AGENDA

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

Tuesday, November 14, 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.

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

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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 actionor 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

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

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

1.2 Pledge of Allegiance to the Flag (DJ Whigham, Iron House Elementary School Student)

1.3 Proclamation Recognizing Law Enforcement Records and Support Personnel Day (Paul Beard and PD Staff)

Proclamation

1.4 Presentation on the Marsh Creek Watershed Council (MCWC) and Friends of Marsh Creek Watershed (FoMCW) (Victoria Woolfolk, Watershed Conservation Coordinator, Contra Costa Resource Conservation District)

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 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency and Special Meeting of the Oakley Financing Authority Meeting Held October 24, 2023 (Libby Vreonis, City Clerk)

Minutes 10-24-23

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

Memo

3.3 Waive the Second Reading and Adopt Ordinance No. 8-23 Repealing Oakley Municipal Code Section 9.1.412 and Replacing with Adoption of the State Density Bonus Law by Reference (RZ 03-23) and Finding the Action Exempt from the California Environmental Quality Act (CEQA) (Ken Strelo, Planning Manager)

Ordinance 8-23

3.4 Waive the Second Reading and Adopt Ordinance No. 9-23 Approving the Project Titled, Grand Cypress Preserve Development Agreements Master Amendment (DA 01-23) (Ken Strelo, Planning Manager)

Ordinance 9-23

3.5 City of Oakley Quarterly Investment Report (1st Quarter FY 2023/24) (Jeri Tejeda, Administrative Services Director)

Staff Report
1. City of Oakley Investment Report for the quarter ended September 30, 2023.
2. PFM Quarterly Performance Review

3.6 City of Oakley as Successor Agency to the Oakley Redevelopment Agency Quarterly Investment Report (1st Quarter FY 2023/24) (Jeri Tejeda, Administrative Services Director)

Staff Report

1. City of Oakley as Successor Agency to the Redevelopment Agency Investment Report for the quarter ended September 30, 2023.

3.7 Approval of the Utility Relocation Agreement between the City of Oakley and Western Area Power Administration (WAPA) to Relocate Electric Utility Poles to accommodate the Laurel Road Widening Project – Capital Improvement Project Number 280 (Kevin Rohani, P.E., Public Works Director/City Engineer)

Staff Report

1. Resolution
2. WAPA Pole Relocation Letter of Agreement 23-SNR-02991

3.8 Authorization to Execute a Purchase and Sale Agreement with Landsea Homes of California, LLC for the Sale of the Real Property Containing Approximately 27.0-Acres, Located at the Northeast Corner of E. Cypress Rd. and Knightsen Avenue (APN 032-081-025) (Joshua McMurray, City Manager)

Staff Report

1. Site Map
2. Draft Resolution
3. Draft Purchase and Sale Agreement

3.9 Adopt a Resolution Authorizing Submittal of Individual Grant Applications for All Department of Resources Recycling and Recovery (CalRecycle) Grant Programs for which the City of Oakley is Eligible (Ken Strelo, Planning Manager)

Staff Report

1. Proposed Resolution

3.10 Approval of an Agreement with NCE for Environmental Technical Studies and Permitting Services associated with Capital Improvement Project Number 189 – Piper Lane Drainage Channel Trash Capture Device Project (Kevin Rohani, P.E., Public Works Director/City Engineer)

Staff Report

1. Map of Site
2. Resolution
3. NCE Proposal

4.PUBLIC HEARINGS

4.1 2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23) (Evan Gorman, Associate Planner)

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

CEQA Determination: Find that there are no new environmental impacts associated with the proposed extension in that any environmental impacts are within the scope of the Negative Declaration adopted through City Council Resolutions No. 88-20 and No. 89-20.

Staff Report
1. Vicinity Map
2. Public Hearing Notice
3. Approved Tentative Map
4. Planning Commission Staff Report from October 17, 2023
5. Planning Commission Resolution 14-23
6. Draft Resolution

5.REGULAR CALENDAR

5.1 Adoption of 2023 small Business Recovery Grant Program (Harumi Murata, Economic Development Analyst)

Staff Report
1. Resolution

5.2 City of Oakley Climate Action Plan Request for Proposals and Qualifications (RFP) for Planning Consulting Services – Request City Council approval of the RFP (Ken Strelo, Planning Manager)

Staff Report
1. Request for Proposals and Qualifications (RFP) for Planning Consulting Services for the City of Oakley Climate Action Plan (CAP)
2. Draft Resolution

5.3 Second Amendment to Employment Agreement between the City of Oakley and Joshua McMurray (Derek Cole, City Attorney)

Staff Report
1. Resolution Approving Second Amendment to Employment Agreement
2. Second Amendment to City Manager Employment Agreement

5.4 Appeal of Administrative Hearing Officer's Decision Involving Fireworks at Crockett Park, Oakley, California on July 4, 2023; Citation No.: AC-23-000767 (Libby Vreonis, City Clerk)

Staff Report
1. Administrative Citation, AC-23-00767, 7/11/23
2. Request for Appeal of Administrative Citation and Request for Advance Deposit Hardship Waiver, 7/25/23
3. Approval of Hardship Waiver and Notice of Hearing, 8/17/23
4. Administrative Hearing Officer's Decision, 9/7/23
5. Appeal of Administrative Hearing Officer's Decision, 10/4/23
6. Notice of Hearing, 10/18/23

5.5 Hearing for Special Assessment of Costs: 1430 Carpenter Road, Oakley, California (APN 034-070-031) (Libby Vreonis, City Clerk)
Staff Report
1. Report of Costs
2. Proposed Resolution

5.6 Hearing for Special Assessment of Costs: 131 E. Ruby Street, Oakley, California (APN 035-133-012) (Libby Vreonis, City Clerk)
Staff Report
1. Report of Costs
2. Proposed Resolution

6.REPORTS

6.1 CITY MANAGER
(a) City Manager
(b) Business License Update
(c) City Attorney Report-Levine Act
(b) October 2023 New Business Licenses
(c) Daily Journal Article

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

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

(b) Requests for Future Agendas

7.WORK SESSIONS

7.1 Library and O'Hara Residential Projects Design and Economic Feasibility Analysis Update (Joshua McMurray, City Manager)
Staff Report

8.CLOSED SESSION

8.1 CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: One Potential Case (letter from ACLU/EFF dated May 25, 2023 and email dated November 2, 2023)

1. Letter Re: License Plate Reader Data
2. Electronic Frontier Foundation Email

8.2 CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

City of Oakley v. Scelsi, Contra Costa Sup. Ct. Case No. MSN16-1620

City of Oakley v. Rodriguez, Contra Costa Sup. Ct. Case No. N23-1091

County of Contra Costa et al. (and City of Oakley) v. Monsanto Company et al., Contra Costa Sup. Ct. Case No. C22-02818.

Schaefers v. BNSF Railway Company et. al. (and City of Oakley), Contra Costa Sup. Ct. Case Nos. C22-01552 and C22-01555.

McCalister v. Moeckel at al. (and City of Oakley), Contra Costa Sup. Ct. Case No. C23-00834

9.ADJOURN

OAKLEY
CALIFORNIA

Law Enforcement Records and Support Personnel Appreciation Day
November 10, 2023

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

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

WHEREAS, the Oakley Police Support professionals consistently demonstrate exemplary service to community members, as well as other local, state and country-wide law enforcement agencies; and

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

WHEREAS, dedication to the accuracy and efficient processing of police reports, property and evidence, and miscellaneous field services tasks which provide staff with assistance in the areas of data entry, filing, and report releases, along with positive and energetic attitudes make for a productive and pleasant workplace, as well as serving as a force multiplier for the Oakley Police Department.

NOW, THEREFORE, BE IT PROCLAIMED that I, Aaron Meadows, on behalf of the Oakley City Council, do hereby proclaim November 10, 2023 as LAW ENFORCEMENT RECORDS AND SUPPORT PERSONNEL DAY in the City of Oakley, and extend our gratitude to the Oakley Police Department Records staff and support personnel for their dedicated service to our community, their diligence, and their commitment to keeping our City and citizens safe.

November 14, 2023

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Aaron Meadows, Mayor

Minutes of the Regular Joint Meeting of the Oakley City Council/Oakley City Council Acting as the Successor Agency to the Oakley Redevelopment Agency and Special Meeting of the Oakley Public Financing Authority held October 24, 2023

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 Aaron Meadows 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 Anissa Williams and Councilmembers Dr. George Fuller, Hugh Henderson and Shannon Shaw were also present.

1.2 Pledge of Allegiance to the Flag (Layla Zaragoza, Summer Lake Elementary School Student)

Summer Lake Elementary School Student Layla Zaragoza led the Pledge of Allegiance to the Flag.

1.3 Update from Scott Wannamaker, Assistant Fire Chief, Contra Costa County Fire Protection District

Contra Costa County Fire Protection District Assistant Fire Chief Scott Wannamaker provided a PowerPoint presentation.

Vice Mayor Williams requested clarification on acronyms used during the presentation.

Assistant Fire Chief Wannamaker explained that BLS is an EMT and another EMT, whereas ALS is an EMT with a paramedic, a different level of service.

Dr. Fuller mentioned there has been a significant drop in call volume over 36 months. He inquired what Assistant Fire Chief Wannamaker would attribute that to.

Assistant Fire Chief Wannamaker responded that calls for fires, rescues, and vehicle accidents, have remained stable, and they see some seasonal change due to flu response during winter months, but he believes Dr. Fuller is referring to ambulance only calls (Dr. Fuller clarified he is referring to City of Oakley calls) and they have had a shortage of ambulances recently so many of the calls for service had a mixed response that included an engine because ambulances

were delayed; therefore, a decrease of ambulance only calls results from a decrease in ambulance availability. He mentioned on the 19th, they instituted the BLS response tier model and their compliance numbers have changed dramatically in the last 5 weeks.

1.4 Presentation by Gary Parkhurst, Mount Diablo Interpretive Association, regarding the Mitchell Canyon Educational Center

Gary Parkhurst, with Mount Diablo Interpretive Association, provided a PowerPoint presentation on the proposed Mitchell Canyon Education Center.

2) PUBLIC COMMENTS

Dawn Morrow commented that she appreciates the improvements in landscaping in Vintage Parkway and appreciates the new audience chairs in the Council Chambers.

3) CONSENT CALENDAR

3.1 Approve Minutes from the Regular Joint City Council/City Council Acting as the Successor Agency to the Redevelopment Agency/Public Financing Authority Meeting Held October 10, 2023 (Libby Vreonis, City Clerk)

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

3.3 Approval of Consulting Services Agreement by TRB and Associates, Inc. for On-Call services related to Code Compliance Plan Review and Inspection Services (Joshua McMurray, City Manager)

No public comments were submitted.

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

4) PUBLIC HEARINGS

4.1 Amend and Restate Resolution Authorizing the City of Oakley to Join the California Statewide Communities Development Authority's Infrastructure Program (SCIP) (Jeri Tejeda, Administrative Services Director)

Administrative Services Director Jeri Tejeda presented the staff report.

Dr. Fuller mentioned it is his understanding that residents in Emerson Ranch and Delaney Park use this to finance roads, etc. that went in there and now they are paying the assessment fee to the developer.

Mrs. Tejeda explained that the assessment fee pays down the bond; it does not go to the developer.

Dr. Fuller inquired where it is documented.

Mrs. Tejeda explained it is on the property tax bill as with other assessments.

Dr. Fuller inquired about someone becoming ill or unemployed and how it affects the program and what recourse is available.

Mrs. Tejeda explained that the City is not on the hook for that assessment, the developer is because they bonded for it.

James Hamill, Managing Director, California Statewide Communities Development Authority, explained that there is a forbearance agreement with the property owner in those cases, to provide a payment plan to pay over a longer period of time.

Dr. Fuller inquired if property owners would negotiate a forbearance arrangement directly with him and Mr. Hamill confirmed they would.

Vice Mayor Williams commented that the developer is the "homeowner" before homes are sold, but the homeowner/developer votes for it so properties are bonded before people purchase them and move in; it keeps the initial purchase price lower, but it is captured on the back end. She inquired if these bonds are forever, and Mr. Hamill explained they are for 30 years. She inquired if a new owner takes it on if someone sells their property and Mrs. Tejeda confirmed that is correct. She commented that she is hearing in the newer neighborhoods that people are being assessed to death, and while it is a real estate agent's job to disclose fees, she inquired if there is anything the City can do to help disclose.

Mrs. Tejeda responded that the City cannot control what is or is not disclosed but if someone wanted to call and speak with the City, staff can help explain what is a City assessment and what is not.

Dr. Fuller expressed concern that it is a new tax. He mentioned a house is sold at a lower price without it upfront, but normally it goes into purchase of house and a person can work through it with the mortgage structure. He mentioned he hears all the time about high assessments with new development in the E. Cypress area; some young families relying on their real estate agent and developer, and they may not be fully aware of all involved in purchasing and this adds to the stack of assessments; therefore, he will not vote in favor.

Councilmember Shaw shared that she is in a home with horrific assessments and taxes, but she believes it is going to go to the homeowner one way or another whether in the purchase price or assessments. She mentioned she wouldn't be able to qualify to purchase if it was upfront with the purchase price and she wants to be able to allow people to qualify for a home purchase, so she is reluctantly supporting this.

Vice Mayor Williams inquired if there are any statistics on how many homeowners have benefited from this. She expressed that it should benefit residents not developers because they are here to serve residents, not developers.

Mrs. Tejeda mentioned she does not have that information tonight but she can talk to the team and see if there is anything to provide.

Mayor Meadows commented that a lot of sales he sees come through are people barely getting into homes, it is a stretch with them buying to the maximum of their loan qualification, so if it keeps prices lower, they are probably benefiting.

Vice Mayor Williams inquired if there is a cap to the assessment since this is a statewide program and people are barely qualifying to purchase then they have assessments added.

Mayor Meadows mentioned he will not speak to a new purchase, but on a resale, assessments are known.

Mr. Hamill responded there is a 2% state cap, but they don't go above 1.7% because when they sell the bonds on the marketplace, they won't be able to sell them if too high because they are leveraged too much.

Councilmember Henderson commented that the City is already part of this program so the focus here is to discuss staying in the program.

Councilmember Shaw agreed the focus is staying in the program and mentioned it is also expanding their reach what is included in the bonds so it can be potentially higher than what they have.

It was moved by Councilmember Henderson and seconded by Councilmember Shaw to adopt the resolution as presented. AYES: Henderson, Meadows, Shaw, Williams. NOES: Fuller. (4-1)

4.2 Grand Cypress Preserve Development Agreements Master Amendment (DA 01-23) (Ken Strelo, Planning Manager)

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

Vice Mayor Williams inquired if extending this Development Agreement will not delay E. Cypress Road improvements until development begins and Mr. Strelo confirmed it would not.

Dr. Fuller inquired if they keep the same plan/design if it should go until 2045, or if it can be revisited then and be altered.

Mr. Strelo explained that home design review is not approved for these projects; the tentative maps are approved with conceptual landscaping, all of which has been analyzed and reviewed in accordance with the East Cypress Corridor Specific Plan conceptual plans, so any future apartments or houses in these developments still need to come to the Council for design review and receive approvals. He explained that they are not locked in yet but if they were, they would run with the Development Agreement. He mentioned at this time, it is only the tentative maps that would remain valid.

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

A member of the public inquired if developers will be held to meet the current percentage of below market housing in newer developments or if it goes up in future years, if they will be subject to a new percentage.

Mr. Strelo explained that this project is not subject to inclusionary housing, or in other words, requiring any below market rate housing. He mentioned if the developer chose to submit an application in the future they would handle that as need be, but at this time, the City uses a special zoning overlay district and in the future, a special zone in order to accommodate Regional Housing Needs Assessment and provide land for affordable housing. He mentioned there is no requirement for affordable housing by these developments.

Andrew Han, representative of the development entity, agreed with the staff recommendation and was available for questions.

Mayor Meadows closed the public hearing.

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

5) REGULAR CALENDAR

5.1 Adopt a Superseding Agreement regarding the reimbursement for and implementation of construction improvements related to the Grand Cypress Preserve project with ACD-TI Oakley, LLC (Joshua McMurray, City Manager)

City Manager Joshua McMurray presented the staff report. He mentioned on page 120 of the agenda, in the 4th "Whereas" paragraph of the proposed Resolution, the correct date is April 13, 2022.

Vice Mayor Williams inquired when work would be ready to begin.

Mr. McMurray mentioned it will probably be at the beginning of next year. He explained that the first reading of the ordinance is waived and introduced tonight but still needs to be adopted if at the Council's pleasure in November followed by a period of time to request items from the developer and time for the developer to respond, and then the work needs to be bid before they can start construction.

Vice Mayor Williams inquired if there will be a lot of communication when they get ready to start the project, so residents are aware.

Mr. McMurray confirmed that as with all projects, the public will be informed. He mentioned they want to make sure residents are aware of the investment and priority the Council is placing on this project.

Councilmember Henderson inquired about the rough timing of completion of the project.

Mr. McMurray mentioned they have 36 months to complete construction, which he believes is more than enough time to complete the improvements.

No public comments were submitted.

Mayor Meadows read the CEQA determination into the record.

Dr. Fuller thanked the developer, TI, and all associated with the project, as well as Mr. McMurray for what they have done for the expansion of E. Cypress. He commented that he wants to be able to say this is what we have been able to do in Oakley. He mentioned he is hearing over and over again in other areas such as San Francisco and Berkeley that we are not doing enough and we are doing it with private capital, not public funds; they are getting results and came to an agreement to have an expansion. He commented that there are other developers they work well with including DeNova (NE corner of Bethel Island and Cypress) that had its own builders remedy, which they didn't have to abide by because of changes, to have 20% deeded for low and very low housing that will remain that way for 50 years. He explained that they weren't bound by it because of laws that passed, but they committed to it and to this community. He thanked staff and developers for working together to find solutions.

Councilmember Shaw thanked them for their hard work and mentioned E. Cypress has been a priority of this Council and there is going to be construction but to bear with them as it is for safety.

Mayor Meadows shared that this was the first call he got when he was sworn in so it has been a while.

It was moved by Councilmember Shaw and seconded by Vice Mayor Williams to adopt the resolution as amended to correct the date. Motion was unanimous and so ordered. (5-0)

6) REPORTS

6.1 CITY MANAGER
(a) City Manager
(b) Business License Update

City Manager Joshua McMurray mentioned the September Business License update has been submitted. He thanked staff for a great Oaktober Fest event. He mentioned next year is the City's 25th Anniversary and asked the Council to select 2 members informally to sit on a sub-committee with staff to discuss how to celebrate it.

Mayor Meadows and Vice Mayor Williams mentioned they would like to serve. Councilmember Shaw expressed interest in serving but that she is happy to bow out if they would rather serve.

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

Dr. Fuller reported he attended the American Legion Post 202 in Brentwood which includes Oakley Veterans for its "Be the One" Dance. He explained that suicide rates are high for veterans and "Be the One" means if you see a veteran in trouble, get a hold of someone to help them. He shared the California Veterans Resource Book and asked City Manager Joshua McMurray if he can get in touch with Roy Manning to place these books in the City's lobby along with the County Veterans pamphlet and he shared the Veterans crisis line, 9-8-8. He also reported he attended Oaktober Fest where St. Anthony operated wine and beer sales, Oakley Library representatives Liz Fuller and Arnold Fitzpatrick, Jr. were present, and Assemblymember Lori Wilson's aides were also present. He announced Friday, October 27, 8:45 a.m.-10:00 a.m., is the next Freedom Fuel Cafe at Freedom High School run by its Life Skills class.

Vice Mayor Williams reported she attended the APTA Conference where she learned that there are only three bus manufacturers in the U.S. and one just declared bankruptcy; the federal guidelines provide that they can only purchase buses made in the U.S, creating a long waiting line with the other two bus manufacturers; it includes all buses. She shared that the keynote speaker was the head of innovation for Disney and he spoke about creativity, intuition, curiosity, imagination being the most employable skills that everyone has to have and can't be taken over by A.I. She also shared that she attended a session on transit impact---fostering opportunity and growth in communities, that Los Angeles will host the 2028 Olympics---the first car-free Olympic venue, and she learned about the rapid transit zone---a policy developed to protect a higher

density zone and warehousing and transportation had to go hand-in-hand. She mentioned she learned about helpful tools such as time lapse videos to show residents. She mentioned the CEO of Amtrak was a panelist and he mentioned that 1/3 of Amtrak trips are through commuter rails and he is an advocate of designing cities around transit; and St. Pete's Florida provides a good footprint for mobility hubs. She mentioned there has been a 140% increase in U.S. home prices over the past 20 years, 30% of it in the past 3 years, with rent increasing 9% over the past year, and wages are clearly not going up at the same rate. She also mentioned that Park City Transit designed affordable housing for their transit employees that was a City project funded by grants and local tax revenue, and with teachers needing housing, it might be a model to look at. She reported she attended the Oakley Chamber of Commerce meeting at Brownstone Gardens where she was the keynote speaker and there was interaction and ideas for businesses, energy, and activity around it, and she is excited they are getting it off the ground. She added that Oleksii is perfect for it with his energy and approach to do it differently.

Councilmember Shaw reported she was also at the APTA conference; the vendors were interesting to see how transit is going to meet zero emissions. She also reported she attended the Ironhouse Sanitary District meeting virtually, the reception welcoming for Dr. Pamela Ralston at Los Medanos College, and Oaktober Fest where she obtained a library card with her last name.

Mayor Meadows shared that he got his library card a year ago when the Library was on site. He reported he attended the MCE and CCTA meetings last week and Oaktober Fest.

(b) Requests for Future Agendas

Dr. Fuller requested staff secure a speaker from the Veterans to inform the Council what is happening with Veterans and share some of their hardships. It was supported by Councilmember Shaw.

7) WORK SESSION

None.

8) CLOSED SESSIONS

8.1 CONFERENCE WITH LABOR NEGOTIATORS
Agency designated representatives: Mayor Aaron Meadows, Vice Mayor Anissa Williams, City Attorney Derek Cole
Unrepresented employee: City Manager Joshua McMurray

Mayor Meadows announced the closed session and mentioned the meeting will be adjourned following closed session. He provided information regarding the next regular meeting.

9) ADJOURN

There being no further business, the meeting was adjourned at 7:55 p.m.

Respectively Submitted,

Libby Vreonis
City Clerk

MEMORANDUM

OAKLEY
CALIFORNIA

Date: October 24, 2023
To: Mayor and City Councilmembers
From: Derek P. Cole, City Attorney
CC: Joshua McMurray, City Manager
Subject: Closed Session Report-Out Memo

For Consideration at the City Council Meeting of November 14, 2023

Background and Analysis

The City Council considered the following closed session item during its regular meeting held October 24, 2023:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Mayor Aaron Meadows, Vice Mayor Anissa Williams, City Attorney Derek Cole

Unrepresented employee: Joshua McMurray

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

Fiscal Impact

None.

Recommendation

Receive and file this report.

Attachments

None

ORDINANCE NO. 8-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY REPEALING OAKLEY MUNICIPAL CODE SECTION 9.1.412 AND REPLACING WITH ADOPTION OF THE STATE DENSITY BONUS LAW BY REFERENCE (RZ 03-23) AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, California's Density Bonus Law (Government Code Section 65915 et seq.) encourages developers to build affordable housing (e.g., very low-, low- and moderate-income units) by requiring cities to grant a density bonus, concessions, incentives, and waivers of developments standards for projects that commit certain percentages of their units to affordable housing; and

WHEREAS, California Government Code Section 65915(a) requires that local governments adopt an ordinance that specifies how compliance with State Density Bonus law will be implemented; and

WHEREAS, Section 9.1.412 of the Oakley Municipal Code ("OMC") contains the regulations implementing the State Density Bonus Law; and

WHEREAS, State law has been amended ten times between 2018 through 2022, requiring regular changes and updates to the Municipal Code; and

WHEREAS, OMC Section 9.1.412 was codified through adoption of Ordinance No. 11-10 on September 10, 2010 and has not undergone an amendment since, requiring an amendment to be consistent with State law; and

WHEREAS, this ordinance ("Ordinance") repeals OMC Section 9.1.412 and replaces the contents thereof to adopt the State Density Bonus Law by reference. As amended by this Ordinance, OMC Section 9.1.412 will provide that density bonuses and other affordable housing incentives required by State law (including but not limited to Government Code Section 65915 et seq.) will be available to applicants on the terms and conditions specified in State law; and

WHEREAS, adopting the State Density Bonus Law by reference will ensure the Municipal Code remains current whenever the State Legislature amends the State Density Bonus Law; and

WHEREAS, on August 15, 2023, the Planning Commission held a duly noticed public hearing to consider the proposed Ordinance related to density bonus, received the staff report and staff presentation, received comments from the public and interested parties, and discussed the matter. Following the public hearing, the Planning Commission

adopted Planning Commission Resolution No. 12-23 recommending the City Council adopt the proposed Ordinance; and

WHEREAS, on or before September 1, 2023, the Notice of Public Hearing for the Project was duly noticed in the Contra Costa Times, a newspaper of general distribution, was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and at the project site, and was mailed out to outside agencies and to parties requesting such notice; and

WHEREAS, on September 12, 2023, the City Council held a duly noticed public hearing to consider the proposed Ordinance related to density bonus, received the staff report and staff presentation, received comments from the public and interested parties, considered the recommendation of the Planning Commission and discussed the matter; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

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

SECTION 1. The recitals above are true and correct and are hereby adopted as findings as if fully set forth herein.

