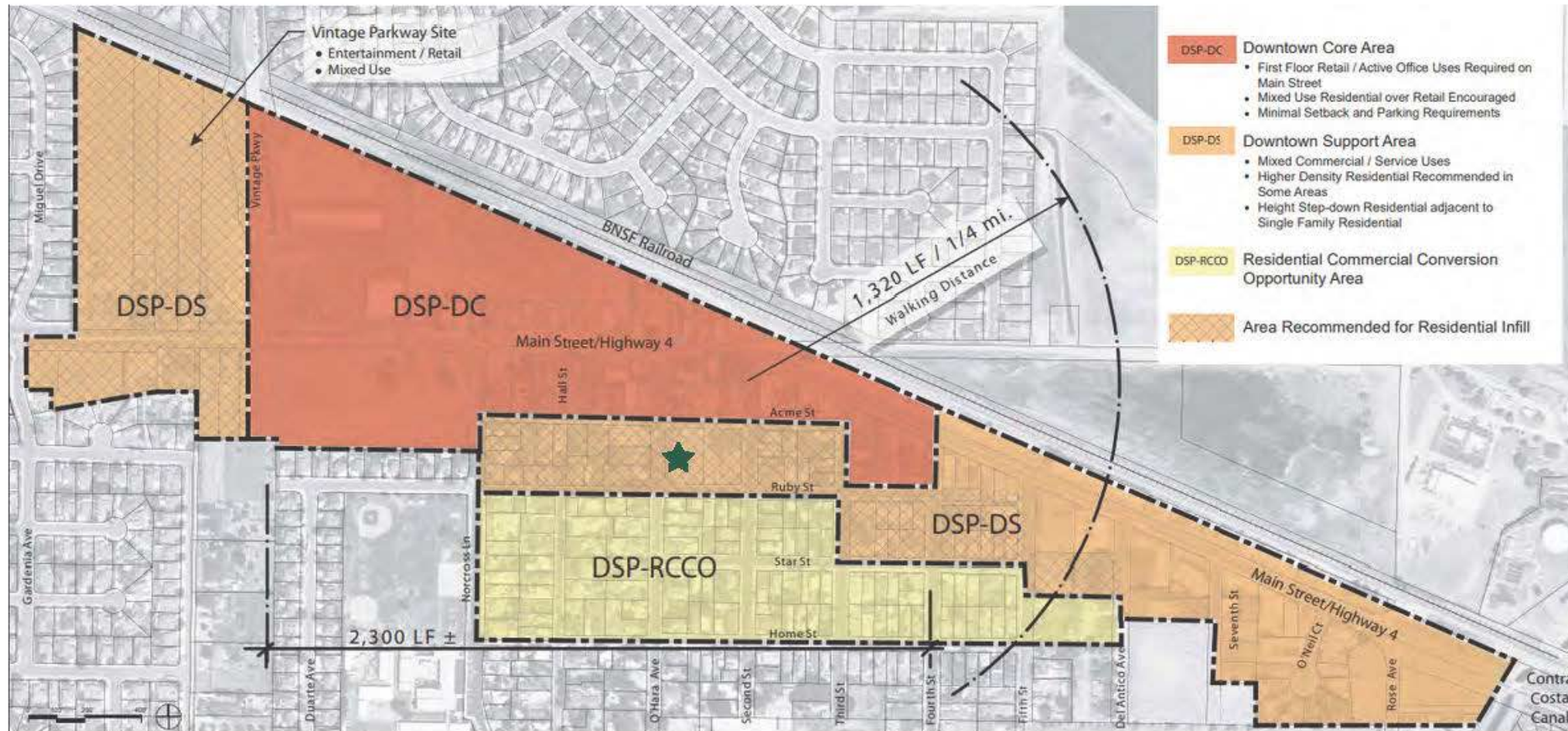
Site Map & Photos

Contra Costa County Library Partnerships