SECTION 2. Additional Findings.

A. Repealing the existing density bonus regulations and replacing to reference State law would be consistent with the Housing Element of Oakley's General Plan, result in the removal of government constraints, and eliminate the need to annually review the State law and continually update the Zoning Ordinance when it is amended.

B. Consistency with the Housing Element is through direct implementation of Action 1.6 titled "Density Bonus Ordinance" found in Chapter 8 (Housing Plan) of the Housing Element. Action 1.6 includes subitems such as using the Density Bonus Ordinance and associated incentives to encourage affordable housing and revising the Density Bonus Ordinance to comply with State law. It also requires the City to monitor State law and revise the Density Bonus Ordinance when required by any future revisions to the State Density Bonus Law. The main objective of this Action is to "Implement [the] Density Bonus Ordinance in compliance with State law." The timeframe for implementation is January 31, 2024. Adoption of this ordinance will implement the subitems in this Action related to the Objective to implement the Density Bonus Ordinance in compliance with State law.

C. The Ordinance would not be detrimental to the public interest, health, safety, convenience, or welfare of the City, as the proposed Ordinance will comply with, implement, and adopt by reference State Density Bonus Law.

SECTION 3. Section 9.1.412 of the Oakley Municipal Code titled, "Residential Density Bonus and Incentives" is hereby repealed and amended in its entirety in order to comply with State Density Bonus Law, as follows:

" **9.1.412 Residential Density Bonus and Incentives**

a. Purpose. The purpose of this Section is to establish a program in accordance with California Government Code Section 65915 et seq. to provide both density increases and other incentives to encourage the creation of housing affordable to moderate-, low-, and very low-income households, seniors, and other qualifying households under State law.

b. Applicability.

1) General. All proposed housing developments that qualify under California Government Code Section 65915 for a density increase and other incentives, and any qualified land transfer under California Government Code Section 65915 shall be eligible to apply for a density bonus (including incentives and/or concessions) consistent with the requirements, provisions and obligations set forth in California Government Code Section 65915, as it may be amended from time to time.

2) Compliance. The applicant shall comply with all requirements stated in California Government Code Sections 65915 through 65918. The requirements of California Government Code Sections 65915 through 65918, and any amendments thereto, shall prevail over any conflicting provision of this Code.

3) Excluded development. An applicant shall not receive a density bonus or any other incentive or concession if the housing development would be excluded under California Government Code Section 65915.

4) Interpretation. The provisions of this subdivision shall be interpreted to implement and be consistent with the requirements of California Government Code Section 65915. Any changes to California Government Code Section 65915 shall be deemed to supersede and govern over any conflicting provisions contained herein. If any portion of this Article conflicts with State Density Bonus Law or other applicable State law, State law shall supersede this Section. Any ambiguities in this Section shall be interpreted to be consistent with State Density Bonus Law.

5) Replacement Housing Requirement. Pursuant to subdivision (c)(3) of California Government Code Section 65915, an applicant will be ineligible for a

density bonus or other incentives unless the applicant complies with the replacement housing requirements therein.

c. Density Increase and Other Incentives.

1) General. If a qualifying affordable housing project or land transfer/cash payment meets the criteria of California Government Code Section 65915 et seq., the project shall be granted a density bonus, the amount of which shall be as specified in California Government Code Section 65915 et seq., and incentives or concessions also as described in California Government Code Section 65915 et seq.

2) Density Bonus Units. Except as otherwise required by California Government Code Section 65915, the density bonus units shall not be included when calculating the total number of housing units that qualifies the housing development for a density bonus.

3) Market-rate senior citizen housing developments. Market-rate senior citizen housing developments that qualify for a density bonus shall not receive any other incentives or concessions, unless California Government Code Section 65915 is amended to specifically require that local agencies grant incentives or concessions for senior citizen housing developments.

d. Physical Constraints and Parking Waivers.

1) Physical Constraints. Except as restricted by California Government Code Section 65915, the applicant for a density bonus may submit a proposal for the waiver or reduction of development standards that have the effect of physically precluding the construction of a housing development incorporating the density bonus and any incentives or concessions granted to the applicant. A request for a waiver or reduction of development standards shall be accompanied by documentation demonstrating that the waiver or reduction is physically necessary to construct the housing development with the additional density allowed pursuant to the density bonus and incorporating any incentives or concessions required to be granted. The City shall approve a waiver or reduction of a development standard, unless it finds that:

a) The application of the development standard does not have the effect of physically precluding the construction of a housing development at the density allowed by the density bonus and with the incentives or concessions granted to the applicant;

b) The waiver or reduction of the development standard would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of

Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;

c) The waiver or reduction of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources; or

d) The waiver or reduction of the development standard would be contrary to state or federal law.

2) Parking. The applicant may request, and the City shall grant, a reduction in parking requirements in accordance with California Government Code Section 65915(p), as that section may be amended from time to time.

e. Retention of Density Bonus Units. Consistent with the provisions of California Government Code Section 65915 et seq., prior to a density increase or other incentives being approved for a project, the City of Oakley and the applicant shall agree to an appropriate method of ensuring the continued availability of the density bonus units.

f. Application Procedure for Density Increase or Other Incentives.

1) Application Requirements. An application for a density increase or other incentives under this Article for a housing development shall be submitted in writing to the Community Development Department to be processed concurrently with all other entitlements of the proposed housing development. The application for a housing development shall contain information sufficient to fully evaluate the request under the requirements of this Article, and in connection with the project for which the request is made, including, but not limited to, the following:

a) A brief description of the proposed housing development;

b) The total number of housing units and/or shared housing units (as defined in California Government Code Section 65915(o)(6)) proposed in the development project, including unit sizes and number of bedrooms;

c) The total number of units proposed to be granted through the density increase and incentive program over and above the otherwise maximum density for the project site;

d) The total number of units to be made affordable to or reserved for sale, or rental to, very low-, low- or moderate-income households, or senior citizens, or other qualifying residents;

e) The zoning, general plan designations, and assessor's parcel number(s) of the project site;

f) A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway(s) and parking layout;

g) The proposed method of ensuring the continued availability of the density bonus units;

h) Within zones that rely on a form-based code, a base density study that identifies the density feasible on the site without incentives, concessions or density bonuses; and

i) A list of any concession(s) or incentive(s) being requested to facilitate the development of the project, and a description of why the concession(s) or incentive(s) is needed.

g. Application Processing. The application shall be considered by the Planning Commission and/or the City Council at the same time each considers the project for which the request is being made. If the project is not to be otherwise considered by the Planning Commission or the City Council, the request being made under this Article shall be considered by the Community Development Director or designee, separately. The request shall be approved if the applicant complies with the provisions of California Government Code Section 65915 et seq."

SECTION 4. 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.

SECTION 5. Effective Date and Posting.

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

PASSED AND ADOPTED by the City Council of the City of Oakley this 26th day of September 2023 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

ORDINANCE NO. 9-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE GRAND CYPRESS PRESERVE DEVELOPMENT AGREEMENTS MASTER AMENDMENT (DA 01-23) BETWEEN THE CITY OF OAKLEY AND ACD-TI OAKLEY LLC (APNS: 020-140-048; 020-150-003; 032-050-003; 032-082-001; 032-082-005; 032-082-010; 032-082-011; AND 032-082-013)

WHEREAS, the City has enacted a Development Agreement Ordinance A codified as Chapter 3 of Title 9 of the Oakley Municipal Code ("OMC") establishing the procedures and requirements for the consideration of development agreements pursuant to California Government Code Section 65864 et seq.; and

WHEREAS, on June 29, 2023, Andrew Han of ACD-TI Oakley, LLC ("Applicant") filed an application requesting approval of a Development Agreements Master Amendment (DA 01-23) that would apply to five separate Development Agreements to extend their terms from December 13, 2025 to December 13, 2035 ("Original Project"), later amending the request to extend their terms to December 13, 2045 ("Project"). The five existing Development Agreements apply to previously approved development projects made up of Planning Areas 1, 3, 4, and 6-H of the East Cypress Corridor Specific Plan. The development projects, commonly known as KT-KB Oakley LLC and Lesher Trust (Planning Area 1) Dal Porto South (Planning Area 3), Bethel Island LLC (Planning Area 4), and Pacific West Communities (Planning Area 6-H), are all part of a larger project known as "Grand Cypress Preserve". All sites covered under the existing Development Agreements and applicable to the proposed Master Amendment are zoned SP-1 (East Cypress Corridor Specific Plan) District. The applicable sites are located in Planning Areas 1, 3, 4, and 6-H of the East Cypress Corridor Specific Plan generally located at the eastern end of Oakley north and south of East Cypress Road, Oakley, CA 94561. APNs: 020-140-048; 020-150-003; 032-050-003; 032-082-001; 032-082-005; 032-082-010; 032-082-011; and 032-082-013; and

WHEREAS, the project is designated as Specific Plan (SP) in the Oakley General Plan, and zoned SP-1 (East Cypress Corridor Specific Plan) District; and

WHEREAS, the project is within the scope of related entitlements approved under the analysis of the East Cypress Corridor Specific Plan Revised Final Environmental Impact Report (SCH No. 2004092011) certified by the City Council through adoption of Resolution No. 46-09 on March 10, 2009; and

WHEREAS, on July 18, 2023, the Planning Commission held a duly noticed public hearing at which it considered the Project, Staff's Report, Oakley General Plan, the City's Zoning and Subdivision Ordinances, the East Cypress Corridor Specific Plan, the Revised EIR, and all comments received in writing and all testimony received at the public hearing (together the "Record"), and adopted Planning Commission 11-23 recommending the City Council adopt an ordinance approving the Project; and

WHEREAS, on August 8, 2023, the City Council held a duly noticed public hearing for the project and per recommendation from Staff, the City Council announced the item would be continued to a date certain, September 12, 2023. The Mayor then opened the public hearing and announced the City Council had received two public comments prior to the hearing and solicited additional comments from the public, of which there were none. Upon conclusion of the public comment period, the City Council continued to item to September 12, 2023; and

WHEREAS, on September 12, 2023, the City Council re-opened the public hearing and continued the item to a date uncertain. No additional public comments were received at that time; and

WHEREAS, on September 21, 2023, the Applicant revised the proposed Master Amendment thereby modifying the proposed project. The detail of that revision was a request to increase the term expiration from an additional 10 years beyond December 13, 2025 (to December 13, 2035) to an additional 20 years beyond December 13, 2025 (or to December 13, 2045); and

WHEREAS, on October 17, 2023, the Planning Commission held a duly noticed public hearing at which it considered the Project, Staff's Report, Oakley General Plan, the City's Zoning and Subdivision Ordinances, the East Cypress Corridor Specific Plan, the Revised EIR, and all comments received in writing and all testimony received at the public hearing (together the "Record"), and adopted Planning Commission Resolution No. 13-23 recommending the City Council adopt an ordinance approving the Project; and

WHEREAS, on or before October 13, 2023, the Notice of Public Hearing for the Project was duly noticed in the Contra Costa Times, a newspaper of general distribution, was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and was mailed out to all owners of property within a 500-foot radius of the subject property's boundaries, to outside agencies, and to parties requesting such notice; and

WHEREAS, on October 24, 2023, the City Council opened the continued public hearing at which it considered the Project's Development Agreement, Staff's Report, Oakley General Plan, the City's Zoning and Subdivision Ordinances, the East Cypress Corridor Specific Plan, the Revised EIR, and all comments received in writing and all testimony received at the public hearing (together the "Record"); and

WHEREAS, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

WHEREAS, these Findings are based upon the City's General Plan, the City's Zoning Ordinance, the East Cypress Corridor Specific Plan and all related documents, and the information submitted to the City Council at its October 24, 2023 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the project (hereinafter the "Record").

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

SECTION1. Findings

A. Regarding the application requesting approval of the Grand Cypress Preserve Development Agreements Master Amendment (DA 01-23) by and between the City of Oakley and ACD-TI Oakley LLC:

1. The Development Agreements Master Amendment is consistent with the objectives, policies, general land uses and programs specific in the East Cypress Corridor Specific Plan ("ECCSP"). It is also compatible with the uses authorized in, and the regulations prescribed for, the ECCSP, and is designed in compliance with the approved development plans in that it does not result in any physical changes to any of the approved entitlements for any of the applicable Tentative Maps; and

2. The Master Amendment is in conformity with public convenience, general welfare and good land use practice and will not be detrimental to the health, safety and general welfare in that the development in the ECCSP is responsible for much of the infrastructure improvements or cost-sharing for those improvements in and around the area that will benefit future residents and existing residents of Summer Lake South and areas in unincorporated Contra Costa County, such as along Dutch Slough Road and Sandmound Boulevard and on Bethel Island, and the term extension will increase the likelihood these projects are developed, and as a result, that infrastructure completed; and

3. The Master Amendment will not adversely affect the development of the properties in that the term extension will increase the chances they are able to be developed in the future; and

B. The project complies with Measure J Growth Management requirements.

SECTION 2. Approval of the Master Amendment to the Development Agreements

The City Council hereby approves the Development Agreements Master Amendment (Exhibit "A) and authorizes and directs the Mayor to sign it.

SECTION 3. Recordation of Development Agreement

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

SECTION 4. Effective Date and Posting

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

PASSED AND ADOPTED by the City Council of the City of Oakley this 14th day of November 2023 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

STAFF REPORT

OAKLEY
CALIFORNIA

DATE: November 14, 2023
TO: Joshua McMurray, City Manager
FROM: Jeri Tejeda, Administrative Service Director
SUBJECT: City of Oakley Quarterly Investment Report (1st Quarter FY 2023/24)

Approved and Forwarded to the City Council

Background and Analysis

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

Consistency with the Oakley Strategic Plan 27+

This agenda item is consistent with the Strategic Plan 27+ goal for the City of Oakley to leverage its financial resources for the long-term benefit of our residents and businesses while maintaining sufficient reserves to provide stability and ensure a successful future.

Fiscal Impact

City resources are organized and accounted for on a fund basis with some of those funds being restricted for specified uses and others that are unrestricted. For investment purposes, however, the funds are invested as a pool. The Investment Report for the Period Ending September 30, 2023, attached shows a combined pool balance of $89,101,401.89 In addition, the pool had combined 1st Quarter accrued interest earnings of $148,516.52 compared to $194,944.31 at the end of the 4th Quarter. Interest for the period reflects the high rates currently being offered on safe investments, including LAIF's short-term investments and the various types of investments that are being made through PFM, with terms of up to five years.

We continue to earn the stated rate of interest at cost on the investments that we have purchased, which can be seen in the PFM investment report and averaged 1.59% for the quarter ended September 30, 2023.

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

Staff Recommendation

Staff recommends the City Council accept the investment report for the 1st Quarter of Fiscal Year 2022324.

Attachments

1. City of Oakley Investment Report for the quarter ended September 30, 2023.
2. PFM Quarterly Performance Review

OAKLEY
CALIFORNIA

Quarterly Investment Report

For the Quarter Ended September 30, 2023

Type*	Name of Institution	Rate	Maturity****	Cost Amount	Market Value**
Investments in Wells Fargo Bank Account					
-	Commercial Checking Acct Public Funds	0.000%	9/30/2023	$ 2,971,163.04	$ 2,971,163.04
Investments with Wells Fargo Investment Advisors:					
9	Institutional Money Market	0.234%	N/A	1,858,902.42	1,858,902.42
Investments with State of California:					
3	Local Agency Investment Fund (LAIF)-City	3.590%	N/A	9,200,592.62	9,074,615.70
Investments with CalTRUST					
11	Short-Term Investment Account-City	0.379%	N/A	284,477.66	284,477.66
Investments with CAMP					
13	Short-Term Investment Account-City	5.55%	N/A	47,793,629.29	47,793,629.29
Total Investments Other than Bond Proceeds				**62,108,765.03**	**61,982,788.11**
Investments with Wells Fargo Trust (bond proceeds): * **					
	2021 Refunding Revenue Bonds				
9	***Government Money Market***				
	Wells Fargo Advantage Gov MM Svc	1.674%	N/A	142,765.68	142,765.68
4	***Certificates of Deposit (3)***				
	2014 Refunding Revenue Bonds				
9	***Government Money Market***				
	Wells Fargo Advantage Gov MM Svc	1.656%	N/A	365,817.41	365,817.41
Investments with USBank Trust (bond proceeds): * **					
	2016 Lease Revenue Bonds				
9	***Government Money Market***				
	USBank - First American Government Obligation	0.000%	N/A	0.54	0.54
Total Investments of Bond Proceeds				**508,583.63**	**508,583.63**
Managed Investments with PFM (Detail Attached)					
	CAMP POOL		See Detail	1,916,458.13	1,916,458.13
	Managed Investments		See Detail	25,948,905.95	24,693,572.02
Total Managed Investments				**27,865,364.08**	**26,610,030.15**
	Total All City Investments			**$ 90,482,712.74**	**$ 89,101,401.89**

Accrued Interest of Investments other than Bond Proceeds:

Wells Fargo Investment Advisors	4,354.42
Local Agency Investment Fund	100,466.15
PFM Asset Management	43,695.95
Accrued Interest as of 09/30/23	$ 148,516.52

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

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

** **Market Valuation** for LAIF was obtained at https://www.treasurer.ca.gov/pmia-laif/mktvalue/2023/202309.pdf
Market value for all other investments was obtained from FT Interactive Data. As the City holds its investments to maturity, market value fluctuations are not significant.

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

**** With the exception of CDs and managed investments, except for the CAMP POOL, all accounts have same day or next-day liquidity

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

Jeri Tejeda — 11/2/23

Approved by Jeri Tejeda
Admoinsitrsative Service Director

Date

pfm asset management

City of Oakley

Investment Performance Review
For the Quarter Ended September 30, 2023

Client Management Team

Lesley Murphy, Senior Managing Consultant
Allison Kaune, Senior Analyst
Rachael Miller, Client Consultant

PFM Asset Management LLC

1 California Street Ste. 1000
San Francisco, CA 94111-5411
415-393-7270

213 Market Street
Harrisburg, PA 17101-2141
717-232-2723

NOT FDIC INSURED : NO BANK GUARANTEE : MAY LOSE VALUE

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Market Update

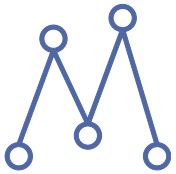
Current Market Themes



- The U.S. economy is characterized by:
  - Stronger than expected growth, supported by a resilient consumer
  - Inflation that remains stubbornly above the Federal Reserve's ("Fed") target range
  - Continued creation of new jobs by the labor market, albeit at a moderating pace



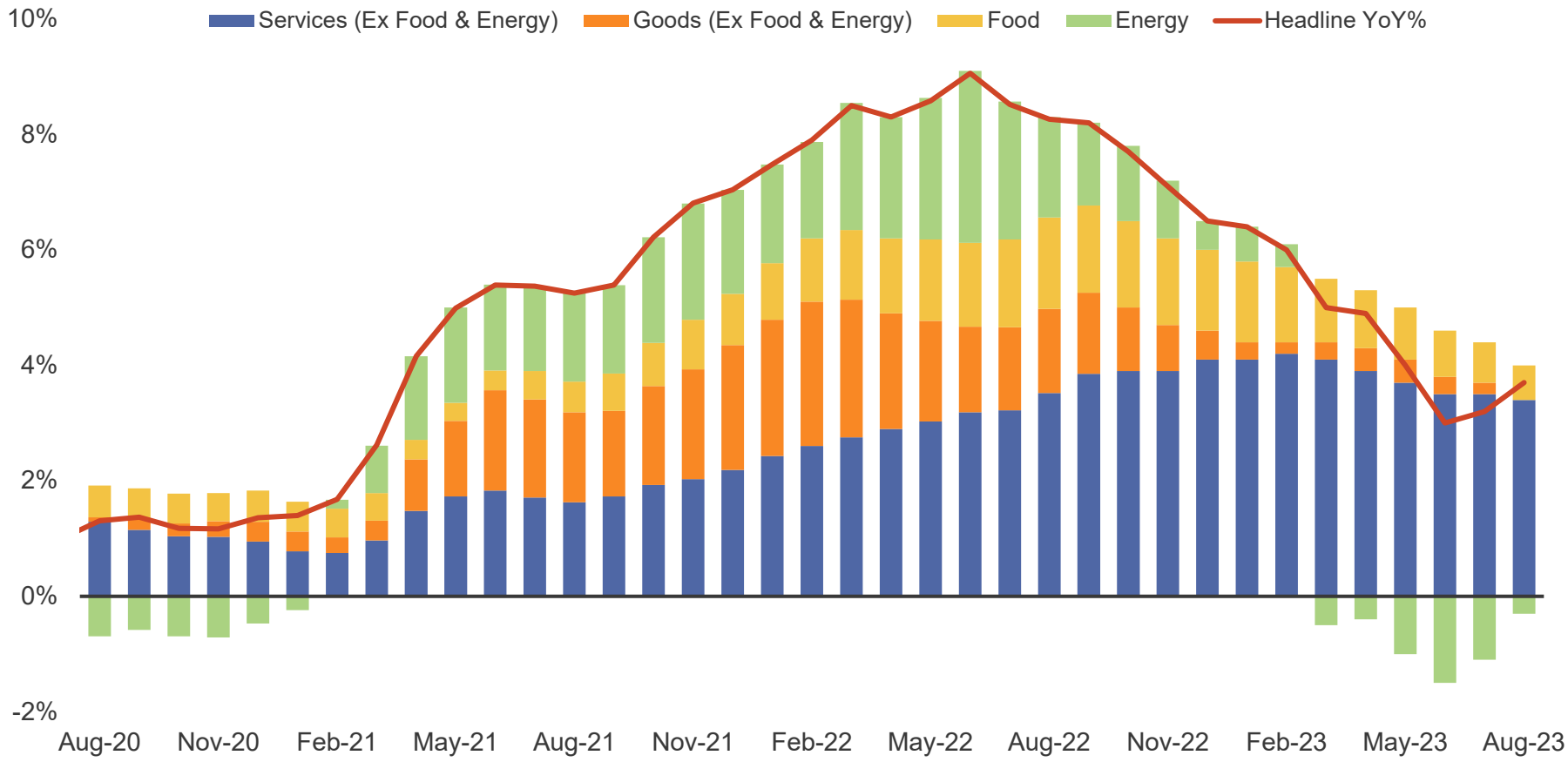
- Fed pauses again in rate hike campaign
  - After hiking in July, the Federal Reserve held rates steady at the September FOMC meeting as expected
  - The Fed's most recent "dot plot" indicated one more rate hike for 2023 and set the stage for interest rates to remain "higher-for-longer"
  - Updated FOMC economic projections point to stronger GDP growth expectations, higher inflation, and slightly lower unemployment for the remainder of 2023 and into 2024



- Interest rates reached their highest levels since 2006-7
  - The U.S. government rating downgrade by Fitch had little impact, although it highlighted growing worry about the erosion of governance standards and fiscal irresponsibility
  - Treasury yields across the curve rose during Q3. Sticky inflation, a "higher for longer" market consensus, increased Treasury borrowing, and reduced Treasury holdings by China and Japan weighed especially on the long end of the curve
  - The next concern is the annual federal budget process and potential for a government shutdown

Inflation Gradually Falling, But Sensitive to Recently Rising Energy Prices

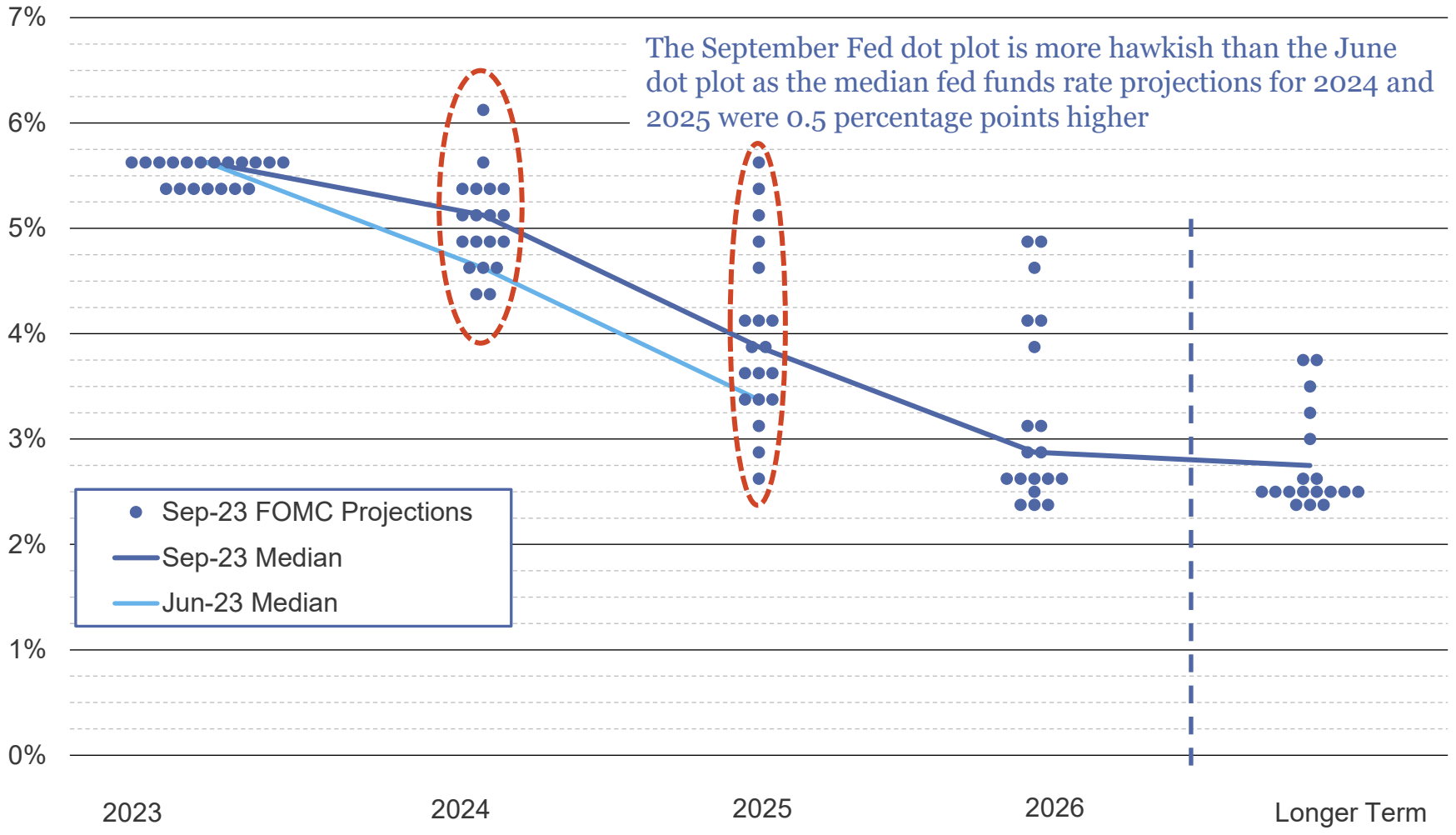
Factors Contributing to the Consumer Price Index (CPI YoY)



Source: Bloomberg, as of August 2023.

Fed's Updated "Dot Plot" Projects Rates To Be "Higher for Longer"

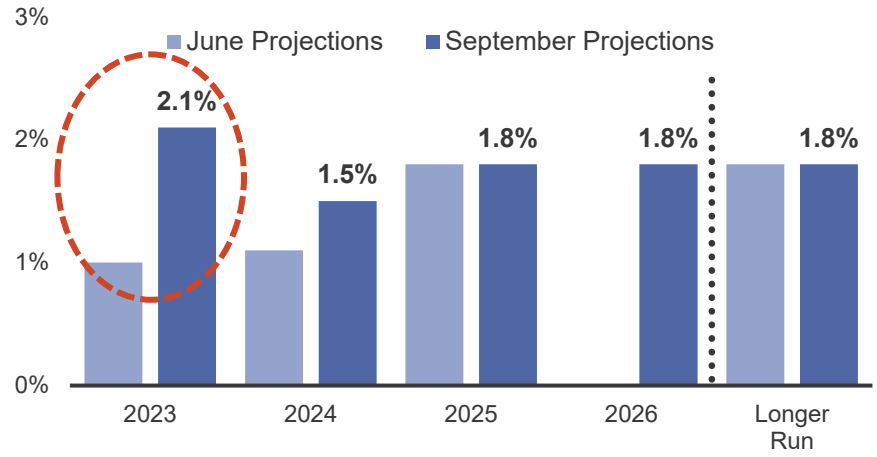
Fed Participants' Assessments of 'Appropriate' Monetary Policy



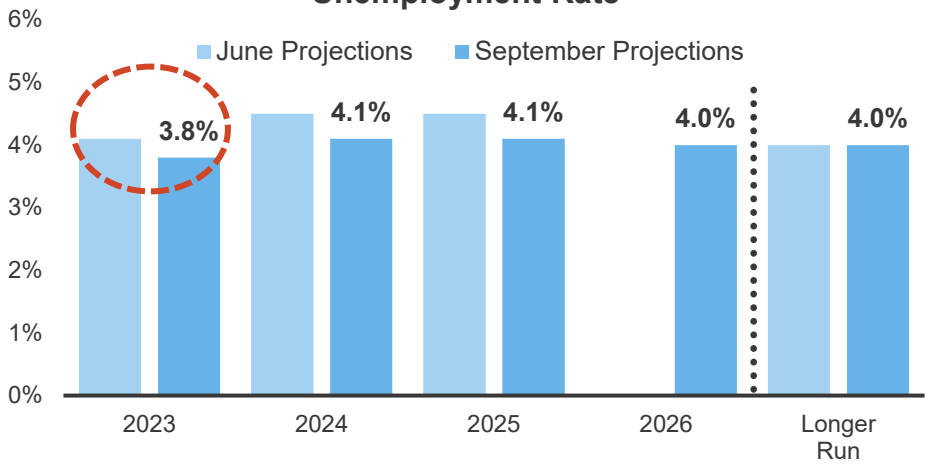
Source: Federal Reserve and Bloomberg. Individual dots represent each Fed members' judgement of the midpoint of the appropriate target range for the federal funds rate at each year-end.

The Fed's Protections for Growth and Employment Were More Upbeat

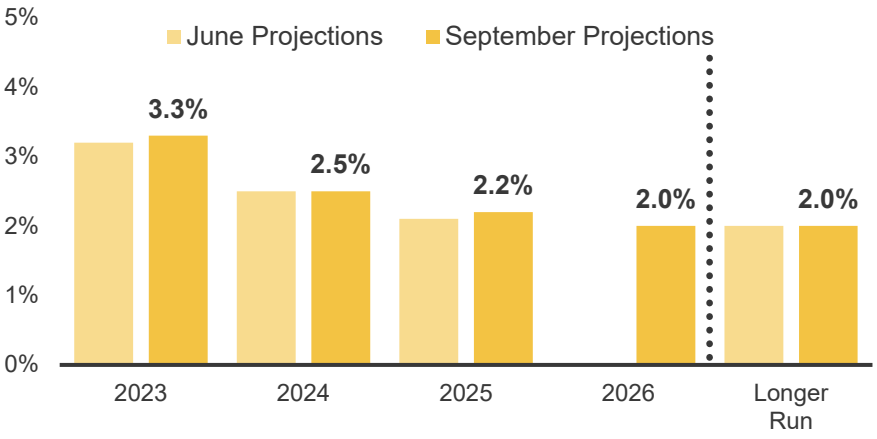
Change in Real GDP



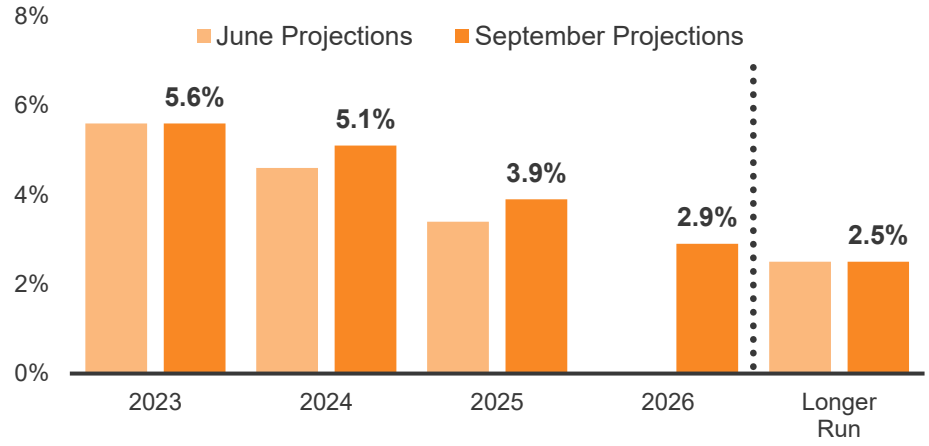
Unemployment Rate



PCE Inflation



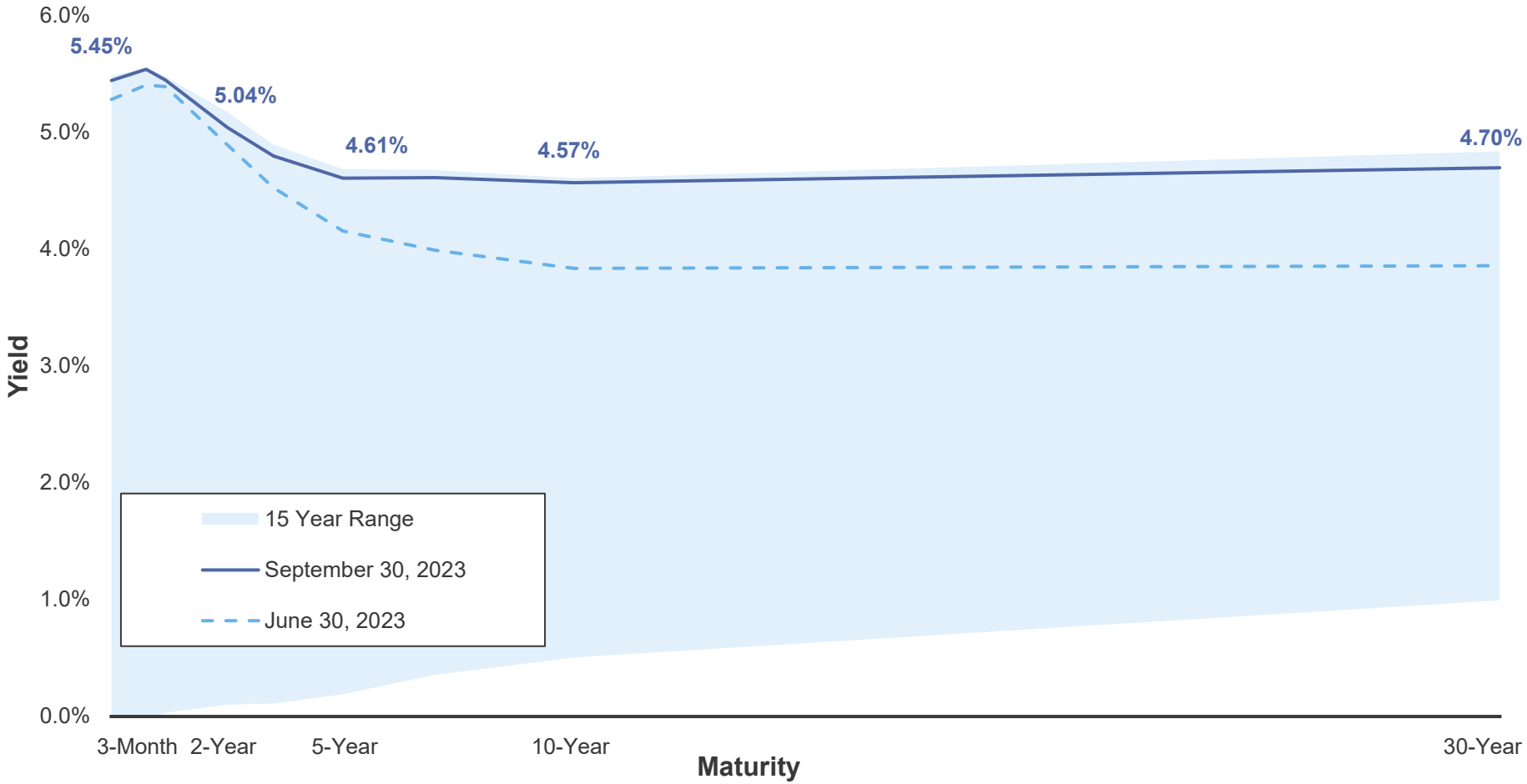
Federal Funds Rate



Source: Federal Reserve, latest economic projections as of September 2023.

Interest Rates Are At Their Highest Levels Since 2006-07

U.S. Treasury Yield Curve

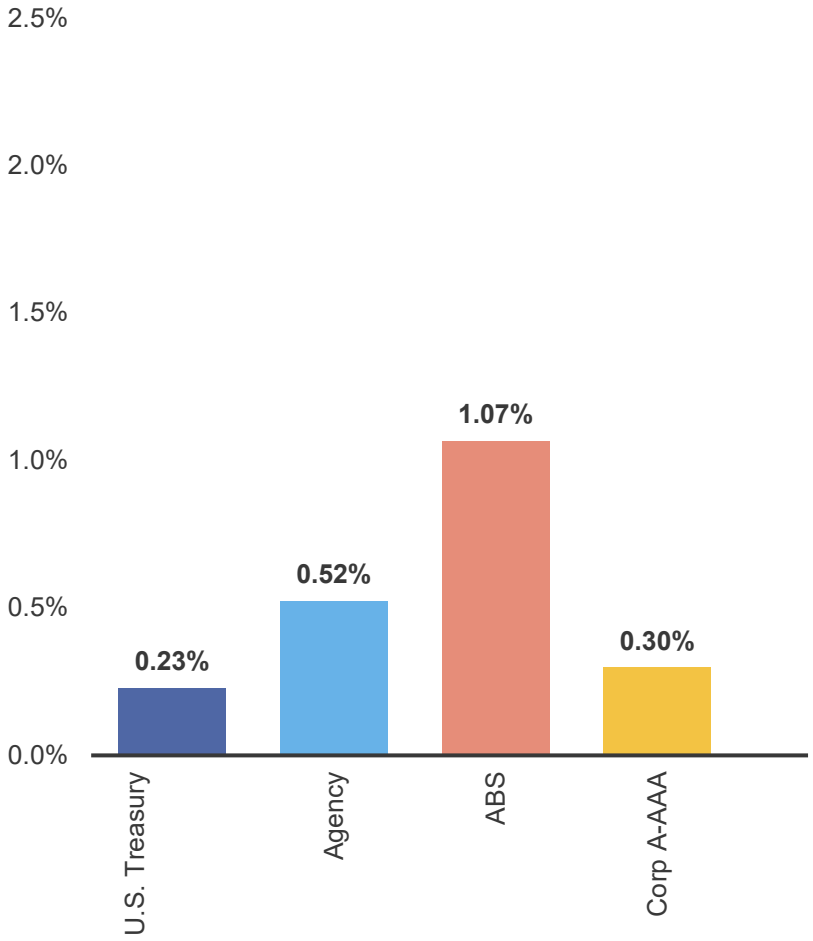


Source: Bloomberg, as of September 30, 2023.

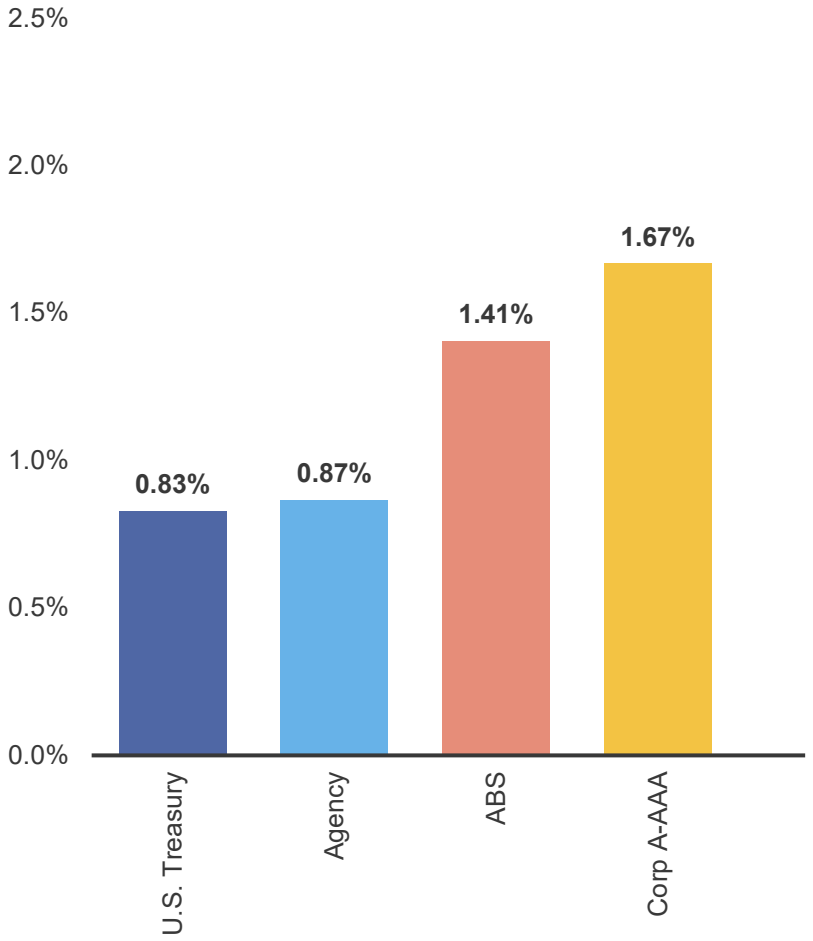
Fixed-Income Markets

1-5 Year Indices

Third Quarter Returns



10-Year Average Returns



Source: ICE BofAML Indices. ABS indices are 0-5 year, based on weighted average life. As of September 30, 2023.

Portfolio Review:
CITY OF OAKLEY

Certificate of Compliance

During the reporting period for the quarter ended September 30, 2023, the account(s) managed by PFM Asset Management ("PFMAM") were in compliance with the applicable investment policy and guidelines as furnished to PFMAM.

Acknowledged : *PFM Asset Management LLC*

Note: Pre- and post-trade compliance for the account(s) managed by PFM Asset Management is provided via Bloomberg Asset and Investment Management ("AIM").

Account Summary

City of Oakley - City of Oakley - 6111-01			
Portfolio Values	**September 30, 2023**	**Analytics[1]**	**September 30, 2023**
CAMP Managed Account	$24,693,572	Yield at Market	5.18%
CAMP Pool	$1,916,458	Yield on Cost	1.59%
Amortized Cost	$26,127,238	Portfolio Duration	1.73
Market Value	$24,693,572	CAMP Pool7-Day Yield	5.55%
Accrued Interest	$43,696		
Cash	$0		

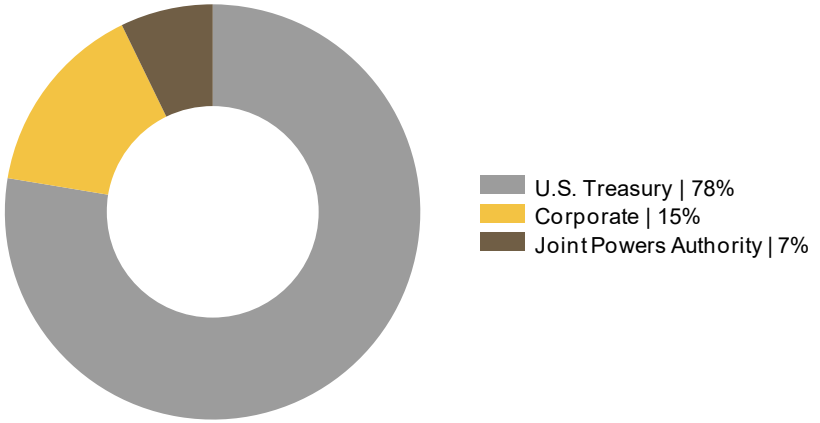
1. *Yield at market, yield on cost, and portfolio duration only include investments held within the separately managed account(s), excludes balances invested in overnight funds.*
2. *The current 7-day yield is the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical fund account with a balance of one share over the seven-day base period including the statement date, expressed as a percentage of the value of one share (normally $1.00 per share) at the beginning of the seven-day period. This resulting net change in account value is then annualized by multiplying it by 365 and dividing the result by 7. The yields quoted should not be considered a representation of the yield of the fund in the future, since the yield is not fixed.*

Portfolio Snapshot - CITY OF OAKLEY[1]

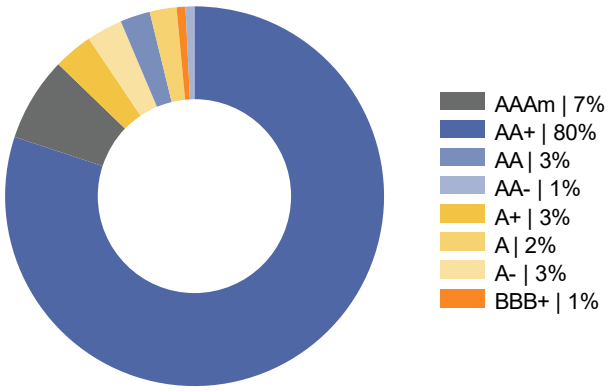
Portfolio Statistics

Total Market Value	$26,653,726.10
Managed Account Sub-Total	*$24,693,572.02*
Accrued Interest	*$43,695.95*
Pool	*$1,916,458.13*
Portfolio Effective Duration	1.73 years
Benchmark Effective Duration	2.50 years
Yield At Cost	1.59%
Yield At Market	5.18%
Portfolio Credit Quality	AA

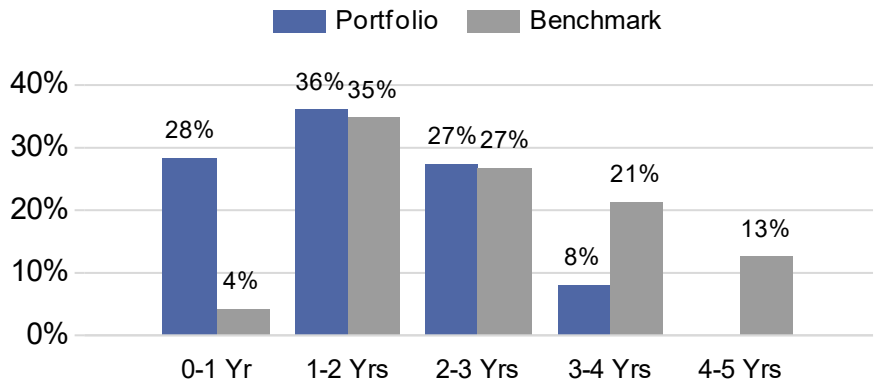
Sector Allocation



Credit Quality - S&P



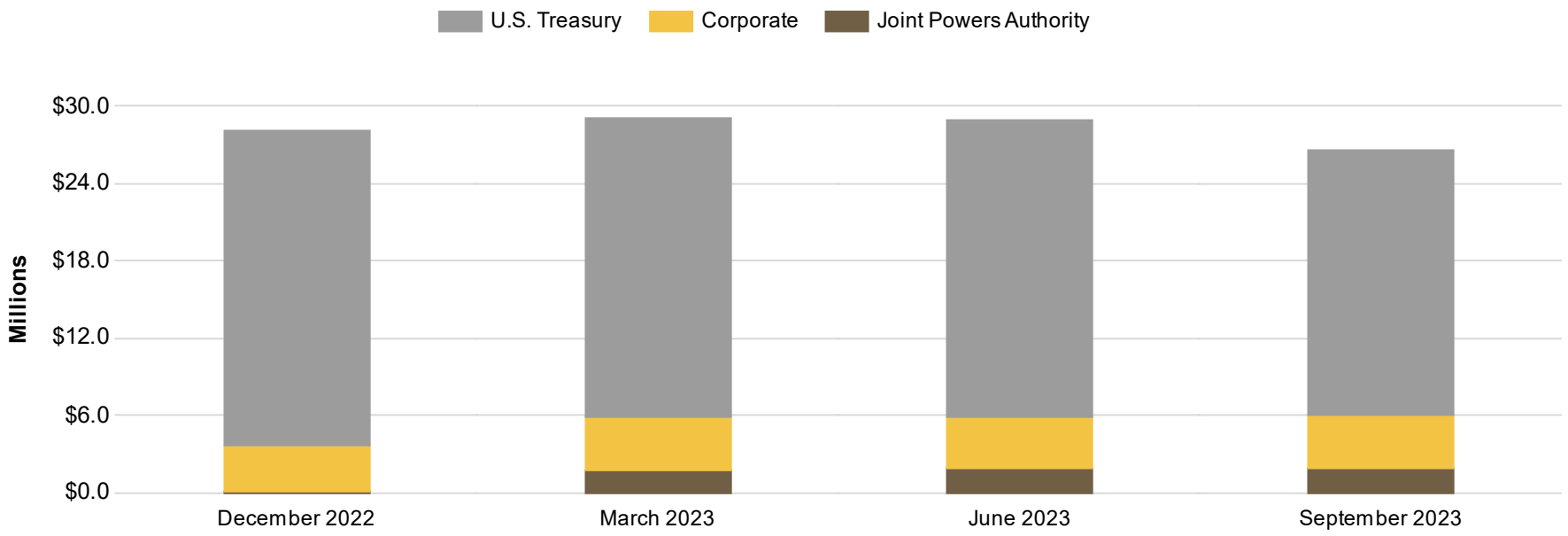
Duration Distribution



1. *Total market value includes accrued interest and balances invested in CAMP, as of September 30, 2023.*
Yield and duration calculations exclude balances invested in CAMP.
The portfolio's benchmark is the ICE BofA 1-5 Year U.S. Treasury Index. Source: Bloomberg.
An average of each security's credit rating was assigned a numeric value and adjusted for its relative weighting in the portfolio.