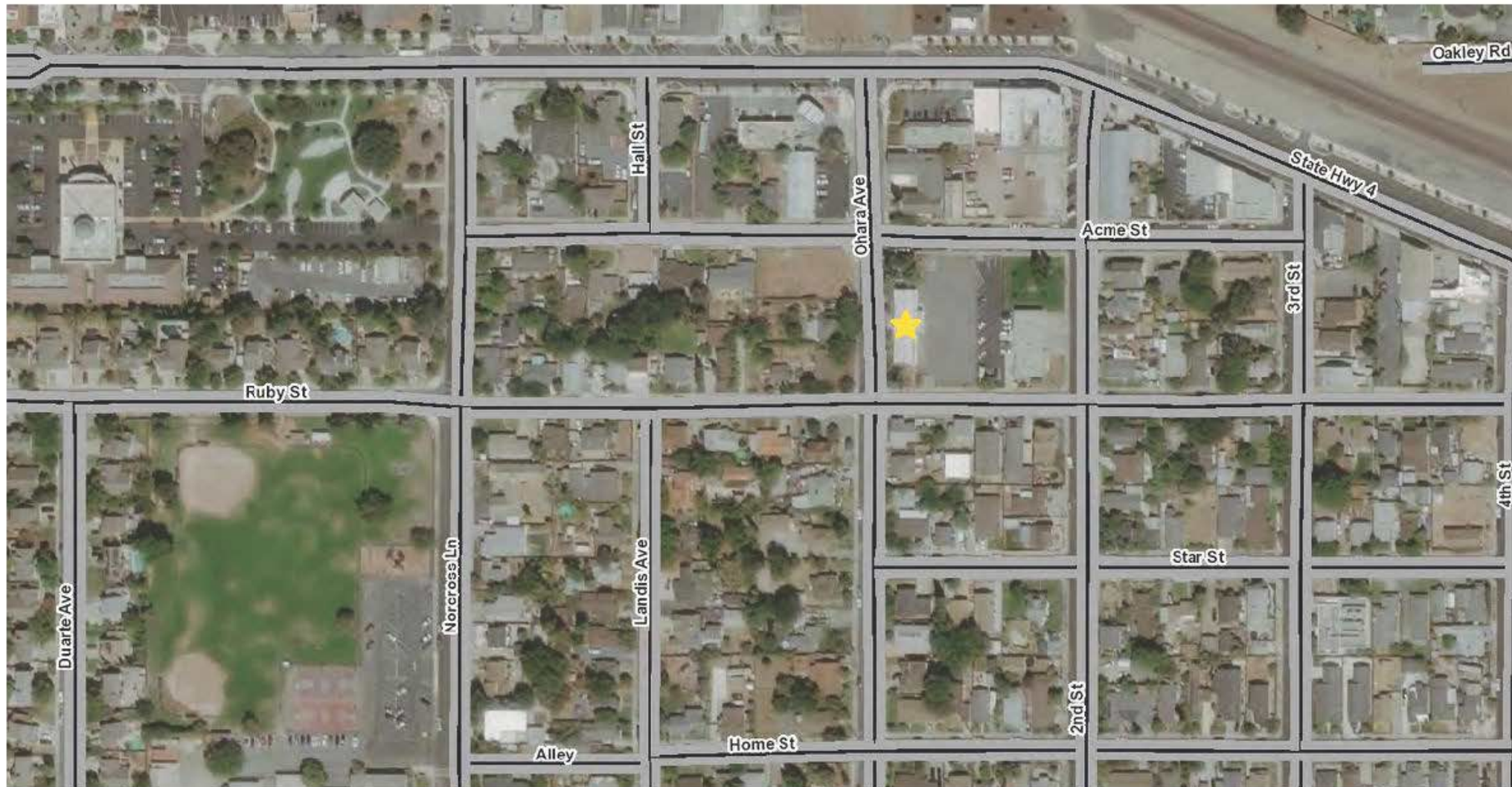
Board of Supervisors C.131 Item, September 7, 2021