Sector Allocation Review

Security Type	Dec-22	% of Total	Mar-23	% of Total	Jun-23	% of Total	Sep-23	% of Total
U.S. Treasury	$24.5	87.0%	$23.1	79.7%	$23.0	79.6%	$20.6	77.6%
Corporate	$3.6	12.6%	$4.1	14.1%	$4.1	14.0%	$4.0	15.2%
Joint Powers Authority	$0.1	0.4%	$1.8	6.2%	$1.9	6.4%	$1.9	7.2%
Total	**$28.1**	**100.0%**	**$29.0**	**100.0%**	**$28.9**	**100.0%**	**$26.6**	**100.0%**

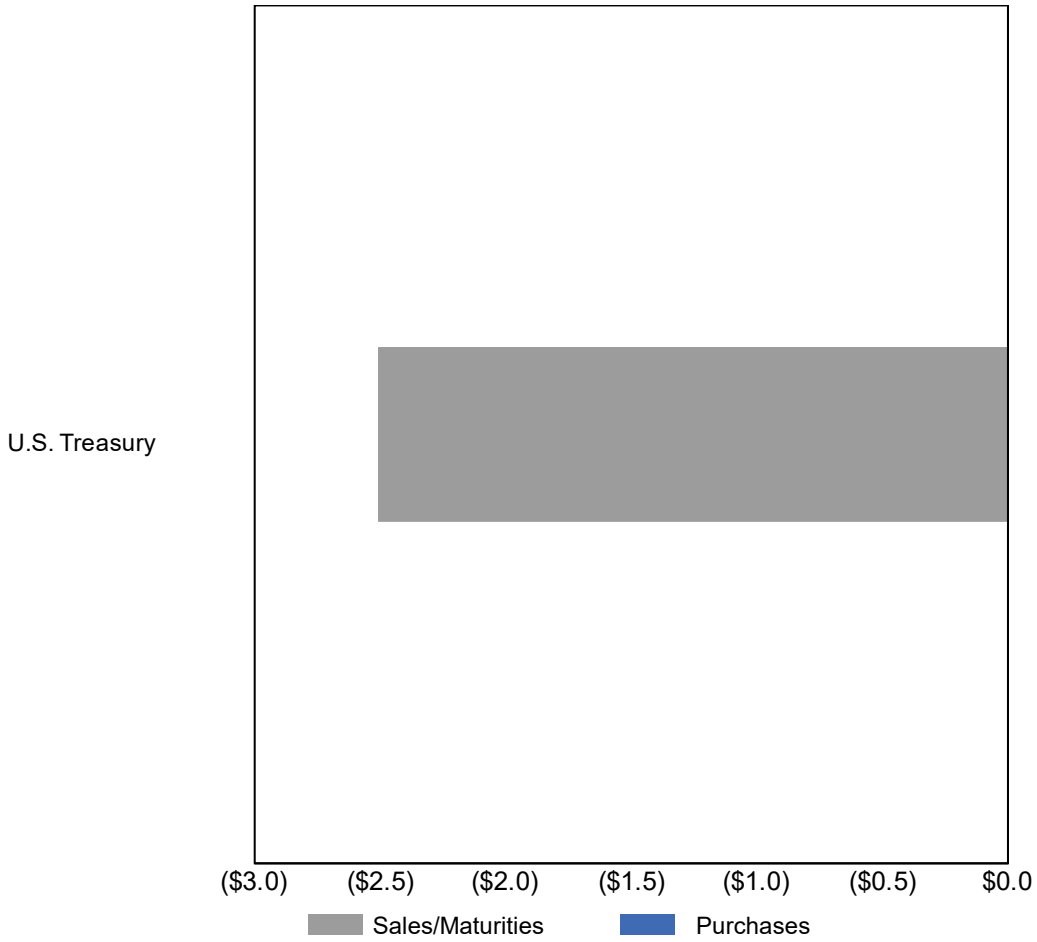


Market values, excluding accrued interest. Only includes fixed-income securities held within the separately managed account(s) and LGIPs managed by PFMAM. Detail may not add to total due to rounding.

Portfolio Activity

Net Activity by Sector

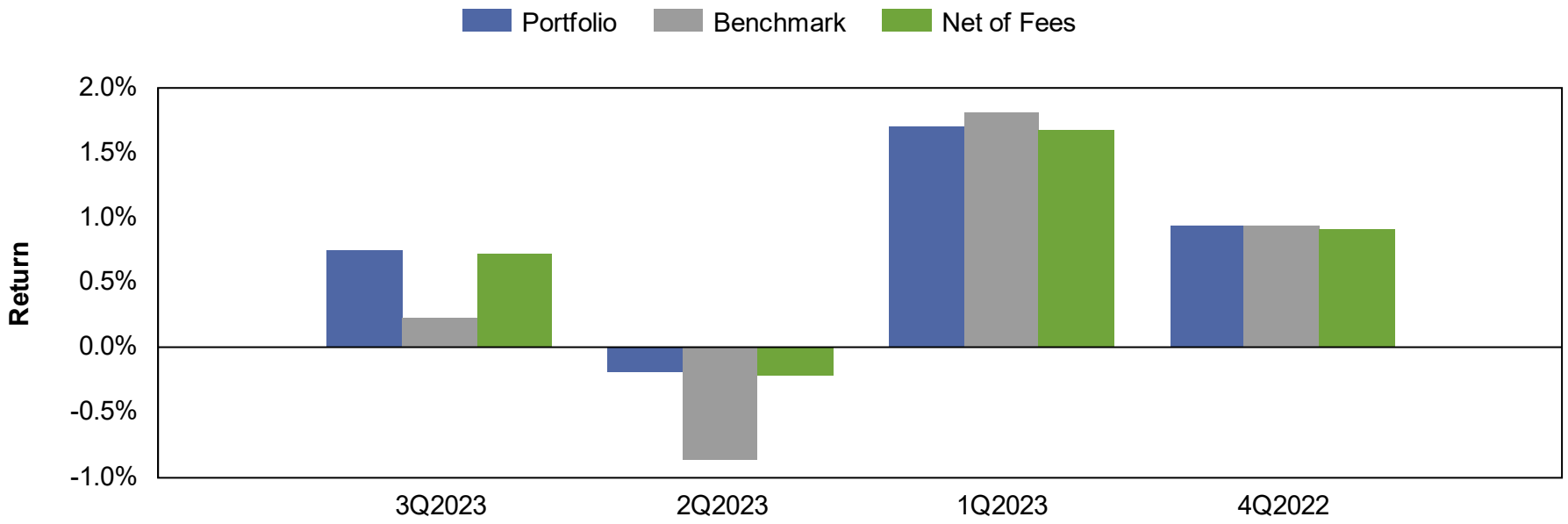
($ millions)



Sector	Net Activity
U.S. Treasury	($2,503,125)
Total Net Activity	**($2,503,125)**

Based on total proceeds (principal and accrued interest) of buys, sells, maturities, and principal paydowns. Detail may not add to total due to rounding.

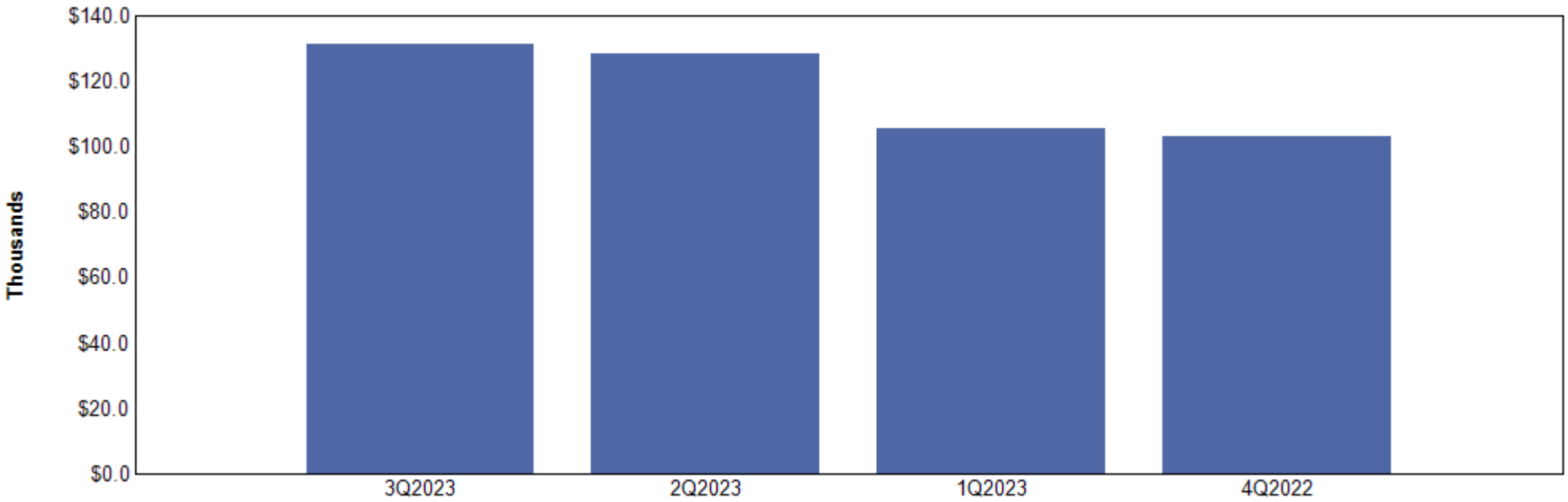
Portfolio Performance



Market Value Basis Earnings	3Q2023	2Q2023	1Q2023	4Q2022
Interest Earned[1]	$95,540	$92,673	$69,981	$69,382
Change in Market Value	$123,114	($147,308)	$417,203	$195,492
Total Dollar Return	**$218,654**	**($54,635)**	**$487,184**	**$264,874**
Total Return[2]				
Portfolio	0.75%	-0.19%	1.71%	0.94%
Benchmark[3]	0.23%	-0.86%	1.82%	0.95%
Basis Point Fee	0.02%	0.02%	0.02%	0.02%
Net of Fee Return	0.73%	-0.21%	1.68%	0.91%

1. Interest earned calculated as the ending accrued interest less beginning accrued interest, plus net interest activity.
2. Returns are presented on a periodic basis.
3. The portfolio's benchmark is the ICE BofA 1-5 Year U.S. Treasury Index. Source: Bloomberg.

Accrual Basis Earnings



Accrual Basis Earnings	3Q2023	2Q2023	1Q2023	4Q2022
Interest Earned[1]	$95,540	$92,673	$69,981	$69,382
Realized Gains / (Losses)[2]	-	-	-	-
Change in Amortized Cost	$35,926	$35,543	$35,579	$33,874
Total Earnings	**$131,466**	**$128,216**	**$105,560**	**$103,256**

1. Interest earned calculated as the ending accrued interest less beginning accrued interest, plus net interest activity.
2. Realized gains / (losses) are shown on an amortized cost basis.

Portfolio Holdings and Transactions

Issuer Diversification

Security Type / Issuer	Market Value (%)	S&P / Moody's / Fitch
U.S. Treasury	**83.5%**	
UNITED STATES TREASURY	83.5%	AA / Aaa / AA
Corporate	**16.5%**	
3M COMPANY	0.8%	BBB / A / NR
AMAZON.COM INC	2.8%	AA / A / AA
APPLE INC	1.5%	AA / Aaa / NR
BANK OF AMERICA CO	1.7%	A / A / AA
BRISTOL-MYERS SQUIBB CO	0.8%	A / A / NR
BURLINGTON NORTHERN SANTA FE	0.8%	AA / A / NR
COMCAST CORP	0.8%	A / A / A
GOOGLE INC	1.1%	AA / Aa / NR
JP MORGAN CHASE & CO	0.8%	A / A / AA
MASTERCARD INC	0.9%	A / Aa / NR
STATE STREET CORPORATION	1.6%	A / A / AA
TARGET CORP	0.8%	A / A / A
TEXAS INSTRUMENTS INC	1.1%	A / Aa / NR
TOYOTA MOTOR CORP	0.8%	A / A / A
Total	**100.0%**	

Ratings shown are calculated by assigning a numeral value to each security rating, then calculating a weighted average rating for each security type / issuer category using all available security ratings, excluding Not-Rated (NR) ratings. For security type / issuer categories where a rating from the applicable NRSRO is not available, a rating of NR is assigned. Includes accrued interest and excludes balances invested in overnight funds.

Issuer Distribution
As of September 30, 2023

Issuer	Market Value ($)	% of Portfolio
UNITED STATES TREASURY	20,646,421	77.59%
CAMP POOL	1,916,458	7.20%
AMAZON.COM INC	676,933	2.54%
BANK OF AMERICA CO	412,413	1.55%
STATE STREET CORPORATION	406,257	1.53%
APPLE INC	373,594	1.40%
GOOGLE INC	276,093	1.04%
TEXAS INSTRUMENTS INC	261,470	0.98%
MASTERCARD INC	214,384	0.81%
TOYOTA MOTOR CORP	208,969	0.79%
JP MORGAN CHASE & CO	205,956	0.77%
BRISTOL-MYERS SQUIBB CO	204,110	0.77%
3M COMPANY	203,818	0.77%
TARGET CORP	203,013	0.76%
BURLINGTON NORTHERN SANTA FE	202,955	0.76%
COMCAST CORP	197,187	0.74%
Grand Total	**26,610,030**	**100.00%**

Managed Account Detail of Securities Held

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury											
US TREASURY N/B NOTES DTD 12/31/2021 0.750% 12/31/2023	91282CDR9	2,025,000.00	AA+	Aaa	3/14/2022	3/16/2022	1,987,822.27	1.80	3,838.15	2,019,834.85	2,001,902.45
US TREASURY NOTES DTD 03/31/2017 2.125% 03/31/2024	912828W71	2,400,000.00	AA+	Aaa	10/13/2021	10/14/2021	2,495,156.25	0.50	139.34	2,419,264.11	2,360,625.12
US TREASURY N/B NOTES DTD 09/15/2021 0.375% 09/15/2024	91282CCX7	2,500,000.00	AA+	Aaa	10/13/2021	10/14/2021	2,482,617.19	0.62	412.09	2,494,298.05	2,382,422.00
US TREASURY N/B NOTES DTD 11/15/2021 0.750% 11/15/2024	91282CDH1	2,050,000.00	AA+	Aaa	3/14/2022	3/16/2022	1,984,496.09	1.99	5,807.40	2,022,387.58	1,946,538.96
US TREASURY NOTES DTD 03/31/2020 0.500% 03/31/2025	912828ZF0	1,425,000.00	AA+	Aaa	10/13/2021	10/14/2021	1,413,087.89	0.75	19.47	1,419,845.00	1,327,921.88
US TREASURY NOTES DTD 05/31/2020 0.250% 05/31/2025	912828ZT0	1,000,000.00	AA+	Aaa	3/14/2022	3/16/2022	944,687.50	2.04	840.16	971,305.46	921,875.00
US TREASURY NOTES DTD 09/30/2020 0.250% 09/30/2025	91282CAM3	2,320,000.00	AA+	Aaa	10/13/2021	10/14/2021	2,264,265.63	0.87	15.85	2,291,882.45	2,110,837.62
US TREASURY NOTES DTD 01/31/2021 0.375% 01/31/2026	91282CBH3	1,490,000.00	AA+	Aaa	5/2/2022	5/3/2022	1,352,349.61	3.00	941.37	1,404,232.45	1,341,000.00
US TREASURY N/B NOTES DTD 03/31/2021 0.750% 03/31/2026	91282CBT7	1,835,000.00	AA+	Aaa	10/13/2021	10/14/2021	1,816,721.68	0.98	37.60	1,824,766.83	1,658,954.69
US TREASURY N/B NOTES DTD 05/31/2021 0.750% 05/31/2026	91282CCF6	930,000.00	AA+	Aaa	6/6/2022	6/7/2022	850,732.03	3.04	2,344.06	876,954.79	834,965.63
US TREASURY N/B NOTES DTD 09/30/2021 0.875% 09/30/2026	91282CCZ2	2,510,000.00	AA+	Aaa	10/13/2021	10/14/2021	2,487,939.45	1.06	60.01	2,496,668.71	2,239,782.94
US TREASURY N/B NOTES DTD 04/30/2020 0.500% 04/30/2027	912828ZN3	835,000.00	AA+	Aaa	8/3/2022	8/4/2022	744,813.48	2.96	1,747.15	766,864.87	719,926.56
US TREASURY NOTES DTD 08/15/2017 2.250% 08/15/2027	9128282R0	875,000.00	AA+	Aaa	9/6/2022	9/7/2022	826,567.38	3.48	2,514.44	837,016.79	799,667.93
Security Type Sub-Total		**22,195,000.00**					**21,651,256.45**	**1.47**	**18,717.09**	**21,845,321.94**	**20,646,420.78**

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Joint Powers Authority											
CAMP Pool		1,916,458.13	AAAm	NR			1,916,458.13		0.00	1,916,458.13	1,916,458.13
Security Type Sub-Total		**1,916,458.13**					**1,916,458.13**		**0.00**	**1,916,458.13**	**1,916,458.13**
Corporate											
JPMORGAN CHASE & CO (CALLABLE) DTD 04/15/2020 2.083% 04/22/2026	46647PBK1	220,000.00	A-	A1	10/13/2021	10/15/2021	225,416.40	1.52	2,023.98	222,398.39	205,956.08
ALPHABET INC CORP NOTES (CALLABLE) DTD 08/09/2016 1.998% 08/15/2026	02079KAC1	300,000.00	AA+	Aa2	3/14/2022	3/16/2022	294,777.00	2.42	765.90	296,603.27	276,093.30
TARGET CORP CORP NOTES (CALLABLE) DTD 01/24/2022 1.950% 01/15/2027	87612EBM7	25,000.00	A	A2	1/19/2022	1/24/2022	24,957.50	1.99	102.92	24,971.88	22,556.95
TARGET CORP CORP NOTES (CALLABLE) DTD 01/24/2022 1.950% 01/15/2027	87612EBM7	200,000.00	A	A2	3/14/2022	3/16/2022	194,764.00	2.53	823.33	196,436.20	180,455.60
BANK OF AMERICA CORP NOTES (CALLABLE) DTD 10/21/2016 3.248% 10/21/2027	06051GGA1	225,000.00	A-	A1	1/3/2023	1/5/2023	210,411.00	4.78	3,248.00	212,653.54	205,542.00
TEXAS INSTRUMENTS INC CORP NOTES (CALLAB DTD 11/03/2017 2.900% 11/03/2027	882508BC7	285,000.00	A+	Aa3	1/3/2023	1/5/2023	267,880.05	4.29	3,397.83	270,492.23	261,469.83
AMAZON.COM INC CORPORATE NOTES DTD 05/12/2021 0.450% 05/12/2024	023135BW5	300,000.00	AA	A1	3/14/2022	3/16/2022	290,007.00	2.04	521.25	297,159.35	290,675.40
TOYOTA MOTOR CREDIT CORP CORP NOTES DTD 02/13/2020 1.800% 02/13/2025	89236TGT6	220,000.00	A+	A1	10/13/2021	10/15/2021	225,425.20	1.04	528.00	222,233.38	208,968.98
3M COMPANY (CALLABLE) CORP NOTES DTD 08/26/2019 2.000% 02/14/2025	88579YBH3	215,000.00	BBB+	A2	10/13/2021	10/15/2021	222,221.85	0.97	561.39	217,865.62	203,818.07
MASTERCARD INC CORP NOTES (CALLABLE) DTD 12/03/2019 2.000% 03/03/2025	57636QAN4	225,000.00	A+	Aa3	3/14/2022	3/16/2022	222,387.75	2.41	350.00	223,748.15	214,383.83

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	Par	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Corporate											
BURLINGTN NORTH SANTA FE CORP NOTES (CAL DTD 03/09/2015 3.000% 04/01/2025	12189LAV3	210,000.00	AA-	A3	10/13/2021	10/15/2021	223,351.80	1.12	3,150.00	215,208.79	202,954.92
AMAZON.COM INC CORPORATE NOTES DTD 04/13/2022 3.000% 04/13/2025	023135CE4	400,000.00	AA	A1	4/11/2022	4/13/2022	399,364.00	3.06	5,600.00	399,675.04	386,257.20
APPLE INC (CALLABLE) CORP NOTES DTD 05/11/2020 1.125% 05/11/2025	037833DT4	400,000.00	AA+	Aaa	10/13/2021	10/15/2021	401,944.00	0.99	1,750.00	400,851.45	373,594.00
COMCAST CORP (CALLABLE) CORPORATE NOTES DTD 05/27/2015 3.375% 08/15/2025	20030NBN0	205,000.00	A-	A3	10/13/2021	10/15/2021	221,514.80	1.22	884.06	212,474.59	197,186.84
BRISTOL-MYERS SQUIBB CO CORPORATE NOTES DTD 11/13/2020 0.750% 11/13/2025	110122DN5	225,000.00	A+	A2	3/14/2022	3/16/2022	210,096.00	2.66	646.88	216,378.40	204,110.10
BANK OF AMERICA CORP (CALLABLE) CORPORAT DTD 02/13/2020 2.015% 02/13/2026	06051GHY8	220,000.00	A-	A1	10/13/2021	10/15/2021	225,106.20	1.46	591.07	222,102.06	206,871.06
STATE STREET CORP NOTES (CALLABLE) DTD 10/29/2020 2.901% 03/30/2026	857477BM4	210,000.00	A	A1	10/13/2021	10/15/2021	222,541.20	1.51	16.92	215,425.91	200,738.79
STATE STREET CORP NOTES (CALLABLE) DTD 10/29/2020 2.901% 03/30/2026	857477BM4	215,000.00	A	A1	3/14/2022	3/16/2022	215,483.75	2.84	17.33	215,237.95	205,518.29
Security Type Sub-Total		**4,300,000.00**					**4,297,649.50**	**2.19**	**24,978.86**	**4,281,916.20**	**4,047,151.24**
Managed Account Sub Total		**26,495,000.00**					**25,948,905.95**	**1.59**	**43,695.95**	**26,127,238.14**	**24,693,572.02**
Securities Sub Total		**$28,411,458.13**					**$27,865,364.08**	**1.59%**	**$43,695.95**	**$28,043,696.27**	**$26,610,030.15**
Accrued Interest											**$43,695.95**
Total Investments											**$26,653,726.10**

Quarterly Portfolio Transactions

Trade Date	Settle Date	Par ($)	CUSIP	Security Description	Coupon	Maturity Date	Transact Amount ($)	Yield at Market	Realized G/L (BV)
INTEREST									
7/15/2023	7/15/2023	225,000.00	87612EBM7	TARGET CORP CORP NOTES (CALLABLE)	1.95%	1/15/2027	2,193.75		
7/31/2023	7/31/2023	1,490,000.00	91282CBH3	US TREASURY NOTES	0.37%	1/31/2026	2,793.75		
8/13/2023	8/13/2023	220,000.00	06051GHY8	BANK OF AMERICA CORP (CALLABLE) CORPORAT	2.01%	2/13/2026	2,216.50		
8/13/2023	8/13/2023	220,000.00	89236TGT6	TOYOTA MOTOR CREDIT CORP CORP NOTES	1.80%	2/13/2025	1,980.00		
8/14/2023	8/14/2023	215,000.00	88579YBH3	3M COMPANY (CALLABLE) CORP NOTES	2.00%	2/14/2025	2,150.00		
8/15/2023	8/15/2023	875,000.00	9128282R0	US TREASURY NOTES	2.25%	8/15/2027	9,843.75		
8/15/2023	8/15/2023	300,000.00	02079KAC1	ALPHABET INC CORP NOTES (CALLABLE)	1.99%	8/15/2026	2,997.00		
8/15/2023	8/15/2023	205,000.00	20030NBN0	COMCAST CORP (CALLABLE) CORPORATE NOTES	3.37%	8/15/2025	3,459.38		
9/3/2023	9/3/2023	225,000.00	57636QAN4	MASTERCARD INC CORP NOTES (CALLABLE)	2.00%	3/3/2025	2,250.00		
9/15/2023	9/15/2023	2,500,000.00	91282CCX7	US TREASURY N/B NOTES	0.37%	9/15/2024	4,687.50		
9/30/2023	9/30/2023	2,510,000.00	91282CCZ2	US TREASURY N/B NOTES	0.87%	9/30/2026	10,981.25		
9/30/2023	9/30/2023	425,000.00	857477BM4	STATE STREET CORP NOTES (CALLABLE)	2.90%	3/30/2026	6,164.63		
9/30/2023	9/30/2023	2,320,000.00	91282CAM3	US TREASURY NOTES	0.25%	9/30/2025	2,900.00		
9/30/2023	9/30/2023	1,425,000.00	912828ZF0	US TREASURY NOTES	0.50%	3/31/2025	3,562.50		
9/30/2023	9/30/2023	2,400,000.00	912828W71	US TREASURY NOTES	2.12%	3/31/2024	25,500.00		
9/30/2023	9/30/2023	1,835,000.00	91282CBT7	US TREASURY N/B NOTES	0.75%	3/31/2026	6,881.25		
Total INTEREST		**17,390,000.00**					**90,561.26**		**0.00**

Quarterly Portfolio Transactions

Trade Date	Settle Date	Par ($)	CUSIP	Security Description	Coupon	Maturity Date	Transact Amount ($)	Yield at Market	Realized G/L (BV)
MATURITY									
9/30/2023	9/30/2023	2,500,000.00	91282CDA6	US TREASURY NOTES	0.25%	9/30/2023	2,503,125.00		
Total MATURITY		**2,500,000.00**					**2,503,125.00**		**0.00**

Important Disclosures

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It is not possible to invest directly in an index. The index returns shown throughout this material do not represent the results of actual trading of investor assets. Third-party providers maintain the indices shown and calculate the index levels and performance shown or discussed. Index returns do not reflect payment of any sales charges or fees an investor would pay to purchase the securities they represent. The imposition of these fees and charges would cause investment performance to be lower than the performance shown.

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- Market values that include accrued interest are derived from closing bid prices as of the last business day of the month as supplied by Refinitiv, Bloomberg, or Telerate. Where prices are not available from generally recognized sources, the securities are priced using a yield-based matrix system to arrive at an estimated market value.
- In accordance with generally accepted accounting principles, information is presented on a trade date basis; forward settling purchases are included in the monthly balances, and forward settling sales are excluded.
- Performance is presented in accordance with the CFA Institute's Global Investment Performance Standards (GIPS). Unless otherwise noted, performance is shown gross of fees. Quarterly returns are presented on an unannualized basis. Returns for periods greater than one year are presented on an annualized basis. Past performance is not indicative of future returns.
- Bank of America/Merrill Lynch Indices provided by Bloomberg Financial Markets.
- Money market fund/cash balances are included in performance and duration computations.
- Standard & Poor's is the source of the credit ratings. Distribution of credit rating is exclusive of money market fund/LGIP holdings.
- Callable securities in the portfolio are included in the maturity distribution analysis to their stated maturity date, although, they may be called prior to maturity.
- MBS maturities are represented by expected average life.

Glossary

- Accrued Interest: Interest that is due on a bond or other fixed income security since the last interest payment was made.
- Agencies: Federal agency securities and/or Government-sponsored enterprises.
- Amortized Cost: The original cost of the principal of the security is adjusted for the amount of the periodic reduction of any discount or premium from the purchase date until the date of the report. Discount or premium with respect to short-term securities (those with less than one year to maturity at time of issuance) is amortized on a straight line basis. Such discount or premium with respect to longer-term securities is amortized using the constant yield basis.
- Asset-Backed Security: A financial instrument collateralized by an underlying pool of assets – usually ones that generate a cash flow from debt, such as loans, leases, credit card balances, and receivables.
- Bankers' Acceptance: A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill as well as the insurer.
- Commercial Paper: An unsecured obligation issued by a corporation or bank to finance its short-term credit needs, such as accounts receivable and inventory.
- Contribution to Total Return: The weight of each individual security multiplied by its return, then summed for each sector to determine how much each sector added or subtracted from the overall portfolio performance.
- Effective Duration: A measure of the sensitivity of a security's price to a change in interest rates, stated in years.
- Effective Yield: The total yield an investor receives in relation to the nominal yield or coupon of a bond. Effective yield takes into account the power of compounding on investment returns, while nominal yield does not.
- FDIC: Federal Deposit Insurance Corporation. A federal agency that insures bank deposits to a specified amount.
- Interest Rate: Interest per year divided by principal amount and expressed as a percentage.
- Market Value: The value that would be received or paid for an investment in an orderly transaction between market participants at the measurement date.
- Maturity: The date upon which the principal or stated value of an investment becomes due and payable.
- Negotiable Certificates of Deposit: A CD with a very large denomination, usually $1 million or more, that can be traded in secondary markets.
- Par Value: The nominal dollar face amount of a security.
- Pass-through Security: A security representing pooled debt obligations that passes income from debtors to its shareholders. The most common type is the mortgage-backed security.

Glossary

- Repurchase Agreements: A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date.
- Settle Date: The date on which the transaction is settled and monies/securities are exchanged. If the settle date of the transaction (i.e., coupon payments and maturity proceeds) occurs on a non-business day, the funds are exchanged on the next business day.
- Supranational: A multinational union or association in which member countries cede authority and sovereignty on at least some internal matters to the group, whose decisions are binding on its members.
- Trade Date: The date on which the transaction occurred; however, the final consummation of the security transaction and payment has not yet taken place.
- Unsettled Trade: A trade which has been executed; however, the final consummation of the security transaction and payment has not yet taken place.
- U.S. Treasury: The department of the U.S. government that issues Treasury securities.
- Yield: The rate of return based on the current market value, the annual interest receipts, maturity value, and the time period remaining until maturity, stated as a percentage on an annualized basis.
- YTM at Cost: The yield to maturity at cost is the expected rate of return based on the original cost, the annual interest receipts, maturity value, and the time period from purchase date to maturity, stated as a percentage on an annualized basis.
- YTM at Market: The yield to maturity at market is the rate of return based on the current market value, the annual interest receipts, maturity value, and the time period remaining until maturity, stated as a percentage on an annualized basis.

STAFF REPORT

OAKLEY
CALIFORNIA

Approved and Forwarded to the City Council

DATE: November 14,2023
TO: Joshua McMurray, City Manager
FROM: Jeri Tejeda, Administrative Service Director
SUBJECT: City of Oakley as Successor Agency to the Oakley Redevelopment Agency – Quarterly Investment Report (1st Quarter FY 2023/24)

Background and Analysis

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

Fiscal Impact

The Investment Report for the Period Ending September 30, 2023, attached shows a balance of $664,866.73 in cash for operations before the City receives the next distribution from the Department of Finance requested with the ROPS. To increase annual cash flow savings of refunding bonds, cash reserves were applied to bond insurance with Build America Mutual (BAM). The Reserve Requirements are satisfied in face amounts of $571,000.00 for 2015 Bonds and $1,827,318.76 for 2018 Bonds.

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

Staff Recommendation

Staff recommends the City Council, as the Board of the Successor Agency, accept the investment report for the 1st Quarter of Fiscal Year 2023/24.

Attachments

1. City of Oakley as Successor Agency to the Redevelopment Agency Investment Report for the quarter ended September 30, 2023.

OAKLEY
CALIFORNIA

City of Oakley as Successor Agency to the Oakley Redevelopment Agency

Quarterly Investment Report

For the Quarter Ended September 30, 2023

Type*	Name of Institution	Rate	Maturity***	Cost Amount	Market Value
Investments in Wells Fargo Bank Account					
	Successor Agency Checking	1.000%	N/A	$ 664,866.73	$ 664,866.73
Total Investments Other than Bond Proceeds				**664,866.73**	**664,866.73**
Investments with US Bank Trust (bond proceeds): **					
	20015 A&B Tax Allocation Refunding Bonds			-	-
	2018 Tax Allocation Refunding Bonds			-	-
Total Investments of Bond Proceeds				-	-
	Total Agency Investments			**$ 664,866.73**	**$ 664,866.73**

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

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

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

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

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

Approved by Jeri Tejeda
Adminstrative Services Director

11/2/2023
Date

DATE: November 14, 2023

Approved and Forwarded to the City Council

TO: Joshua McMurray, City Manager

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

SUBJECT: Approval of the Utility Relocation Agreement between the City of Oakley and Western Area Power Administration (WAPA) to Relocate Electric Utility Poles to accommodate the Laurel Road Widening Project – Capital Improvement Project Number 280

Background and Analysis

The City's adopted FY 2023/24 Capital Improvement Program 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 Oakley residents.

The Laurel Road Widening Project (Cloverbrook Avenue to O'Hara Avenue), CIP 280 is progressing with the design phase and the project is slated for construction by spring 2025. This project is the last section of Laurel Road that needs widening to 4 lanes and compliments the section of Laurel Road from Rose Avenue to Cloverbrook Avenue that was widened and improved in 2018.

In preparation of the widening improvements, two electric utility poles need to be relocated to accommodate the roadway widening and associated improvements. These electric utility poles are owned by the United States Department of Energy, Western Area Power Administration (WAPA) and part of the WAPA electricity transmission network. Staff has been working over the past several months with the design consultant and WAPA to determine the exact location of the new electric utility poles and to establish the utility easements needed for this task, which has now been completed. As a result, WAPA has prepared the attached Pole Relocation Agreement that needs to be executed between the two agencies.

Since this roadway widening project is initiated by the City, the City is responsible for the $177,000 cost associated by WAPA for the relocation of these electric utility poles. WAPA will start their design work on the relocation of the utility poles, and it is anticipated that WAPA will relocate these poles by fall 2024 to clear the site for the City's roadway widening project to start in spring 2025.

Consistency with the Oakley Strategic Plan 27+

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

Fiscal Impact

Approval of this agreement authorizes the advance payment of $177,000 to WAPA to execute the items identified in the scope of services. The current available budget for this project is $27,142.50, and in order to pay for the WAPA pole relocation costs, staff is recommending a budget adjustment in the amount of $177,000 from the Traffic Impact Fee (TIF) fund to cover the WAPA pole relocation costs.

Staff Recommendation

Staff recommends that the City Council adopt the resolution approving the construction agreement with WAPA for the construction and installation of the two WAPA electric utility poles for an amount not to exceed $177,000 and authorizing the City Manager to execute the agreement. Staff is also recommending a budget adjustment in the amount of $177,000 from Traffic Impact Fee (TIF) fund to cover the WAPA pole relocation costs.

Attachments

1.Resolution
2.WAPA Pole Relocation Letter of Agreement 23-SNR-02991

RESOLUTION NO. XX-23

A RESOLUTION OF THE CITY OF OAKLEY APPROVING A UTILITY RELOCATION AGREEMENT BETWEEN THE CITY OF OAKLEY AND WESTERN AREA POWER ADMINISTRATION TO RELOCATE ELECTRIC UTILITY POLES ON LAUREL ROAD BETWEEN O'HARA AVENUE AND CLOVERBROOK AVENUE

WHEREAS, the United States Department of Energy, Western Area Power Administration (WAPA) owns and operates a 69-kilovolt transmission line known as the Tracy-Contra Costa 69-kV transmission line within WAPA transmission line easements within the City of Oakley along Laurel Road; and

WHEREAS, Tracy-Contra Costa 69-kilovat transmission line lies within the Laurel Road Widening Project frontage between Cloverbrook Avenue and O'Hara Avenue, CIP 280; and

WHEREAS, the City of Oakley is requesting that WAPA relocate their electric poles to accommodate the roadway widening project; and

WHEREAS, the City will advance pay WAPA the sum of $177,000 dollars within thirty (30) days of the execution of the Utility Relocation Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the utility relocation agreement between the City of Oakley and WAPA to relocate two utility poles along Laurel Road between Cloverbrook Avenue and O'Hara Avenue is hereby approved and the City Manager is authorized to execute the agreement. Additionally, a $177,000 budget adjustment for CIP 280 to appropriate additional funds from the Traffic Impact Fee (TIF) Fund for the WAPA pole relocation is hereby approved.

PASSED AND ADOPTED by the City Council of the City of Oakley this 14th day of November 2023 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

Department of Energy
Western Area Power Administration
Sierra Nevada Region
114 Parkshore Drive
Folsom, CA 95630-4710

Sent via E-Mail

Letter of Agreement 23-SNR-02991

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

Dear Mr. McMurray:

The City of Oakley (Oakley) has requested, and Western Area Power Administration (WAPA) has agreed, to relocate three (3) of WAPA's Tracy-Contra Costa 69-kilovolt (kV) transmission line poles to accommodate improvements between O'Hara Avenue and Laurel Road.

Oakley informed WAPA of its plan to widen Laurel Road in a section that currently contains WAPA's laminate pole 18/6A, and steel poles 18/7 and 18/8. Oakley requested WAPA assist with design and siting of the poles and replace the existing poles with the most economical poles that meet WAPA's requirements. Therefore, WAPA will remove, acquire, and install new wood poles in the future easement adjacent to the current location. The relocation will place the poles directly within the current path of the Tracy-Contra Costa 69-kV line.

WAPA, at Oakley's expense, shall furnish all work materials necessary to install new poles and associated line hardware on the WAPA transmission line and remove existing poles and line hardware to accommodate improvements between O'Hara Avenue and Laurel Road. The work shall conform to WAPA's overhead power line clearance requirements and shall commence after Oakley's construction contractor has established the final grade following the removal of existing vegetation.

This Letter of Agreement 23-SNR-02991 (LOA) sets forth the terms and conditions for WAPA to relocate and reroute a section of the 69-kV transmission line to support the road improvements as follows:

1. WAPA shall perform the following services at the sole expense of Oakley:

1.1 Plan, acquire, and furnish all work and materials necessary to:

1.1.1 Install wood poles and associated line hardware for structures 18/7 and 18/8 on the Tracy-Contra Costa 69-kV transmission line.

1.1.2 Remove and recycle existing structures as follows:

1.1.2.1 Cut at grade and remove and recycle the laminate pole and associated line hardware for structure 18/6A on the Tracy-Contra Costa 69-kV transmission line; and

1.1.2.2 Remove and recycle the steel poles and associated line hardware for structure 18/7 & 18/8 on the Tracy-Contra Costa 69-kV transmission line.

1.2 Prepare and complete "as built" drawings for the relocated wood poles and associated structures.

1.3 Coordinate the outage of the 69-kV transmission line. Oakley shall be obligated to give WAPA at least sixty (60) days advance written notice of the date it desires WAPA to commence work under this LOA. This notice shall be sent to the following email address: WAMPOC@WAPA.GOV.

1.4 Review and perform necessary environmental studies and/or surveys, including biological and cultural surveys, preparation of NEPA Categorical Exclusion, and pre-construction survey, if required.

2. At the sole expense of Oakley, Oakley will perform and/or provide the following tasks related to the project:

2.1 Work with Oakley consultants to generate the engineering design required to relocate the WAPA 69-kV transmission line.

2.2 Coordinate with WAPA to obtain necessary WAPA standards and specifications that will provide guidance for the engineering design to ensure the designs comply with applicable WAPA requirements.

2.3 Provide the necessary electronic topographic files and survey data of the project area to WAPA to facilitate power pole relocation design.

2.4 Provide available environmental data to WAPA.

2.5 Provide a staging area for WAPA's construction equipment and materials.

2.6 Pay for the relocation project including all WAPA's costs necessary for the relocation.

2.7 Coordinate with WAPA's Lands and Environmental teams to complete the following:

2.7.1 Acquire the necessary land rights using easement language acceptable to WAPA in the name of Oakley and subsequently assign those rights to WAPA;

2.7.2 Prepare the legal descriptions and provide to WAPA for review and approval; and

2.7.3 Provide the Preliminary Title Reports and Title Insurance for the acquired easements. Title to easements transferred to WAPA must be in accordance with Department of Justice title standards and acceptable to WAPA.

2.8 Obtain the crossing permits from other affected utilities, if applicable.

2.9 Provide traffic control services for WAPA's removal and installation of the poles.

2.10 Remove/dispose the steel casing and remaining wood laminate pole set in the steel casing for laminate pole 18/6A on the Tracy-Contra Costa 69-kV transmission line.

2.11 Remove the concrete foundations for structures 18/7 and 18/8 on the Tracy-Contra Costa 69-kV transmission line.

3. Oakley will provide advanced funding of all costs incurred by WAPA for performing the work activities described in Section 1 herein. The estimated cost for WAPA to perform the work in Section 1 is $177,000.00. An estimated breakdown of the work activities is below:

Work Task	Estimated Budget
Labor, Material, and Equipment	$135,000.00
Environmental Tasks	$ 15,000.00
Lands and Realty Tasks	$ 7,000.00
Contingency	$ 20,000.00
Total	**$177,000.00**

The budget for each task in the table is an estimate and WAPA may transfer budgets between tasks as necessary to complete the work.

4. Schedule for Performance: Upon receiving the funding from Oakley, WAPA will provide Oakley with a tentative schedule for the work set forth in Section 1. WAPA will begin the work described in Section 1 after consultation with Oakley.

While WAPA will use its best efforts to accommodate Oakley's schedule, the Parties understand WAPA's first priority is to operate and maintain WAPA's transmission system. In the event WAPA is unable to accommodate Oakley's schedule because of conflicting work schedules associated with WAPA's transmission system, WAPA will provide Oakley with a written estimated date of availability. WAPA will use its best efforts to complete the work described herein within seven (7) days of commencement of such work. Oakley and WAPA will work cooperatively to minimize the duration of the outage of the WAPA transmission line since it may result in a significant disruption.

5. Payment to WAPA:

5.1 Upon execution of this LOA, WAPA will send Oakley an invoice for the estimated cost set forth in Section 3 above.

5.2 Oakley shall remit payment to WAPA following the instructions on the invoice. WAPA will not be obligated to start work under this LOA until payment is received in full.

5.3 WAPA will establish a WAPA-managed, non-interest-bearing trust account in the U.S. Treasury, and have the funds advanced by Oakley collected into this account.

5.4 WAPA will charge all costs associated with the work it provides pursuant to Section 1 above, to a work order number established specifically for the trust account.

5.5 WAPA will monitor the trust account balance during the time it is performing the planning, initial engineering and design work. If, at any time, WAPA determines that its costs to perform the work under this LOA will exceed the initial cost estimate, and the remaining account balance will not be sufficient to complete the work, WAPA shall notify Oakley. This notification will explain why additional funds are necessary and provide a summary of costs WAPA incurred to date prior to its determination of insufficient funding. After providing such notification to Oakley, WAPA will send an invoice to Oakley for any additional funding needed. Per the invoice instructions, such additional funding shall be due within ten (10) calendar days of the date of the invoice. Failure on the part of Oakley to advance additional funding requested by WAPA shall result in a delay or cessation of all work by WAPA under this LOA. WAPA has no obligation to perform or complete work without sufficient advance funding from Oakley.

5.6 Upon completion of the work activities under Section 1 above, and after all financial obligations have been met, WAPA shall provide Oakley with a summary accounting of costs WAPA incurred in the performance of its obligations under this LOA and will return the unobligated balance of the trust account funds, without interest, to Oakley within ninety (90) days.

5.7 WAPA shall maintain records of the actual costs incurred, charged, or allocated to the work performed under this LOA in accordance with generally accepted accounting principles. WAPA will retain detailed billing records for three (3) years from the date the work under this LOA is complete. Such records will be available for review by Oakley. Oakley may, at its sole expense, request copies of the records maintained per this Section 5.7.

6. General Provisions:

6.1 Contingent Upon Appropriations and Authorization:

6.1.1 Where activities provided for in the LOA extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the United States' obligations under the LOA. In case such appropriation is not made, Oakley hereby releases the United States from its contractual obligations and from all liability due to the failure of Congress to make such appropriation.

6.1.2 In order to receive and expend funds advanced from Oakley necessary for the continued performance of the obligations of the United States under the LOA, additional authorization may be required. In case such authorization is not received, Oakley hereby releases the United States from those contractual obligations and from all liability due to the lack of such authorization.

6.2 Covenant Against Contingent Fee: Oakley warrants that no person or selling agency has been employed or retained to solicit or secure the LOA upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Oakley for the purpose of securing business. For breach or violation of this warranty, WAPA shall have the right to annul the LOA without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

6.3 Contract Work Hours and Safety Standards: This LOA, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. § 3701, as amended or supplemented, is subject to the provisions of the Act, 40 U.S.C. §§ 3701-3708, as amended or supplemented, and to regulations promulgated by the Secretary of Labor pursuant to the Act.

6.4 Equal Opportunity Employment Practices: Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), as amended or supplemented, which provides, among other things, that Oakley will not discriminate against any

employee or applicant for employment because of race, color, religion, sex, or national origin, is incorporated herein by reference the same as if the specific language had been written into the LOA, except that Indian Tribes and tribal organizations may apply Indian preference to the extent permitted by Federal law.

6.5 Use of Convict Labor: Oakley agrees not to employ any person undergoing sentence of imprisonment in performing the LOA except as provided by 18 U.S.C. § 3622(c), as amended or supplemented, and Executive Order No. 11755, 39 Fed. Reg. 779 (1973), as amended or supplemented.

7. Cooperation of the Parties: Neither party shall unreasonably withhold its consent to the implementation and accomplishment of the overall purpose of this LOA.

8. Modification of LOA: This LOA may be modified upon mutual agreement of both parties. Any modification will be set forth in an amendment to this LOA which shall be signed by both parties.

9. Term of LOA: This LOA shall become effective on the date executed by both parties and shall remain in effect until all services provided for under this LOA are complete, and all related financial obligations are satisfied, or three (3) years from the date of execution, whichever occurs first, unless otherwise agreed as provided for in Section 8.

10. Termination of LOA: Either Party shall have the right to terminate this LOA upon thirty (30) days written notice to the other Party. Upon termination, Oakley shall be entitled to all work products prepared by WAPA and paid for by Oakley. Furthermore, upon termination WAPA shall be entitled to compensation for work completed through the date of termination including any cleanup activities due to termination of the LOA. WAPA will return the unobligated balance of the trust account funds, without interest, to Oakley within ninety (90) days after the termination of the LOA and after all accounting has been completed.

11. Execution by Counterparts: This LOA may be executed in any number of counterparts and, upon execution and delivery by each party, the executed and delivered counterparts together shall have the same force and effect as an original instrument as if all parties had signed the same instrument. Any signature page of this LOA may be detached from any counterpart of this LOA without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this LOA identical in form hereto, by having attached to it one or more signature pages.

12. Electronic Signatures: The parties agree that this LOA may be executed by handwritten signature or digitally signed using DocuSign or Adobe Sign. An electronic or digital signature is the same as a handwritten signature and shall be considered valid and acceptable.

If the terms and conditions of this LOA are satisfactory, please have the appropriate authorized Oakley representative sign via DocuSign and have the signature attested. Once the LOA is signed, DocuSign will send you a fully executed version of this LOA for your records. If you have any questions, please contact Ms. Sharol Lynch at slynch@wapa.gov.

Sincerely,

Bryan W. Griess

Digitally signed by Bryan W. Griess
Date: 2023.10.30 15:04:09 -07'00'

Bryan W. Griess
Acting Senior Vice President and
Sierra Nevada Regional Manager

CITY OF OAKLEY

Attest:

By: _____
Name: Libby Travis

By: _____
Name: Josh McMurray
Title: City Manager
Address: 13231 Main Street
Oakley, CA 94561

OAKLEY
CALIFORNIA

Approved and Forwarded to the City Council

DATE: November 14, 2023

TO: City Council

FROM: Joshua McMurray, City Manager

SUBJECT: Authorization to Execute a Purchase and Sale Agreement with Landsea Homes of California, LLC for the Sale of the Real Property Containing Approximately 27.0-Acres, Located at the Northeast Corner of E. Cypress Rd. and Knightsen Avenue (APN 032-081-025)

Background and Analysis

History of the Dutch Slough Properties

Prior to incorporation of the City, Contra Costa County designated approximately 1,500 acres owned by the Emerson, Gilbert, and Burroughs families (the "Dutch Slough area"), for urban development and executed Development Agreements (DAs) with the land owners. Upon incorporation, the DAs with the County became binding upon the City.

In fall of 2001, the Dutch Slough landowners submitted an application to the Cal-Fed Delta Program to sell the properties north of the CCWD/USBR Canal to create the Dutch Slough Tidal Marsh Restoration Project. On September 2002, the City Council approved a Memorandum of Understanding ("MOU") between the City and the Dutch Slough landowners summarizing the terms of basic understanding regarding the disposition of the northern and southern portions of the properties and the future planning for the southern portions. In August 2003, the MOU was supplemented by DAs between the City and the Dutch Slough landowners to formalize and secure the rights created in the MOU, General Plan, and the Department of Water Resources (DWR) transaction.

In March of 2005 the City Council approved a collaborative planning processing for the Dutch Slough area. A group of five developers and the City developed the Dutch Slough Planning Framework Study to guide the development of the three properties made up of the Emerson, Gilbert and Burroughs properties. After the completion of the Dutch Slough Planning Framework Study, the City began processing the Tentative Maps for the three properties and one Environmental Impact Report for the Dutch Slough project area. This cooperative framework went away during the recession and the Emerson and Gilbert properties have now developed separately. Emerson Ranch has been mostly built-out with Neighborhoods 1-5 constructed and Neighborhood 6 is wrapping up construction and the commercial parcel has an approved project wich has yet to be constructed. The Delaney Park (former Gilbert property) project is nearly complete.