Agreement

Downtown Specific Plan Subarea Map



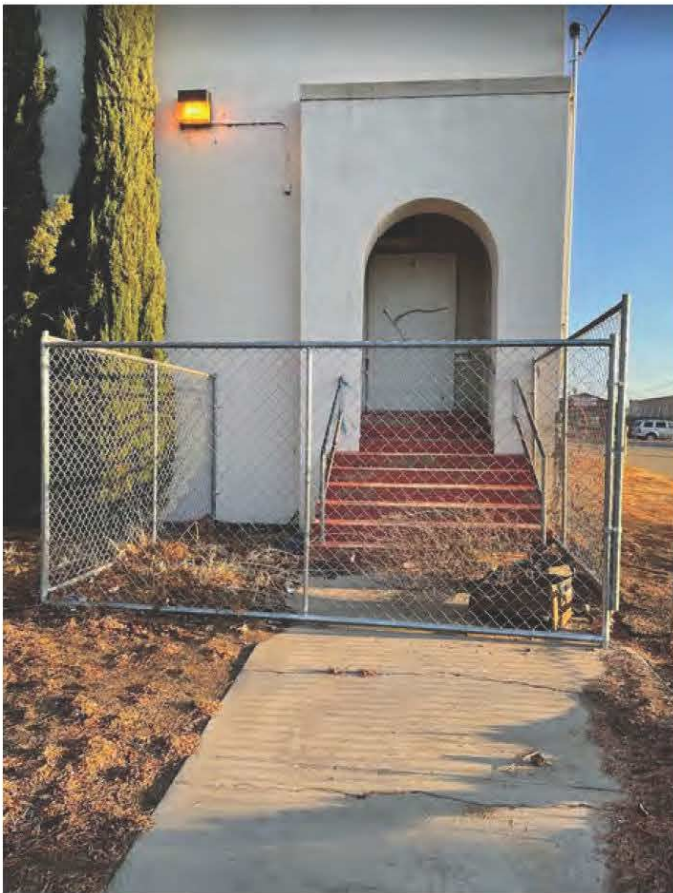
Street View of 210 O'Hara



Site Photos - Front/Street View

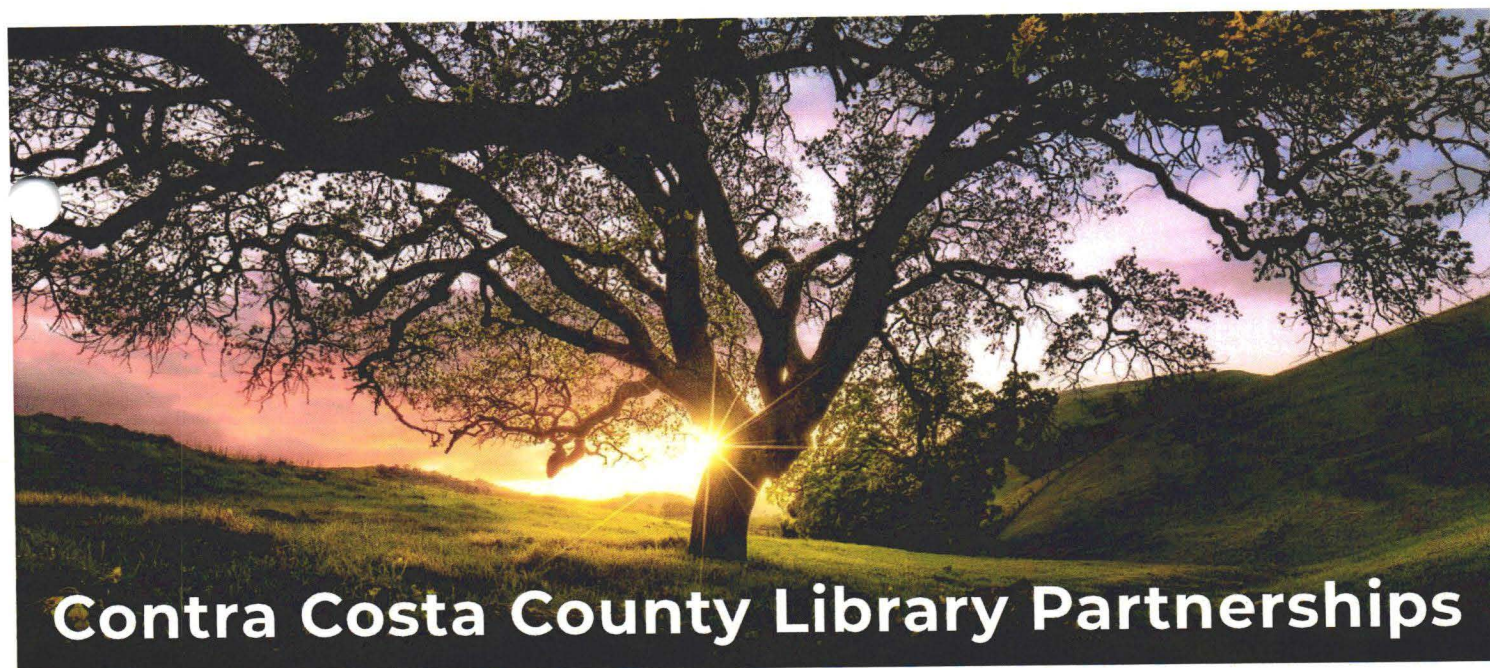


Site Photos - Entrances



Site Photos - Back





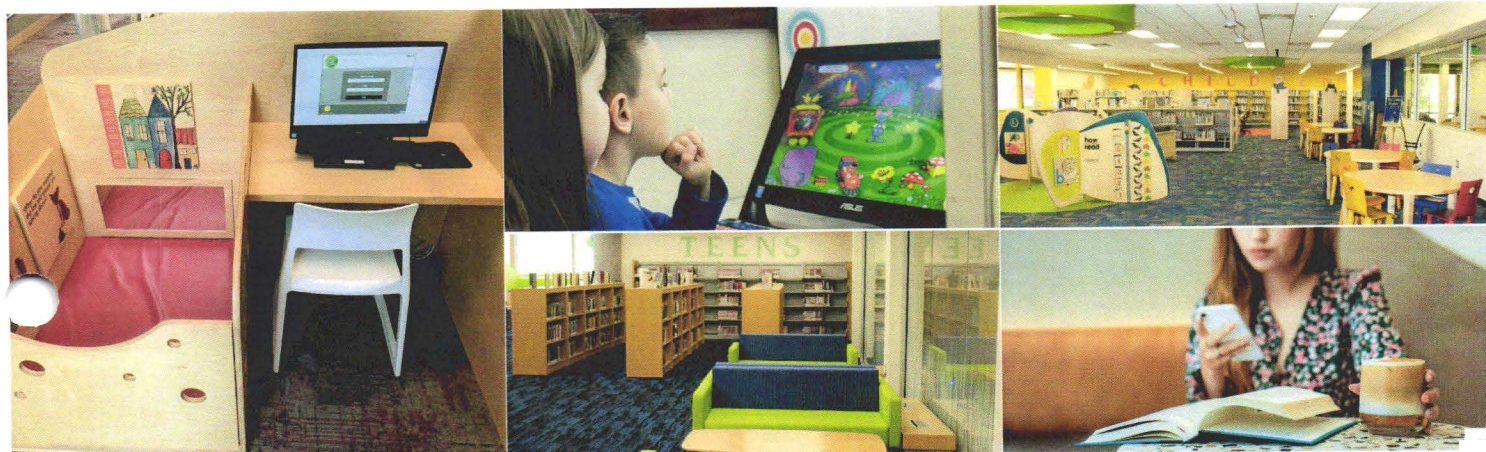
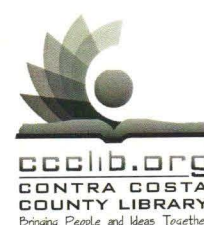
Contra Costa County Library Partnerships

Library/City	City Funding	Open Hours	Sq. ft.
Antioch	Facility costs	40	11,000
Brentwood	Facility, 12 extra hours	52	20,721
Clayton	Facility	40	15,500
Concord	Facility, 12 extra hours	52	11,300
Danville	Facility, 16 extra hours	56	17,000
Dougherty Station	Facility, 6 extra hours	46	11,600
Emeryville	Facility, 6 extra hours	46	6,400
El Cerritos	Facility, 6 extra hours	46	21,500
Lafayette	Facility, 16 extra hours	56	35,000
Martinez	Facility	40	6,792
Moraga	Facility	40	10,913

Library/City	City Funding	Open Hours	Sq. ft.
Oakley		40	3,000/6,000
Orinda	Facility, 16 extra hours	56	17,000
Pinole	Facility costs	40	17,098
Pittsburg	Facility	40	9,196
Pleasant Hill	Facility	40	21,500
Prewett*	Facility	35	1,500
San Pablo	Facility, 12 extra hours	52	22,387
San Ramon	Facility, 16 extra hours	56	21,338
Walnut Creek	Facility, 12 extra hours	52	42,000
Ygnacio Valley	Facility costs, 12 extra hours	52	13,202

Features of modern libraries:

- Spaces that support families and hands-on participatory early childhood learning
- Teen spaces
- Study rooms and workspaces
- Multiuse space (meetings, performances, classes and technology center)
- ADA accessibility
- Bookstore and Café





Library/ City	Open Hours	Sq. ft.	Pop.	Annual Visitors	Card Holders
Antioch	35	11,000	80,480	93,585	27%
Brentwood	50	20,721	86,178	206,806	21%
Clayton	44	15,500	12,671	118,531	41%
Concord	52	11,300	131,330	181,995	26%
Danville	56	17,000	62,137	269,944	34%
Dougherty Sta.	50	11,600	48,331	186,542	---
El Cerrito	50	6,400	29,020	171,262	32%
El Sobrante	35	7,474	16,353	68,502*	41%
Hercules	43	21,500	26,548	109,702	30%
Kensington	35	5,094	5,347	52,245	53%
Lafayette	58	35,000	28,679	293,642	49%