The Burroughs property is comprised of two parcels. APN 032-081-026, which is approximately 17.90-acres, is owned by the Burroughs Family and APN 032-081-025, which is approximately 27-acres, is owned by the City. The City received the 27-acres as part of the transaction discussed above between the State and parcel owners.

Cooperative Agreement with WestGate Services

On December 10, 2019, the Oakley City Council approved the Cooperative Agreement between the City and WestGate Services for the entitlement and Preparation for Sale of this property. There are significant economies of scale to plan, entitle and develop both the Burroughs' 18 acres and the City's 27 acres together. The planning and entitlement work would include geotechnical analyses, biological consultants, civil engineering, preliminary architectural and other related consultancy. It is also believed that the sales proceeds on the sale of the jointly planned parcels to be much higher than if planned, entitled and sold separately.

The Cooperative Agreement sets forth the terms and conditions of our arrangement with WestGate. The key provisions include:

- WestGate oversees the various consultants and professionals needed to plan, entitle and sell the property.
- Unless a particular consultant is only needed for the Burroughs Property, or the City's property, all costs of consultants will be shared equally. (Price proposals/bids will be jointly reviewed by WestGate and the City and be mutually agreed upon).
- Communication and coordination between WestGate and the City will focus on the main goal of maximizing value of the properties.
- WestGate will process all entitlement documents with the City to include, any General Plan Amendment (not being proposed), Tentative Map, Design Review, etc.
- WestGate will assist with the marketing and sale of the City property to a merchant homebuilder and will receive 2.5% of the sales price as commission.
- WestGate would also receive upon sale of the property a $30,000 a fee for coordinating the work of the consultants and entitlement process.

- The City would not charge for City staff time for this development; however, costs to the City by outside parties providing services needed to process the development application would be billed to the development.

The City entered into a Purchase and Sale Agreement with DR Horton in March of 2022, after an extensive marketing campaign by WestGate. That deal never went further than the due diligence stage and we were notified by DR Horton that they no longer wanted to purchase the property. With the increase in fuel prices, economic uncertainty created by the War in Ukraine, and other factors, the marketing of the property was put on hold until earlier this year, when builders started to show some interest again after the housing market started to show signs of stability. WestGate was entertaining offers from three builders but only one was deemed to be serious and worth considering. The Purchase and Sale Agreement being proposed for consideration is with Landsea Homes of California, LLC. They are a California based company with over a decade of experience building quality communities in six states, including northern and southern Califonria.

One thing to note, is that the offer received accounts for affordable housing, which is a State imposed City requirement when we dispose of a residential property (Govt Code section 54233). The builder would be required to deliver to the City 17 finished lots, or 15% of the total number of lots, which is the State requirement. Those lots will then be used for below market rate homes, in which the City will need to find a partner to work with. That state requirement would cap the sales price of the 17 homes to no more than 80% of Area Median Income (AMI).

City Council Approval of the Burroughs Subdivision

On May 25, 2021, the City Council approved the Burroughs property subdivision which consisted of a Rezone (RZ 01-21) and Vesting Tentative Map (TM 01-21) to rezone the property from the A-3 (Heavy Agriculture) District to the Planned Development (P-1) District and to subdivide the approximately 43.24-acre project site into 208 single-family residential lots with associated site improvements and amenities. Of the 208 approved lots, the City owns 115 lots and WestGate controls 93. This Purchase and Sales agreement only addresses the 115 City owned lots.

The City retained Brothers Smith LLP to assist with the preparation and review of the Purchase and Sales Agreement. This firm is the same firm that WestGate Services is using.

It should be noted that the City did follow the provisions Government Code Section 54220 of the State of California, by providing notification that the City intends to sell the surplus property to affordable housing developers. We did not receive any formal interest on the

property during that process, thus reducing our obligation to the State to provide Affordable Housing from a 25% requirement down to a 15% requirement.

Purchase and Sale Agreement

The Purchase and Sale Agreement contains the terms for the purchase of the property. The minimum purchase price is $7,350,000, with a series of two deposits to be given to the City. The first deposit would amount to $75,000 and would be due within 3 days of the effective date of the agreement. The second deposit of $660,000 would be due after the 45 day due-diligence period ends and the buyer provides the City with a Notice of Approval.

The City does stand to generate more revenue based on the terms contained in the Purchase and Sale Agreement. The terms set forth a minimum purchase price of $75,000 per lot (98 lots), when not taking into account the 17 below market rate lots. Whren the builder has developed the site into finished lots, they will prepare a report that will show the actual development costs on a per lot basis. To the extent that the builder is able to complete each lot's development cost for anything under $155,000, the City will be able to realize 50% of the cost savings that the builder experienced. The City has committed to working with Landsea to ensure anything within the city's control is expedited and as efficient as possible to help with this desal point.

The City is currently going through the United States Bureau of Reclamation as part of the Burroughs Central Valley Project Inclusion process. That process is expected to wrap up early next year and the escrow related to this Purchase and Sale Agreement is expected to close on or before April 1, 2024. The City does have the ability to close escrow sooner, if desired, at a cost of $70,000 per month. The only event that may necessitate an earlier close of escrow would be related to the fill dirt the City has reserved through the County Flood Control Department and to ensure the City recoups it's $100,000 deposit for the fill dirt.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Finance and Fiscal Responsibility Goal and specifically the sub-objective that points to the City making the most needed improvements to streets, utilizing development's improvements, funds from the sale of property, and other financing sources to make improvements to the East Cypress traffic flow situation.

Fiscal Impact

The City stands to generate at a minimum $7,350,000 of gross revenue off the sale of this City owned property. The net proceeds would take into account the agreement the City has with WestGate Services and the City share of the costs to entitle the property.

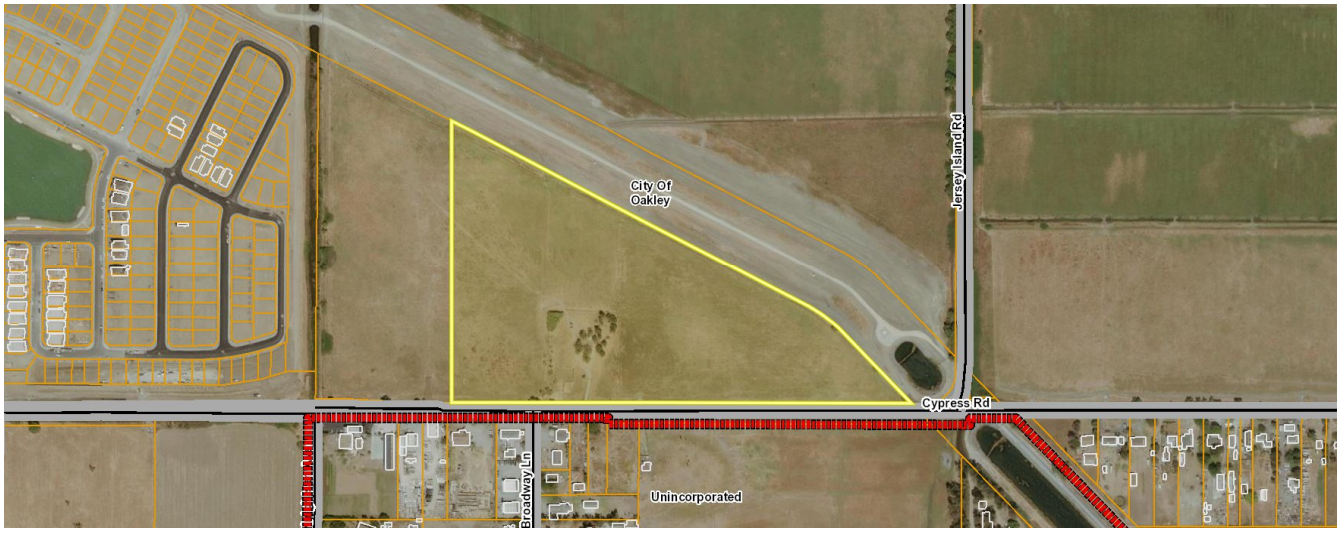
Staff Recommendation

Staff recommends that the Council adopt the resolution approving the Purchase and Sale Agreement with Landsea Homes of California, LLC for the sale of the real property containing approximately 27.0-Acres, located at the northeast corner of E. Cypress Rd. and Knightsen Avenue (APN 032-081-025).

Attachments

1. Site Map
2. Draft Resolution
3. Draft Purchase and Sale Agreement

Vicinity Map
Burroughs Purchase and Sale Agreement
Northeast corner of East Cypress Rd. and Knightsen Ave.
APNs. 032-081-025



RESOLUTION NO. XX-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AND SALE AGREEMENT WITH LANDSEA HOMES OF CALIFORNIA, LLC FOR THE SALE OF THE REAL PROPERTY CONTAINING APPROXIMATELY 27.0-ACRES, LOCATED AT THE NORTHEAST CORNER OF E. CYPRESS RD. AND KNIGHTSEN AVENUE (APN 032-081-025)

BE IT RESOLVED by the City Council of the City of Oakley that the City Manager is hereby authorized and directed to sign on behalf of the City that certain Purchase and Sales Agreement between the City and with Landsea Homes of California, LLC for the sale of the real property containing approximately 27.0-Acres, located at the northeast corner of E. Cypress Rd. and Knightsen Avenue (APN 032-081-025).

PASSED AND ADOPTED by the City Council of the City of Oakley this 14th day of November 2023, by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

PURCHASE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS

This Purchase Agreement and Joint Escrow Instructions ("**Agreement**") is made and entered into by and between THE CITY OF OAKLEY, a California municipal corporation ("**Seller**"), and LANDSEA HOMES OF CALIFORNIA LLC, a Delaware limited liability company ("**Buyer**"), with reference to the facts set forth below. The "**Effective Date**" means the later date of the following: (a) the City Council of Seller takes all necessary action to approve and authorize the execution of this Agreement or (b) Buyer's and Seller's signatures on this Agreement. Seller will promptly notify Buyer of the approval of the Agreement by the City Council of Seller ("**Seller Approval Notice**") and within three (3) business days thereafter will deliver an executed copy of the Agreement to Buyer. If Seller does not provide Buyer the Seller Approval Notice within sixty (60) days after the date of Buyer's signature on this Agreement, then this Agreement shall be cancelled, void and of no force or effect.

RECITALS

A. Seller owns the real property containing approximately 27.04 acres located at the northeast corner of E. Cypress Rd. and Knightsen Avenue, in the City of Oakley ("**City**"), Contra Costa County ("**County**"), California ("**State**"), APN 032-081-025, which is more particularly described in **Exhibit A** attached hereto, together with any and all improvements, rights and appurtenances pertaining thereto, including, but not limited to, all associated easements, privileges, entitlements, permits, rights of way and appurtenances benefiting such land, development rights, air rights, water rights, mineral, oil and gas and other subsurface rights, and all right, title, and interest of Seller in and to adjacent streets, alleys, easements, and rights-of-way, to the extent of Seller's interest therein, if any, all of such real property, rights and appurtenances being referred to as the "**Property**."

B. The parties acknowledge that Buyer has entered (or intends to enter) into an agreement with WESTGATE VENTURES FUND III, LLC, a California limited liability company ("**Assignor**"), to acquire the property adjacent to the Property containing approximately 17.9 acres located at Cypress Road and commonly known as County Assessor's Parcel Number 032-081-026 ("**Adjacent Property**"). The City and other applicable governmental authorities approved Vesting Tentative Map No. TM-01-21 (Subdivision 9557) with respect to the Property and the Adjacent Property ("**Tentative Map**"), related CEQA clearance or approvals, and other permits, approvals, and entitlements to permit development of ninety-three (93) single family lots ("**Lots**") on the Adjacent Property and one hundred fifteen (115) Lots on the Property planned for residences to be constructed thereon (collectively, the "**Residences**"), of which seventeen (17) Lots will be conveyed back to the City to be developed as below market rate Residences ("**City Lots**") and ninety-eight (98) Lots will be retained by Buyer ("**Retained Lots**").

C. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Property, all upon the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, including the payment of the Independent Consideration (as defined below), Buyer and Seller agree as follows:

1. **Purchase and Sale of Real Property**

1.1 **Agreement of Purchase and Sale**. Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the Property.

1.2 **Escrow**. Within three (3) business days after the Effective Date, Buyer and Seller shall open an escrow (the "**Escrow**") with the First American Title Company, 4750 Willow Road, Suite 275, Pleasanton, CA 94588, Attn: Jules Fulop ("**Escrow Holder**") by delivering to Escrow Holder a fully executed copy of this Agreement (the "**Opening of Escrow**"). Buyer and Seller agree to execute any additional instructions reasonably required by the Escrow Holder that are consistent with this Agreement. If there is a conflict between any escrow instructions and this Agreement, the terms of this Agreement shall govern unless Buyer and Seller expressly agree, in writing, otherwise. If the Closing does not occur at the time and in the manner provided in this Agreement because of the default of one of the parties, then the costs of cancellation, if any, shall be paid by the defaulting party. If the Closing does not take place for any reason other than a default by one of the parties, then each of Buyer and Seller shall be responsible for one-half share of any cancellation costs.

1.3 **Purchase Price**. The purchase price for the Property ("**Purchase Price**") shall be the sum of (i) Seven Million Three Hundred Fifty Thousand Dollars ($7,350,000) ("**Minimum Purchase Price**"); and (ii) fifty percent (50%) of any Savings. "**Savings**" means the amount, if any, that the Costs to Complete (as herein after defined) are less than One Hundred Fifty Five Thousand Dollars ($155,000) per Retained Lot. The "**Cost to Complete**" shall be the sum of (a) all costs associated with obtaining approvals for, or satisfying conditions of, the Tentative Map, the Final Map (as defined below), and other approvals; (b) all costs to design, improve, inspect, and complete each Lot (including the City Lots) to be a Finished Lot (as defined on **Schedule 1** attached hereto) and (c) the amount of the Early Closing Credit (as defined below), if applicable. For purposes of calculating the Costs to Complete, soft costs ("**Soft Costs**") shall consist of costs of Buyer's insurance costs, financing costs, salaries paid to employees of Buyer, accounting and bookkeeping costs, and overhead and administrative costs, and such Soft Costs shall be a fixed allowance equal to eight percent (8%) of all other Costs to Complete, regardless of actual cost and Buyer will not be required to provide evidence of the Soft Costs. To the extent Buyer uses master contracts and/or any costs relate to the Property and the Adjacent Property, Buyer shall reasonably allocate such costs. To the extent that the Costs to Complete exceeds Fifteen Million One Hundred Ninety Thousand Dollars ($15,190,000), or One Hundred Fifty-Five Thousand Dollars ($155,000) per Retained Lot, Buyer shall be wholly responsible for and shall bear any and all losses relating to the costs in excess of the Cost to Complete, as agreed upon herein. At the Closing (as defined below), Buyer will pay Seller the Minimum Purchase Price. After all of the Lots planned for the Property have been completed as Finished Lots, Buyer will deliver to Seller a report stating the actual Costs to Complete, with reasonable evidence thereof, and will pay Seller the remaining Purchase Price, if any.

1.4 **Deposit**. In consideration for the right to purchase the Property granted in this Agreement by Seller to Buyer, Buyer shall, within three (3) business days after the Effective Date, deliver to Escrow Holder the sum of Seventy Five Thousand Dollars ($75,000) ("**Initial**

Deposit"). If Buyer delivers the Notice of Approval pursuant to **Section 4.2**, Buyer shall, within one (1) business day thereafter, deliver to Escrow Holder the additional sum of Six Hundred Sixty Thousand Dollars ($660,000) ("**Second Deposit**"). All references herein to "**Deposit**" refer to the Initial Deposit and the Second Deposit to the extent delivered by Buyer to Escrow Holder, and all interest earned on the Deposit. Upon Buyer's delivery of the Notice of Approval to Seller as provided in this Agreement, the Initial Deposit and the Second Deposit shall be nonrefundable to Buyer, except as otherwise provided in this Agreement. The Deposit shall be invested by Escrow Holder in an account approved by Buyer with any interest accruing thereon to be paid to the party entitled to the Deposit pursuant to this Agreement. The Deposit shall be applicable to the Minimum Purchase Price at the Closing.

1.5 **Independent Consideration**. Notwithstanding any other provision of this Agreement, a portion of the Deposit in the amount of One Hundred Dollars ($100.00) ("**Independent Consideration**") shall be non-refundable to Buyer as independent consideration for the rights extended to Buyer in this Agreement, including the right to terminate this Agreement as provided herein. If this Agreement terminates for any reason, Seller shall retain the Independent Consideration. The Independent Consideration shall not be applicable towards the Purchase Price.

1.6 **Memorandum of Agreement**. Concurrently with the execution of this Agreement, Seller and Buyer shall execute, acknowledge and deliver to Escrow a memorandum of agreement ("**Memorandum of Agreement**") in substantially the form attached hereto as **Exhibit B**. Upon Buyer's delivery of the Notice of Approval to Seller and Buyer's delivery of the Second Deposit to Escrow Holder, Escrow Holder shall immediately record the Memorandum of Agreement in the Official Records of the County against the Property. Upon the termination of this Agreement, and subject to Buyer's receipt of the Deposit if Buyer is entitled to the same pursuant to this Agreement, Buyer shall deliver to Escrow Holder a notice of termination or quitclaim of the Memorandum of Agreement in recordable form to remove the Memorandum of Agreement from the condition of title to the Property.

1.7 **City Lots**. After Closing, Buyer will use commercially reasonable efforts to complete the City Lots to be in Finished Lot condition (**"Completion**"). Within thirty (30) days after Completion, Buyer shall convey the City Lots to Seller for no additional consideration ("**Conveyance Date**"). In addition to delivery of the City Lots, in Finished Lot condition, Buyer shall also provide to Seller completed curb cut location for each of the City Lots. Prior to completing the curb cut location, Buyer shall notify Seller within fifteen (15) days of the commencement of curb cut construction of the City Lots. Seller agrees to reasonably cooperate with Buyer's efforts to achieve Completion of the City Lots. Neither Buyer nor any of its past, present and future employees, agents, representatives or attorneys has made and is not now making, and Seller has not relied upon and will not rely upon (directly or indirectly), any warranties or representations of any kind or character, express or implied, oral or written, with respect to the City Lots, including the physical condition of the City Lots, the Finished Lot improvements, including any construction or design defects, errors, omissions or other conditions relating to the City Lots or the Completion of the Finished Lots, latent or otherwise, soil conditions, the presence of hazardous materials or any other matter affecting the City Lots (collectively, the "**Property Matters**"). Seller represents that it has relied and shall rely solely

upon (a) its own expertise and that of Seller's consultants in entering into this Agreement and acquiring the City Lots and (b) Seller's own knowledge of the Property based on its ownership prior to the effective date and investigations and inspections of the City Lots. Seller has conducted, or will have had the opportunity to conduct, such inspections and investigations of the City Lots as Seller deemed or shall deem necessary, including the Property Matters and shall rely upon same. Seller acknowledges and agrees that Buyer shall convey to Seller and Seller shall accept the City Lots "as is, where is," with all faults, defects (latent and apparent or other adverse matters that may be associated with the City Lots. Effective on the Conveyance Date, Seller waives, releases and agrees to indemnify, defend and hold harmless Buyer, its affiliates, and their respective officers, directors, employees, managers, members, representatives, agents, successors and assigns ("**Released Parties**") from and against any and all claims, actions, causes of action, demands, liabilities, damages, costs and expenses, including attorneys' fees and costs (collectively, "**Claims**"), of any and every kind or character, known or unknown, that it may now have or hereafter acquire against any of the Released Parties for any Claims arising from or related to City Lots or the Property Matters. This release includes Claims of which Seller is presently unaware or which Seller does not presently suspect to exist which, if known by Seller, would materially affect Seller's release to Buyer. To the fullest extent permitted by law, Seller hereby agrees and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to Claims that are presently unknown, unanticipated and unsuspected, and Seller further agrees that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Seller nevertheless hereby intends to release, discharge and acquit Buyer from any such unknown Claims. Seller specifically waives the provision of California Civil Code Section 1542, which provides as follows:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

Seller has initialed this Section to confirm its acceptance of the provisions hereof.

_____
Seller's Initials

2. **Close of Escrow**

2.1 **Closing.**

(a) **Closing Date**. The closing ("**Closing**") of the purchase and sale of the Property shall take place on the date ("**Closing Date**") that is earliest to occur of either: (i) five (5) business days after the Final Map is in a ready to record condition (as such term is defined below); (ii) April 1, 2024 (the "**Outside Closing Date**"); or (iii) within fifteen (15) days after notice, provided by Seller to Buyer, of Seller's desire to proceed to Closing prior to the Outside Closing Date ("**Early Closing Notice**"). Notwithstanding the foregoing, in no event

shall the Closing Date be later than the Outside Closing Date or earlier than fifteen (15) days after the expiration of the Feasibility Period. In the event Closing occurs prior to the Outside Closing Date, pursuant to an Early Closing Notice, the Minimum Purchase Price shall be reduced by seventy thousand dollars ($70,000) per month for each month occurring between the Closing Date and the Outside Closing Date (on a prorated basis for any partial month) (the "**Early Closing Credit**"). The Closing Date and the Outside Closing Date shall be automatically extended on a day-to-day basis due to delays caused by events beyond Buyer's reasonable control, including acts of God, war, riot, civil disobedience or disturbance, weather, impracticality, accident, strike or other labor disputes, delays of suppliers, contractors or carriers, fire, flood or casualty, governmental or judicial actions, governmental shut downs and/or delays, quarantine and/or other disease control measures related to a public health crisis, and shortages of material, components, fuel, labor or facilities ("**Force Majeure**").

(b) **Adjacent Property**. The Closing shall occur concurrently with Buyer's acquisition of the Adjacent Property ("**Adjacent Property Closing**") and the parties agree to cooperate to affect such closings concurrently.

2.2 **Seller's Closing Obligations**. At the Closing, Seller shall:

(a) Execute, acknowledge and deliver to Buyer a Grant Deed in the form attached hereto as **Exhibit C** and incorporated herein ("**Deed**"), conveying to Buyer good and indefeasible fee simple title to the Property free and clear of all liens, claims, and encumbrances except the Permitted Exceptions (as defined in **Section 3.3**);

(b) Execute and deliver to Escrow Holder two executed original counterparts of a General Assignment Agreement (the "**General Assignment**") in the form attached hereto as **Exhibit D** assigning to Buyer all rights of Seller in and to any intangible rights and personal property or other interests in the Property;

(c) Pay Seller's closing costs as specified in Section 2.4 of this Agreement;

(d) Deliver an executed title affidavit and other documents if required by, and in a form reasonably acceptable to, First American Title Company ("**Title Company**") that is sufficient to enable Title Company to issue the Title Policy (as defined below) subject to the requirements of this Agreement.

(e) Deliver such proof of Seller's authority and authorization to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individual(s) executing and/or delivering any instruments, documents, or certificates on behalf of Seller to act for and bind Seller as may be reasonably required by Title Company.

(f) Execute and deliver such other instruments and affidavits as the Escrow Holder may reasonably require.

2.3 **Buyer's Obligations at Closing**. At the Closing, Buyer shall:

(a) Pay to Seller the Minimum Purchase Price in cash for the Property less the amount of the Deposit;

(b) Execute and deliver to Escrow Holder two executed original counterparts of the General Assignment;

(c) Pay Buyer's closing costs as specified in Section 2.4 of this Agreement; and,

(d) Execute and deliver such other instruments and affidavits as the Escrow Holder may reasonably require.

2.4 **Closing Costs**. Seller shall pay (i) all County and City documentary transfer taxes, if any, (ii) one-half of Escrow Holder's fees, and (iii) Seller's attorneys' fees incurred in connection with the negotiation and consummation of this Agreement. Buyer shall pay (i) one-half of Escrow Holder's fees, (ii) all title insurance fees and premiums for the Title Policy (as defined below), and (iii) Buyer's attorneys' fees incurred in connection with the negotiation and consummation of this Agreement. All other closing costs shall be allocated between Seller and Buyer in accordance with the customary allocation of such costs in the County.

2.5 **Prorations**. Current ad valorem taxes, special taxes and all assessments of whatever kind shall be prorated on the Property as of the Closing Date based on the latest information available to Escrow Holder. Seller shall be responsible for, and shall pay, any delinquent or supplemental taxes properly attributable to the Property prior to the Closing, and shall pay for such delinquent or supplemental taxes, whether such delinquent or supplemental taxes become due before or after the Closing. Buyer shall be responsible for all supplemental taxes assessed as the result of the Closing. If, after the Closing, either party receives a bill for any such taxes or assessments, including supplemental taxes (collectively, "**Other Taxes**"), owed by the other party, then the parties agree that (a) such Other Taxes shall be prorated between the parties to the Closing and (b) the party receiving the bill for the Other Taxes shall notify the party responsible for paying the Other Taxes in writing of the amount of such Other Taxes and the party owing the Other Taxes shall promptly pay its prorated share of such Other Taxes within thirty (30) days of demand therefor. All prorations and/or adjustments called for in this Agreement, including those specified in **Section 2.1,** are to be made on the basis of a thirty (30) day month, unless otherwise specifically instructed in writing. The provisions of this **Section 2.5** shall survive the Closing.

2.6 **Escrow Holder's Duties at Closing**. Escrow Holder shall cause the Closing to occur by (a) recording Seller's Deed and each other document required to be recorded and (b) delivering funds and documents as set forth in **Section 2.7** WHEN AND ONLY WHEN (i) all funds and instruments required pursuant to **Sections 2.2 through 2.5**, inclusive, have been delivered to Escrow Holder and (ii) each of the conditions precedent to the Closing set forth in this Agreement have been satisfied or waived as provided for in this Agreement.

2.7 **Distribution of Funds and Documents**

(a) Escrow Holder shall, at the Closing, deliver to Seller and Buyer a copy of the Deed (conformed to show recording date) and conformed copies of each document recorded to place title in the condition required by this Agreement. Escrow Holder shall cause the County Recorder of the County to mail Seller's Deed and each other recorded document after recordation, to the grantee, beneficiary or person (i) acquiring rights under said document or (ii) for whose benefit said document was acquired.

(b) Escrow Holder shall, at the Closing, deliver by certified mail, overnight courier or United States mail (or will hold for personal pickup, if requested) one (1) copy of each non-recorded document received hereunder by Escrow Holder to the payee or person (i) acquiring rights under said document or (ii) for whose benefit said document was acquired. Escrow Holder shall deliver copies of all documents deposited into Escrow to the parties.

(c) All disbursements by Escrow Holder shall be made by wire transfer in accordance with instructions provided to Escrow Holder. Escrow Holder shall deliver, at the Closing, to Seller all amounts to which Seller is entitled and shall deliver any excess amount to Buyer.

3. **Title Report**

3.1 **Title Report; Title Review Period**. Within five (5) days after the Effective Date, Seller will deliver to Buyer a current title report for the Property together with legible copies of the exceptions (the "**Title Report**") issued by the Title Company. Buyer has thirty (30) days after the Effective Date (the "**Title Review Period**") to notify Seller in writing of any objection to exceptions in the Title Report.

3.2 **Buyer's Title Response; Cure Period**. If Buyer does not notify Seller of any objection to the exceptions in the Title Report, then at the end of the Title Review Period, Buyer shall be deemed to have accepted all of the exceptions in the Title Report. If Buyer objects to any exception(s) in the Title Report, then Seller shall have ten (10) business days following the end of the Title Review Period (the "**Cure Period**") to commit in writing to modify or eliminate the objected to exceptions as of the Closing, to the sole and absolute satisfaction of Buyer. Notwithstanding anything to the contrary contained in this Agreement, whether or not Buyer objects, Seller must remove at or prior to the Closing, and title to the Property shall be conveyed to Buyer free and clear of, all of the following: (i) any mortgage or deed of trust, (ii) any mechanic's lien, (iii) any other monetary liens and obligations of any kind whatsoever, except for non-delinquent real property taxes and assessments that constitute a lien on the Property, (iv) any rights of possession, (v) any exceptions related to Seller's authority and power to sell the Property, and (vi) any exceptions caused or created by Seller after the Effective Date. If Seller has not agreed to modify or eliminate the objected to exceptions, to the sole and absolute satisfaction of Buyer, within the Cure Period, Buyer may, at its option, and as Buyer's sole remedies, elect to (A) waive its objections to the Title Report or (B) terminate this Agreement. Buyer shall notify Seller of its election in writing, within five (5) business days following the end of the Cure Period (the "**Buyer's Title Waiver Period**"). If Buyer fails to notify Seller prior to the expiration of the Buyer's Title Waiver Period, however, the Agreement

shall be deemed terminated as of the end of the Feasibility Period unless Buyer delivers the Notice of Approval, in which event the approved condition of title shall be as set forth in the last title commitment issued by Title Company received by Buyer at least one (1) business day prior to the expiration of the Feasibility Period, and Seller shall be obligated to remove those objectionable exceptions, if any, that Seller is required to remove or that Seller previously agreed to remove in writing. If Buyer elects or is deemed to elect to terminate this Agreement pursuant to this Section, the Deposit shall be promptly returned to Buyer, and thereafter neither Seller nor Buyer shall have any further duties, rights or obligations hereunder, except for those duties, rights and/or obligations that are expressly stated herein to survive such termination. Seller or Buyer may elect to extend the Closing Date and the Outside Closing Date for up to thirty (30) days as may be required to modify or eliminate any objected to exceptions in accordance with this Section.

3.3 **Permitted Exceptions.** "Permitted Exceptions" shall consist of the following: (a) the lien for real property taxes and assessments not yet due or payable, and (b) the exceptions disclosed in the Title Report or any Supplemental Report that Buyer has notified Seller in writing are acceptable to Buyer.

3.4 **New or Additional Exceptions**. After the Effective Date and so long as this Agreement remains in effect, Seller shall not place or knowingly allow any deed of trust, lien, encumbrance, or other exception to title to the Property without the prior written consent of Buyer, and if Seller breaches this covenant, in addition to all other rights and remedies, Buyer may direct Escrow Holder to use Seller's proceeds from the Closing to pay off and remove any such deed of trust, lien, encumbrance, or other exception to title to the Property. If any new or additional exceptions to title to the Property appear of record after the date of the Title Report, including after the expiration of the Feasibility Period, the Escrow Holder shall deliver to Buyer a supplemental title report, including true and correct copies of all instruments reflected as exceptions in the supplemental title report ("**Supplemental Report**"). Thereafter, the parties shall comply with **Sections 3.1 and 3.2**, except that the Title Review Period for any Supplemental Report shall be five (5) business days, the Cure Period shall be five (5) business days, Buyer shall notify Seller of its election regarding any uncured exceptions within two (2) business days (and shall be deemed to have disapproved any exceptions not approved in writing within such period), and the Closing shall be extended as necessary to accommodate review of the Supplemental Report in accordance herewith.

4. Feasibility and Activities Relating to Property

4.1 **Seller's Materials**. Within two (2) days after the Effective Date, Seller shall provide to Buyer, by electronic copy or by physical copies, or by providing access to a due diligence website, the following documents, relating to the Property, to the extent in Seller's possession or reasonable control (collectively "**Seller's Materials**"):

(i) All final reports and studies concerning the Property, including the soils and geologic condition of the Property;

(ii) All entitlement documents, permits, plans, and any property conditions reports;

(iii) All permits, approvals, and inspection reports relating to the Property;

(iv) All existing leases affecting the Property, and all lease files, including without limitation, all material correspondence to or from any current tenant regarding their occupancy;

(v) Any previously completed survey of the Property;

(vi) Copies of all reports, studies, and other materials which Seller possesses or controls which pertain to the environmental condition of the Property and the Adjacent Property; and

(vii) Copies of all reports, studies, and other materials which Seller possesses or controls that pertain to FC Permit No. 626-21, the Soil Material or the Soil Material Permit (as such terms are defined below).

4.2 **Buyer's Feasibility**. Buyer, at its expense, may conduct a feasibility study of the Property (including architectural, geotechnical, environmental, marketing, engineering and financial feasibility studies) to determine whether or not the Property is suitable to Buyer as determined by Buyer in its sole and absolute discretion. Such operations shall be conducted in such a manner as to not permanently damage the Property, and if damage is done, Buyer shall repair and restore it to substantially its condition existing immediately prior to Buyer's operations on the Property at Buyer's expense. If the feasibility study indicates, in Buyer's sole and absolute discretion, that the Property is suitable to Buyer, then Buyer will send written notice (the "**Notice of Approval**") to Seller on or before the date that is forty five (45) days after the Effective Date (the "**Feasibility Period**"). If Buyer does not send Seller the Notice of Approval on or before the last day of the Feasibility Period, and if such failure continues for more than two (2) business days after delivery of written notice thereof to Buyer, or if Buyer provides Seller written notice terminating this Agreement at any time prior to delivering the Notice of Approval, this Agreement shall terminate. In the event of such termination, Escrow Holder is irrevocably instructed to immediately return the Deposit to Buyer, less the Independent Consideration, and Seller and Buyer shall have no further obligation to each other except for those obligations that expressly survive termination of this Agreement.

4.3 **Right of Entry**. Unless this Agreement is earlier terminated, from and after the Effective Date through the Closing, Buyer and its agents, consultants, contractors, subcontractors and employees (collectively, **"Buyer's Representatives"**) shall have the right to enter upon the Property at reasonable times during ordinary business hours to perform such inspections, investigations, tests and studies. In conducting any inspections, tests, or studies, the Buyer and Buyer's Representatives shall (a) not unreasonably interfere with the operation, use, and maintenance of the Property, (b) not permit any liens to attach to the Property by reason of Buyer's exercise of the rights under this Section, (c) restore any damage to the Property caused by Buyer or Buyer's Representatives, and (d) not conduct any invasive testing without the prior consent of Seller. Prior to any such entry by the Buyer or Buyer's Representatives on the Property, Buyer shall obtain and maintain commercial general liability insurance written on an occurrence basis, with aggregate limits and per occurrence limits of at least Two Million Dollars

($2,000,000) and that names Seller as additional insured with respect to any loss, damage, or injury that may occur as a result of Buyer or Buyer's Representatives' entry upon the Property. In addition, Buyer hereby agrees to indemnify, defend, and hold Seller free and harmless from and against any and all damages, claims, losses, liabilities, causes of action, proceedings, costs, and expenses (including reasonable attorneys' fees) (collectively, "**Claims**") to the extent caused by any such activities of Buyer or Buyer's Representatives upon or about the Property; provided, however, the foregoing indemnity, defense, and hold harmless obligations shall not extend to liability arising from (x) the acts or omissions of Seller, or its agents, consultants, contractors, or tenants, (y) any diminution in value of the Property arising from or relating to any matters discovered by the Buyer or Buyer's Representatives, or (z) the discovery (but not negligent exacerbation) by Buyer or Buyer's Representatives of preexisting physical conditions on the Property. Buyer's indemnity, defense, and hold harmless obligations shall survive the Closing or earlier termination of this Agreement for a period of one (1) year.

4.4 **Termination Prior to expiration of the Feasibility Period**. If this Agreement is terminated pursuant to **Section 4.2** for any reason other than a breach or default by Seller, then Buyer shall provide to Seller copies of all documents, reports, studies, and other materials prepared by third parties on Buyer's behalf in connection with Buyer's due diligence investigations of the Property ("**Buyer's Materials**"), excluding all financial analysis, appraisals, internally generated analysis, reports, and communications, attorney work product, architectural and/or house plans, and all other proprietary, privileged, and/or confidential information. Seller acknowledges and agrees that (i) Buyer makes no covenant, representation, or warranty whatsoever as to Buyer's Materials, including their content, reliability, accuracy or completeness, and (ii) if Seller uses or relies on any of Buyer's Materials, Seller shall do so solely at Seller's own risk, and Buyer makes no representation, warranty or assurance as to whether Seller has any right to use or rely thereon. The delivery of Buyer's Materials shall be subject to the proprietary rights of any engineer or other consultant preparing the same and any limitations on use imposed by them.

5. Remedies

5.1 **Seller's Remedies; LIQUIDATED DAMAGES**. IF BUYER DEFAULTS IN PERFORMING BUYER'S OBLIGATIONS HEREUNDER FOR ANY REASON OTHER THAN SELLER'S DEFAULT, AND SUCH DEFAULT IS NOT CURED WITHIN THE NOTICE AND CURE PERIOD SET FORTH IN **SECTION 5.4**, SELLER SHALL BE ENTITLED, AS SELLER'S SOLE AND EXCLUSIVE REMEDY, TO OBTAIN ONE OF THE FOLLOWING REMEDIES (A) TO WAIVE THE CONTRACTUAL OBLIGATIONS OF BUYER IN WRITING; (B) TO EXTEND THE TIME FOR PERFORMANCE BY SUCH PERIOD OF TIME AS MAY BE MUTUALLY AGREED UPON IN WRITING BY THE PARTIES HERETO; OR (C) IF BUYER HAS DELIVERED ITS NOTICE OF APPROVAL AND ESCROW FAILS TO CLOSE SOLELY DUE TO BUYER'S DEFAULT UNDER THIS AGREEMENT, SELLER MAY ELECT TO TERMINATE THIS AGREEMENT AND RECEIVE THE AMOUNT OF THE DEPOSIT TO THE EXTENT ACTUALLY DELIVERED TO ESCROW HOLDER AS LIQUIDATED DAMAGES (THE "**LIQUIDATED DAMAGES**") IN ACCORDANCE WITH THE PROVISIONS SET FORTH BELOW. IF SELLER ELECTS THE REMEDY SET FORTH IN **SECTION 5.1(c)**, SELLER

WILL BE DAMAGED AND WILL BE ENTITLED TO COMPENSATION FOR THOSE DAMAGES. SUCH DAMAGES WILL, HOWEVER, BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN FOR THE FOLLOWING REASONS: (i) THE DAMAGES TO WHICH SELLER WOULD BE ENTITLED IN A COURT OF LAW WILL BE BASED IN PART ON THE DIFFERENCE BETWEEN THE ACTUAL VALUE OF THE PROPERTY AT THE TIME SET FOR THE CLOSING AND THE PURCHASE PRICE AS SET FORTH IN THIS AGREEMENT; (ii) PROOF OF THE AMOUNT OF SUCH DAMAGES WILL BE BASED ON OPINIONS OF VALUE OF THE PROPERTY, WHICH CAN VARY IN SIGNIFICANT AMOUNTS; AND (iii) IT IS IMPOSSIBLE TO PREDICT AS OF THE DATE ON WHICH THIS AGREEMENT IS MADE WHETHER THE VALUE OF THE PROPERTY WILL INCREASE OR DECREASE AS OF THE DATE SET FOR THE CLOSING. THE PARTIES DESIRE TO LIMIT THE AMOUNT OF DAMAGES FOR WHICH BUYER MIGHT BE LIABLE SHOULD BUYER BREACH THIS AGREEMENT AND TO AVOID THE COSTS AND LENGTHY DELAYS WHICH WOULD RESULT IF SELLER FILED A LAWSUIT TO COLLECT ITS DAMAGES FOR A BREACH OF THIS AGREEMENT. THEREFORE, IF AFTER BUYER DELIVERS A NOTICE OF APPROVAL, ESCROW FAILS TO CLOSE DUE SOLELY TO BUYER'S DEFAULT, THEN THE AMOUNT OF THE LIQUIDATED DAMAGES SHALL BE DEEMED TO CONSTITUTE A REASONABLE ESTIMATE OF SELLER'S DAMAGES UNDER THE PROVISIONS OF SECTION 1671 OF THE CALIFORNIA CIVIL CODE, AND SELLER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF THE FAILURE TO CLOSE ESCROW RESULTING FROM BUYER'S DEFAULT SHALL BE LIMITED TO SUCH AMOUNT AND SELLER SHALL HAVE NO RIGHT TO RECOVER ANY ADDITIONAL DAMAGES OR TO PURSUE ACTION FOR SPECIFIC PERFORMANCE OF ANY PROVISIONS OF THIS AGREEMENT. IN CONSIDERATION OF THE PAYMENT OF LIQUIDATED DAMAGES, SELLER WILL BE DEEMED TO HAVE WAIVED ALL OTHER CLAIMS FOR DAMAGES OR RELIEF AT LAW OR IN EQUITY INCLUDING ANY RIGHTS SELLER MAY HAVE PURSUANT TO SECTION 1680 OR SECTION 3389 OF THE CALIFORNIA CIVIL CODE RELATING TO BUYER'S DEFAULT RESULTING IN ESCROW NOT CLOSING AS PROVIDED UNDER THIS AGREEMENT. BY INITIALING THIS PROVISION IN THE SPACES BELOW, SELLER AND BUYER EACH SPECIFICALLY AFFIRM THEIR RESPECTIVE AGREEMENTS CONTAINED IN THIS AGREEMENT AND AGREE THAT SUCH SUM IS A REASONABLE SUM CONSIDERING THE CIRCUMSTANCES AS THEY EXIST ON THE DATE OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, SELLER'S RIGHTS OF DEFENSE AND INDEMNIFICATION AS SET FORTH IN THIS AGREEMENT SHALL NOT BE DISTURBED BY SELLER'S ELECTION UNDER **SECTION 5.1(c).**

_____ _____

BUYER'S INITIALS SELLER'S INITIALS

5.2 **Buyer's Remedies**. If the Closing does not occur by reason of default by Seller that is not cured by Seller not cured within the notice and cure period set forth in **Section 5.4**, then Buyer shall be entitled to (a) terminate this Agreement, in which case Escrow Holder

shall promptly return the Deposit to Buyer, and Seller shall pay to Buyer, within ten (10) days after termination of this Agreement, Buyer's reasonable, out-of-pocket third party expenses incurred in connection with the transaction, or (b) pursue an action for specific performance of this Agreement or to enforce any other equitable relief, including the right to record a lis pendens against the Property, provided, that if the remedy for specific performance is unavailable as a result or consequence of Seller's acts, then Buyer shall be entitled to pursue all rights and remedies under law and equity. This provision shall not limit or otherwise affect Buyer's right to receive reimbursement for attorneys' fees as authorized by **Section 16.9**, Seller's indemnity obligations under this Agreement or any rights or obligations that survive the Closing or termination of this Agreement.

5.3 **Post-Closing Remedies**. From and after the Closing, each party hereto shall have the right to pursue its actual damages against the other party (a) for a breach of any covenant or agreement contained in this Agreement that is performable after or that survives Closing (including the indemnification obligations of the parties hereto contained in this Agreement, but excluding any obligation to purchase the Property), and (b) for a breach of any representation or warranty made by the other party in this Agreement. The obligations described this **Section 5.3** shall survive the Closing and any termination of this Agreement.

5.4 **Limitation on Remedies**. Notwithstanding anything to the contrary in this Agreement, in no event shall any party be entitled to recover any speculative, consequential, or punitive damages from the other party in connection with this Agreement and/or the Property.

5.5 **Notice and Cure.** Notwithstanding anything to the contrary contained in this Agreement, neither Buyer nor Seller shall be in breach or default of any provision of this Agreement, and the other party shall have no right to terminate this Agreement as a result of any non-performance, unless the other party first provides written notice of such breach and the defaulting party fails to cure such breach within five (5) business days following receipt of such written notice, provided that such cure period shall be two (2) business days with respect to the failure to perform the obligations under **Sections 2.2 and 2.3** or payment of the Deposit. The Closing Date and the Outside Closing Date will be extended to accommodate any such notice and cure period. Each party agrees to reasonably cooperate with the other in any and all attempts by the defaulting party to cure any default within the default cure period.

5.6 **Escrow Cancellation Charges Due to a Default**. If the Closing fails to occur due to Seller's or Buyer's default, the defaulting party must pay all Escrow cancellation charges. If Escrow fails to close for any reason other than the foregoing, each party must pay one-half of the Escrow cancellation charges. "**Escrow cancellation charges**" means all fees, charges, and expenses incurred by Escrow Holder, including all expenses incurred in connection with issuance of the Title Report and other title matters.

6. Development Matters

6.1 **Entitlements**. From and after the Effective Date through the Closing, Buyer shall have the right (directly or through its affiliates) to process all applications, plans, maps, agreements, documents, and other instruments or entitlements (collectively, the "**Entitlements**") necessary or appropriate for the subdivision and development of the Property as

contemplated by Buyer in its sole discretion, including a final map for the subdivision of the Property and the Adjacent Property into the Lots in substantial conformance with the Tentative Map ("**Final Map**") and the improvement plans required in connection with the Final Map ("**Improvement Plans**"). Seller agrees to assist and reasonably cooperate with Buyer's efforts to process the Entitlements, including assigning rights relating to the Entitlements and executing applications, consents, and other documents in connection with processing the Entitlements. Seller agrees that it will not interfere or take any action in opposition to Buyer's efforts to process the Entitlements and shall not take any action which could materially and adversely affect the Property or the Entitlements. From and after the Effective Date, Buyer shall have the right to meet and communicate with the consultants, engineers, contractors, and subcontractors providing or that have provided services to Seller in connection with the Property, and Seller shall instruct such parties to communicate freely with Buyer. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall require the continued efforts of Buyer or its affiliates to process or pursue the Entitlements, and Buyer and its affiliates will have no liability to Seller in connection with the processing of the Entitlements, if this Agreement is terminated for any reason or if Escrow does not close.

6.2 **Inclusionary Letter**. The parties acknowledge that Assignor will continue to use commercially reasonable efforts to process and obtain all necessary approvals relating to the National Environmental Policy Act and approval of an inclusionary letter for the Property and the Adjacent Property by the Contra Costa Water District ("**Inclusionary Letter**").

6.3 **Stockpiled Soil at Upper Sand Creek Basin**. Seller presently holds Contra Costa County Flood Control and Water Conservation District Permit No. 626-21 ("**FC Permit No. 626-21**"), which is a placeholder permit intended to reserve approximately 200,000 cubic yards of available soil material stockpiled at Upper Sand Creek Basin for use in the development of the Property and the Adjacent Property ("**Soil Material**"), and which expired on December 31, 2021. Seller and Assignor each provided a cash bond deposit for FC Permit No. 626-21. If Buyer provides a Notice of Approval and the Soil Material is available for use, then Buyer shall apply for a permit from the Contra Costa County Flood Control and Water Conservation District for the excavation and removal of the Soil Material ("**Soil Material Permit**") and provide a cash deposit in connection with such Soil Material Permit. Buyer acknowledges and agrees that Seller and Assignor each previously paid a One Hundred Thousand Dollar ($100,000) deposit to the Contra Costa County Flood Control and Water Conservation District in consideration for FC Permit No. 626-21. Buyer further agrees that Buyer shall reimburse both Seller and Assignor for such deposits upon Closing. Seller agrees to assign to Buyer the FC Permit No. 626-21 and such deposit and assist and reasonably cooperate (and use reasonable efforts to cause the Assignor to assist and reasonably cooperate) with Buyer's efforts to obtain the Soil Material Permit. Buyer will have no obligation under this **Section 6.3** if Buyer does not provide a Notice of Approval.

7. **Seller's Pre-Closing Covenants**. As long as this Agreement remains in full force and effect, Seller hereby covenants as follows:

(a) Without the prior written consent of Buyer, which may be withheld in Buyer's sole and absolute discretion, Seller shall not subject the Property to any additional

liens, exceptions, encumbrances, easements or rights of way after the Effective Date, except for as may be otherwise expressly provided for in this Agreement.

(b) Seller shall not make any material changes or alterations to the Property, other than necessary or typical maintenance and repairs.

(c) Seller shall not enter into any contract or agreement providing for the provision of goods or services to or with respect to the Property or the operation of this Agreement, without the prior written consent of Buyer, which shall not be unreasonably withheld or delayed.

(d) Seller will not sell, lease, transfer, convey or encumber, or cause or permit to be sold, transferred, conveyed or encumbered, the Property, or any part thereof or interest therein.

(e) Seller will maintain its existing insurance in force with respect to the Property and not violate the terms of any existing indebtedness or documents securing same.

(f) Seller will promptly notify Buyer in writing of any litigation or governmental proceeding to which Seller becomes a party or which affects the Property or any part thereof.

(g) Seller will continue to operate and maintain the Property in the ordinary course of its business and substantially in accordance with Seller's present practice.

(h) Seller shall comply with and not violate any and all laws and existing permits, licenses and approvals applicable to the Property, and keep all such permits, licenses and approvals in full force and effect, and not take any action which would have a material and adverse effect upon the Property, or upon Buyer if Buyer acquires the Property.

(i) Seller shall not initiate, consent to approve or otherwise take any action with respect to zoning, land use or any other governmental rules or regulations presently applicable to all or any part of the Property, unless otherwise required by applicable law or regulation.

(j) Promptly deliver to Buyer any and all notices and/or other written communications delivered to or received from: (i) any party under any of the Service Contracts; and/or (ii) any governmental authority and deliver to Buyer prompt notice of: (A) the occurrence of any inspections of the Property by any governmental authority; (B) any actual or alleged default by a party to any Service Contract; or (C) any notices of violations of laws, ordinances, orders, directives, regulations or requirements issued by, filed by or served by any governmental agency against or affecting Seller or any part or aspect of the Property.

(k) Seller shall not, directly or indirectly, market the Property or have discussions or make, accept or entertain offers to or from any third parties interested in acquiring the Property.

8. **"As Is" Physical Condition Of The Property**

8.1 "**As Is" Condition.** The parties acknowledge and agree that prior to the Closing, Buyer shall have had the full opportunity to inspect the Property and, by proceeding to the Closing, shall have accepted the Property in its current "As Is" condition, except as otherwise expressly set forth in this Agreement. Buyer understands and agrees that, except as otherwise expressly set forth in this Agreement, the Property is sold in an As Is condition, without any warranty, express or implied. Except as otherwise expressly set forth in this Agreement, Seller makes no representations or warranties, express or implied, concerning the condition of the Property, the location of Property lines, the exact area of the Property, the condition of any improvements on the Property, or any environmental conditions affecting the Property.