Library/ City	Open Hours	Sq. ft.	Pop.	Annual Visitors	Card Holders
Martinez	35	6,792	49,774	93,279	34%
Moraga	39	10,913	17,348	90,174	42%
Oakley	40	3,000/6000	43,371	60,443	20%
Orinda	60	17,000	19,489	116,215	50%
Pinole	24	17,098	29,722	39,554	17%
Pittsburg	35	9,196	72,841	66,137	25%
Pleasant Hill	43	21,500	42,867	309,553	27%
San Pablo	47	22,387	37,645	210,413	45%
San Ramon	58	21,338	48,331	263,773	46%
Walnut Creek	56	42,000	60,778	404,496	55%
Ygnacio Valley	56	13,202	26,048	120,266	---

■ = Libraries with similar or smaller populations than Oakley that are opened comparable number of weekly hours

*FY16-17 (branch closed parts of FY17-18 and FY18-19)

Increased Usage At New Contra Costa County Libraries

Library Branch	Previous Sq. Ft.	Previous Open Hours	Year Rebuilt	Current Sq. Ft.	New Open Hours	Previous Annual Visits	Current Annual Visits	Percentage Increase In Visits
Brentwood	6,272	56/week	2018	20,721	56/week	162,056	206,806	28% ↑
San Pablo	8,909	39/week	2017	22,387	47/week	128,054	210,413	64% ↑
Lafayette	6,720	40/week	2009	35,000	58/week	166,683	293,642	76% ↑
Walnut Creek	9,240	56/week	2010	42,000	56/week	196,818	404,496	100% ↑





Contra
Costa
County

To: Board of Supervisors
From: Monica Nino, County Administrator
Date: September 7, 2021

Subject: Cooperative Agreement with the City of Oakley

RECOMMENDATION(S):

APPROVE and AUTHORIZE the County Administrator, or designee, to execute a Cooperative Agreement with the City of Oakley, subject to approval by the County Administrator and approval as to form by County Counsel, in an amount not to exceed \$200,000 for the demolition of the former Sheriff's Substation at 210 O'Hara Avenue in Oakley and the transfer of the property to the City of Oakley, for the term September 7, 2021 to July 30, 2024.

FISCAL IMPACT:

County contribution of up to \$200,000 in demolition costs. 100% General Fund.

BACKGROUND:

The Sheriff's Office relocated their operations from the building at 210 O'Hara Avenue in Oakley, CA to another east county location. The building is vacant and has become an attractive nuisance requiring weekly clean up by Public Works staff. The City of Oakley has expressed interest in potentially using the site for a City library. The cooperative agreement would allow the City of Oakley to demolish the building with the current estimate of the demolition costs being \$400,000. Upon completion of the demolition the County would reimburse the City for 50% of the demo costs and transfer the property to the City for use as a library site. If the City is unable to secure funding for library construction within 36 months of the transfer the property would revert to the County.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: 09/07/2021 ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 7, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: Stacey M. Boyd, Deputy

Contact: Eric Angstadt;
925-655-2042

cc:

CONSEQUENCE OF NEGATIVE ACTION:

Not approving the agreement would cost the County ongoing expenses for maintenance, clean up and security of a vacant building and property for which the County has no current use.

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

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

RECITALS

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

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

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

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

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

AGREEMENT

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

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

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

3. Building Demolition.

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

4. Project Changes.

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

5. Inspections.

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

6. Acceptance, Completion, and Assignment.

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

7. Payment of Project Costs.

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

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

8. Conveyance of Property.

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

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

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

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

To Oakley:

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

To the County:

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

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

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

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

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

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

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

CITY OF OAKLEY

By: _____
Joshua McMurray
Interim City Manager

CONTRA COSTA COUNTY

By: _____
Monica Nino
County Administrator

ATTESTED BY:

By: _____
Libby Vreonis
City Clerk

By: _____

APPROVED AS TO FORM:

Counsel

APPROVED AS TO FORM:

Mary Ann McNett Mason, County

By: _____
Derek P. Cole
City Attorney

By: _____
Deputy County Counsel

Exhibit A
Property Description

[Insert Legal Description]