8.2 **Release.** Except for the Excluded Claims (as defined below), from and after the Closing, Buyer hereby waives and releases Seller, its employees, elected officials, and officers of and from any claims, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines, or compensation that Buyer may otherwise have at any time against Seller arising out of or in connection with the known or unknown physical and environmental condition of the Property, it being agreed that Buyer shall acquire the Property in its "as is" condition as provided in **Section 8.1**. Notwithstanding anything to the contrary contained herein, the foregoing release and waiver shall expressly exclude any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines, or compensation whatsoever, direct or indirect, that Buyer may have at any time that arise from (a) a breach of Seller's representations, warranties or covenants set forth in this Agreement or any documents executed by Seller in connection with this Agreement, (b) the fraud, willful misconduct, or other tortious acts of Seller or any of Seller's employees, elected officials, officers, consultants, or contractors in relation to this Agreement, or (c) personal injury, property damage or breach of contract that occurs prior to Closing and is not caused by Buyer (collectively, the "**Excluded Claims**"). Any such Excluded Claims must be brought against Seller within four (4) years of the Closing Date. If an Excluded Claim is not brought by Buyer against Seller within four (4) years of the Closing date, Seller shall be deemed to have waived its alleged Excluded Claim. At the Closing, in connection with the matters released above, Buyer expressly waives the provisions of California Civil Code §1542, which provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

8.3 **Survival**. The provisions of this **Section 8** shall survive Closing and shall not be deemed merged into any instrument or conveyance delivered at the Closing.

9. **Seller's Representations and Warranties**. Seller hereby makes the following representations, warranties, and covenants which shall also be true as of the Closing:

9.1 Seller has the full right, power, and authority to sell the Property to Buyer as provided in this Agreement and to carry out its obligations hereunder; and all required action necessary to authorize Seller to enter into this Agreement and to carry out its obligations hereunder has been or will have been taken prior to the Closing Date. Neither this Agreement

nor anything provided to be done under this Agreement violates or will violate any contract, document, understanding, agreement or instrument to which Seller is a party or by which it is bound. Seller has complied with all applicable laws, rules, and regulations with respect to the sale of the Property to the Buyer pursuant to this Agreement, including but not limited to California Government Code sections 54220-54234, and Title 2, Chapter 8 of the City's Municipal Code. At a properly noticed public meeting, the City Council of the City of Oakley has approved this Agreement, which is binding on and enforceable against Seller in accordance with its terms.

9.2 The Seller's Materials provided by Seller, or to which Seller has provided access to Buyer, are true and correct and complete copies and to Seller's actual knowledge there are no other documents or instruments in the possession or control of Seller that would materially and adversely affect ownership and development of the Property with residences. There is no default by Seller under any Seller's Materials or any other contracts, leases, agreements, easements, or any other documents or instruments relating to or affecting the Property.

9.3 Seller has not entered into, and has no knowledge of, any lease, sublease, contract, license, or other agreement or other rights of possession with respect to the occupancy or use of the Property. No party has any right of first refusal, option to purchase the Property or any portion thereof, or any similar right.

9.4 To Seller's actual knowledge, there are no actions, suits, litigation or proceedings pending or threatened affecting the ownership, operation, use, sale or title to the Property, or otherwise affecting the Property, or affecting the right, power or authority of Seller to enter into and perform this Agreement in accordance with its terms, or which question the validity or enforceability of this Agreement or of any action taken by Seller in accordance with this Agreement, in any court or before any governmental authority. .

9.5 Seller has not received written notice of any pending or threatened litigation, claim, action, proceeding, suit, condemnation or arbitration before any court, tribunal or agency that materially and adversely affects the development of Residences on the Property, prevents Seller's performance hereunder or which would result in any unsatisfied lien, charge, encumbrance or judgment against any part of or any interest in the Property, and, to Seller's actual knowledge, no such litigation, claim, action, proceeding, suit, condemnation or arbitration exists.

9.6 To Seller's actual knowledge, (A) Seller has complied with all applicable laws, ordinances, regulations, statutes, codes, rules, orders, decrees, determinations, covenants and restrictions relating to the Property and every part thereof (collectively the "**Applicable Laws**"), and (B) no violation, condition, or any action which with the passing of time or giving of notice would be deemed a violation of any Applicable Laws.

9.7 Except as disclosed in Seller's Materials provided to Buyer, neither Seller nor, to Seller's actual knowledge, any previous owner of the Property or any other person or entity has ever used, generated, processed, stored, disposed of, released or discharged any Hazardous Substance on, under, or about the Property or transported it to or from the Property,

nor, has any party ever alleged that any such activities have occurred. In addition, no use by Seller or to Seller's actual knowledge any previous owner of the Property or any other person or entity, has occurred which violates or has been alleged by any party to violate any applicable Environmental Law, and the Property is not on any "**Superfund**" list under any applicable Environmental Law, nor is it subject to any lien related to any environmental matter. "**Hazardous Substance**" means all hazardous or toxic substances, wastes or materials, any pollutants or contaminates (including, without limitation, asbestos and raw materials which include hazardous constituents, radon and urea formaldehyde), and any other similar substances or materials which are included or regulated by any local, state, or Federal law, rule, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, as amended (collectively, "**Environmental Laws**"). Hazardous Substance shall not include typical household or commercial cleaning agents used in the regular cleaning of facilities located on the Property in accordance with all applicable Environmental Laws.

9.8 If any of the representations or warranties by Seller contained in this Agreement becomes untrue or incorrect, Seller shall immediately notify Buyer thereof, and Seller shall use good faith efforts to make such representations or warranties true and correct on the Closing Date. If any of the representations or warranties contained in this Agreement are untrue or incorrect on the Closing Date, Buyer may (i) terminate this Agreement and receive a return of the Deposit; or (ii) elect to close notwithstanding the failure of such representation or warranty, in which event the Closing shall not be deemed a waiver by Buyer of the failure of such representation or warranty and Buyer may recover from Seller any actual damages sustained by Buyer, and this Agreement shall remain in full force and effect. Seller's representations, covenants and warranties set forth in this Agreement shall survive the Closing for a period of twelve (12) months, shall not merge into the Deed to be delivered at the Closing and are deemed to be material to Buyer's execution of this Agreement and Buyer's performance of its obligations hereunder.

10. **Buyer's Representations and Warranties.** Buyer hereby makes the following representations, warranties, and covenants which shall also be true as of the Closing:

10.1 Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

10.2 All requisite action has been taken by Buyer in connection with the entering into of this Agreement, in connection with the execution and delivery of the instruments referenced herein, and the consummation of the transaction contemplated hereby. This Agreement and all documents in connection herewith that are to be executed and delivered by Buyer have been or will be duly executed and delivered by Buyer.

10.3 The individuals executing this Agreement and the instruments referenced herein on behalf of Buyer have the legal power, right, and actual authority to bind Buyer to the terms and conditions hereof and thereof.

10.4 Buyer's execution and delivery of this Agreement and the consummation of the transactions contemplated hereby does not and will not result in a default (or an event which, with the giving of notice or the passage of time, would constitute a default) under, any instrument or obligation to which Buyer is a party or by which Buyer is bound, or violate any law, order, writ, injunction, or decree of any court or regulatory agency with jurisdiction over Buyer or require the consent, approval, waiver, or authorization of any third party.

10.5 If any of the representatives or warranties by Buyer contained in this Agreement becomes untrue or incorrect, Buyer shall immediately notify Seller thereof, and Buyer shall use good faith efforts to make such representations or warranties true and correct on the Closing Date. If any of the representations or warranties contained in this Agreement are untrue or incorrect on the Closing Date, Seller may (i) terminate this Agreement or (ii) elect to close notwithstanding the failure of such representation or warranty, in which event the Closing shall not be deemed a waiver by Seller of the failure of such representation or warranty and Seller may recover from Buyer any actual damages sustained by Seller, and this Agreement shall remain in full force and effect. Buyer's representations, covenants and warranties set forth in this Agreement shall survive the Closing for a period of twelve (12) months, shall not merge into the Deed to be delivered at the Closing and are deemed to be material to Seller's execution of this Agreement and Seller's performance of its obligations hereunder.

11. **Conditions Precedent To Closing**

11.1 **Buyer's Conditions Precedent**. Buyer's obligation to close the purchase at the Closing is expressly conditioned upon the following conditions precedent, which conditions may be waived in writing by Buyer, in Buyer's sole discretion:

(a) The Title Company shall be unconditionally committed to issue to Buyer an ALTA Extended Coverage (Form B 1970 or ALTA 2006) Owner's Policy of Title Insurance Policy (the "**Title Policy**") which shall: (i) be in the amount of the Purchase Price as determined by Buyer; (ii) insure fee simple title to the Property vested in Buyer; (iii) include a mechanics' lien endorsement as may be required by Buyer; and (iv) contain no exceptions other than the Permitted Exceptions.

(b) All of Seller's representations and warranties as set forth in this Agreement shall be true and correct as of the Closing.

(c) Seller shall have deposited with Escrow Holder the documents required to be deposited by Seller under the terms of this Agreement and shall not be in default in performing Seller's obligations under this Agreement.

(d) Seller shall have terminated any possessory rights of third parties with respect to the Property, and all lessees, tenants, and occupants of the Property, if any, must have vacated the Property so that sole and exclusive possession of the Property can be provided

to Buyer at the Closing. There shall be no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers.

(e) There shall not exist any enacted or proposed building or utility hook-up moratoria, ordinances, laws or regulations, the effect of which would be to preclude or materially delay or hinder the issuance of building permits or certificates of occupancy for residences planned to be constructed on the Property.

(f) There shall not have occurred any material adverse change with respect to the Property from the condition existing as of the Effective Date.

(g) The Closing and the Adjacent Property Closing shall occur substantially concurrently such that Buyer acquires fee title to the Property and the Adjacent Property, and possession of the Property and the Adjacent Property is delivered to Buyer on the Closing Date.

If any of the conditions precedent are neither satisfied nor waived by Buyer by the Closing Date, Buyer may, in addition to all other rights and remedies, (a) terminate this Agreement by giving a written notice of termination to Seller, and in such case the Deposit shall be returned to Buyer, and neither party shall have any further rights, obligations or liabilities under this Agreement other than those that expressly survive termination of this Agreement or (b) continue with the Closing and waive such condition as to the Closing.

11.2 **Seller's Conditions Precedent.** Seller's obligation to close the purchase at the Closing is expressly conditioned upon the following conditions precedent, which conditions may be waived in writing by Seller, in Seller's sole discretion:

(a) Buyer's representations and warranties shown above are true as of the Closing.

(b) Buyer must not be in breach or default of any of its material obligations under this Agreement beyond any applicable notice and cure period.

12. **Eminent Domain or Taking**. If proceedings under a power of eminent domain relating to the Property or any part of this Agreement are commenced prior to Closing, Seller shall promptly inform Buyer in writing. If such proceedings involve the taking of title to all of the Property or a portion thereof that would adversely affect the Property or the development thereof, Buyer may elect to terminate this Agreement by notice in writing sent within ten (10) business days of Seller's written notice to Buyer, in which case the Deposit shall be returned to Buyer, and neither party shall have any further obligation to or rights against the other except any rights or obligations of either party which are expressly stated to survive termination of this Agreement. If the proceedings do not involve the taking of title to all of the Property or a portion thereof that would adversely affect the Property or the development thereof, or if Buyer does not elect to terminate this Agreement, this transaction shall be consummated as described herein and any award or settlement payable with respect to such proceeding shall be paid or assigned to Buyer upon Closing. If this sale is not consummated for any reason, any condemnation award or settlement shall belong to Seller.

13. **Damage or Destruction**. Prior to the Closing, the entire risk of loss of damage by earthquake, flood, landslide, fire or other casualty is borne and assumed by Seller. If, prior to the Closing, any part of the Real Property is damaged or destroyed by earthquake, flood, landslide, fire or other casualty, Seller shall promptly inform Buyer of such fact in writing and advise Buyer as to the extent of the damage. If such damage or destruction would adversely affect the Property or the development thereof, Buyer has the option to terminate this Agreement upon written notice to the Seller given not later than ten (10) business days after receipt of Seller's written notice to Buyer advising of such damage or destruction. If this Agreement is so terminated, the Deposit shall be returned to Buyer, and neither party shall have any further obligation to or rights against the other except any rights or obligations of either party which are expressly stated to survive termination of this Agreement. If Buyer does not elect to terminate this Agreement, or if the casualty would not adversely affect the Property or the development thereof, this transaction shall close pursuant to the terms of this Agreement and Seller shall assign to Buyer, at Closing, all rights to insurance claims or proceeds with respect to the damage or destruction of the Real Property and Buyer shall receive a credit against the Purchase Piece in the amount of the deductible and any uninsured under the applicable insurance.

14. **Notice**

Any notice authorized, required, or permitted to be given hereunder shall be addressed to the party to be notified at the following address, or to such additional, alternate or updated addresses and persons as the parties may designate by written notice to the other party:

Seller: City of Oakley
3231 Main Street
Oakley, CA 94561
Attn: Joshua McMurray, City Manager
Telephone: 925-625-7025
Email: mcmurray@ci.oakley.ca.us

With a copy to: Brothers Smith LLP
2033 N. Main Street, Ste. 720
Walnut Creek, CA 94596
Attn: Mark V. Isola, Esq.
Telephone No.: 925-944-9700
Fax No.: 925-944-9701
Email: misola@brotherssmithlaw.com

Buyer: Landsea Homes of California LLC,
3130 Crow Canyon Place, Suite 325
San Ramon, CA 94583
Attn: Josh Santos and Mark Forster
Email: jsantos@landseahomes.com; mforster@landseahomes.com:

With a copy to: Landsea Homes Corporation
600 Newport Center Drive, Suite 300

Newport Beach, California 92660
Attention: Franco J. Tenerelli, Esq.
Executive Vice President and Chief Legal Officer
Email: ftenerelli@landseahomes.com

With a copy to: Sheppard Mullin Richter & Hampton LLP
West Broadway, 19th Floor
San Diego, CA 92101
Attn: David M. Hymer, Esq.
Telephone No.: (619) 338-6500
Email: dhymer@sheppardmullin.com

Escrow Holder: First American Title Company
4750 Willow Road, Suite 275
Pleasanton, CA 94588
Attn: Jules Fulop, Sr. Escrow Officer
E-mail: dburton@firstam.com
Phone: (925) 201-6603

Any notice delivered by United States mail, postage prepaid, certified mail or registered mail, return receipt requested, by hand delivery or sent by overnight courier shall be deemed received on the date of actual receipt or upon refusal of delivery. Notice given by e-mail shall be deemed received upon transmission unless notice of a failure of transmission is received by the sender. Any address for notice may be changed by ten (10) days prior written notice in the manner provided above.

15. **Commissions**. Seller and Buyer hereby represent and warrant that there are no brokers, agents or finders, and that no other commissions or other similar fees are due or arising in connection with this Agreement, the sale and purchase of the Property, or the consummation of transactions contemplated in this Agreement, other than WestGate Services, Inc., dba WestGate Ventures, who represents Seller, and to which Seller will pay compensation pursuant to a separate agreement. Seller agrees to indemnify, defend, and hold Buyer harmless from and against all liability, loss, cost, damage, and expenses (including but not limited to attorneys' fees and costs) because of any claim by a broker, agent, or finder claiming through Seller for any compensation with respect to this Agreement, the sale and purchase of the Property, and the consummation of the transactions contemplated in this Agreement, whether or not such claim is meritorious. Buyer agrees to indemnify, defend, and hold Seller harmless from and against all liability, loss, cost, damage, and expenses (including but not limited to attorneys' fees and costs) because of any claim by a broker, agent, or finder claiming through Buyer for any compensation with respect to this Agreement, the sale and purchase of the Property, and the consummation of the transactions contemplated in this Agreement, whether or not such claim is meritorious. The obligations described in this **Section 15** shall survive the Closing and any termination of this Agreement.

16. **Miscellaneous Provisions**

16.1 **Survival of Covenants**. Any covenant or agreement in this Agreement which contemplates performance after the time of the Closing shall not be deemed to be merged into or waived by the instruments of the respective Closing, but shall expressly survive the Closing and be binding upon the parties obligated thereby.

16.2 **Successors and Assigns**. The terms, provisions, warranties, representations, covenants, and agreements contained in this Agreement shall apply to, be binding upon, and inure to the benefit of, the parties hereto and their respective legal representatives, successors, and assigns. Notwithstanding the foregoing, Seller shall not have the right to assign this Agreement without Buyer's prior written approval, but Buyer shall have the right to assign this Agreement, in whole or in part, without Seller's prior written approval to (i) any party or entity that: (a) is controlled by or is a subsidiary, directly or indirectly, of Buyer or Landsea Homes Corporation ("**Landsea Homes**"); (b) controls or is controlled by, directly or indirectly, Buyer or Landsea Homes; (c) results from the merger or consolidation with Buyer or Landsea Homes; (d) is taking such assignment for financing purposes only, with Buyer remaining responsible for the performance of the obligations under this Agreement (other than the payment of the Purchase Price); or (e) is a limited liability company in which Buyer is the managing member; or (ii) a third party for purposes of land banking or similar arrangement pursuant to which Buyer or its affiliate has the right or option to reacquire and develop the Property ("**Landbanker**"), provided that any such assignee assumes in writing all of the obligations of Buyer under this Agreement. Buyer shall not have the right to assign this Agreement to any other party or entity without Seller's prior written approval. Upon an assignment to a Landbanker, Buyer shall be released from its obligations hereunder.

16.3 **Cooperation**. The parties will each cooperate with each other, their employees, and agents to facilitate the purchase of the Property by Buyer under the terms and conditions in this Agreement.

16.4 **Governing Law**. This Agreement shall be governed and interpreted under the laws of the State of California without regard to its conflict of law rules.

16.5 **Section Headings**. The section headings used in this Agreement are for reference and convenience purposes only, and shall not be used in the interpretation of this Agreement. Should there be any conflict between any such caption and the provision at the head of which it appears, the provision, and not the caption, shall control and govern in the construction of this Agreement.

16.6 **No Waiver of Future Performance**. Failure of Buyer or Seller to insist in any one or more instances upon the performance of any of the covenants, agreements, and/or conditions of this Agreement or to exercise any right or privilege in this Agreement conferred shall not be construed as a waiver of any such covenant or condition.

16.7 **Integration; Amendment in Writing**. This Agreement contains the entire agreement between the parties relating to the Property, and neither party shall be bound by any oral statement or oral or written agreement made prior to or contemporaneous with this Agreement and not included within this Agreement. This Agreement cannot be amended except

by written agreement executed by the parties. All exhibits and schedules attached hereto are incorporated in this Agreement by reference and made a part of this Agreement.

16.8 **Survival of Representations**. All of the representations, warranties, covenants, and agreements made by Seller and by Buyer shall survive the Closing and shall not be merged therein for the benefit of Buyer and Seller and their respective legal representatives, successors, and assigns.

16.9 **Attorney's Fees**. If a dispute of any type arises, an action or proceeding is commenced under this Agreement based in contract, tort or equity, or this Agreement gives rise to any other legal proceeding between any of the parties hereto, the prevailing party is entitled to recover from the losing party reasonable attorneys' fees, costs and expenses, including expert witness fees, accounting and engineering fees, and any other professional fees incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to a final judgment. The terms "attorneys' fees, costs and expenses" includes, without limitation, fees and costs incurred in the following proceedings: (1) mediations; (2) judicial reference proceedings or arbitrations; (3) bankruptcy proceedings; (4) appeals; (5) post-judgment motions and collection actions; and (6) garnishment, levy and debtor examinations. The prevailing party will also be entitled to attorneys' fees and costs after any dismissal of an action.

16.10 **No Partnership or Joint Venture**. Nothing contained in this Agreement is intended to create, nor shall it ever be construed to make, Seller and Buyer partners or joint venturers.

16.11 **Consent**. Any consent requested or required by one party under the terms of the Agreement shall not be unreasonably withheld or delayed by the other party hereto unless expressly stated in this Agreement to be at the sole and absolute discretion of such party, in which case such party shall have sole and absolute discretion to withhold or delay such consent.

16.12 **Partial Invalidity**. If any term or provision of this Agreement shall be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

16.13 **Dates for Performance**. The time in which any act is to be done hereunder is computed by excluding the first day and including the last. If the last day is a Saturday, a Sunday, or a federal or state holiday (each, a "**Non-Business Day**"), then the date for performance will be extended to the next succeeding day that is not a Non-Business Day.

16.14 **Counterparts and Electronic Signatures**. This Agreement may be executed in counterparts which, together shall constitute a single instrument. The parties agree that a signed copy of this Agreement transmitted by one party to the other party(ies) by facsimile or electronic transmission will be binding upon the sending party to the same extent as if it had delivered a signed original of this Agreement.

16.15 **Construction of Agreement**. The agreements contained herein shall not be construed in favor of or against either party, but shall be construed as if both parties prepared this Agreement. Buyer and Seller acknowledge that they have been represented, or have had the opportunity to be represented, by counsel of their own choice. In this Agreement, the masculine, feminine or neuter gender, the singular or plural number shall be deemed to include the other whenever the context so requires, and "shall" and "agrees" are mandatory, and "may" is permissive. The parties acknowledge, understand and agree that their respective agents and representatives executing this Agreement on behalf of each of the parties are learned and conversant in the English language, and that the English language shall control the construction, enforcement, governance, interpretation and performance of this Agreement.

16.16 **No Third Party Beneficiaries**. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, other than the parties hereto, their respective successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provisions herein contained, this Agreement and any conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the above mentioned parties, persons and entities, and for the benefit of no other person.

Signatures Appear on the Following Page

EXECUTED by the parties hereto in multiple copies, each of which shall be deemed to be an original, on the dates set forth below.

SELLER: THE CITY OF OAKLEY, a California municipal corporation

By:_____
Name:_____
Title:_____

Date of Execution: _____

APPROVED AS TO FORM:

_____

BUYER: LANDSEA HOMES OF CALIFORNIA LLC, a Delaware limited liability company

By:_____
Name:_____
Title:_____

Date of Execution: _____

ACKNOWLEDGEMENT OF ESCROW HOLDER:

First American Title Company

By:_____
Jules Fulop, Senior Escrow Officer

Date of Receipt: _____

EXHIBITS:

EXHIBIT A:	Legal Description of the Property
EXHIBIT B:	Memorandum of Agreement
EXHIBIT C:	Grant Deed
EXHIBIT D:	General Assignment

SCHEDULES

Schedule 1	Finished Lot

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

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

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND GRANTED TO BRUCE R. BURROUGHS AND BARBARA M. BURROUGHS, TRUSTEES OF THE B & B BURROUGHS REVOCABLE TRUST UNDER INSTRUMENT DATED JUNE 16, 1994, BY DEED RECORDED JANUARY 26, 1995, IN SERIES NO. 95-13407 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ONE-QUARTER CORNER OF SECTION 29, TOWNSHIP 2 NORTH, RANGE 3 EAST, MOUNT DIABLO MERIDIAN;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE MID-SECTION LINE OF SAID SECTION 29, NORTH 89°15'39" WEST 210.32 FEET;

THENCE, LEAVING SAID MID-SECTION LINE, NORTH 00°44'21" EAST 30.00 FEET TO A POINT ON THE NORTHERN LINE OF CYPRESS ROAD AND TO THE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID NORTHERN LINE, NORTH 89°15'39" WEST 1856.90 FEET;

THENCE, LEAVING SAID NORTHERN LINE, NORTH 00°44'21" EAST 1124.07 FEET TO A POINT ON THE SOUTHWESTERN LINE OF THAT CERTAIN PARCEL LAND GRANTED TO CONTRA COSTA WATER DISTRICT BY DEED RECORDED MARCH 9, 1940, IN BOOK 539 OF OFFICIAL RECORDS AT PAGE 218, IN SAID OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY;

THENCE, ALONG SAID SOUTHWESTERN LINE, THE FOLLOWING THREE (3) COURSES:

1) SOUTH 62°13'01" EAST 1616.42 FEET,

2) ALONG THE ARC OF A TANGENT 470.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 18°22'00", AN ARC DISTANCE OF 150.66 FEET, AND

3) SOUTH 43°51'01" EAST 421.92 FEET TO SAID POINT OF BEGINNING.

EXCEPTING THEREFROM:

1. AN UNDIVIDED 16/33 INTEREST IN ALL OIL, GAS, MINERALS, AND HYDROCARBONS AS RESERVED IN THE DEED FROM ERNEST C. BURROUGHS AND MARY LOO BURROUGHS RECORDED MAY 21, 1984, BOOK 11798, PAGE 982, SUBJECT TO THE INTEREST DESCRIBED IN THE MINERAL POOLING AGREEMENT RECORDED APRIL 27, 1964, BOOK 4604, PAGE 338.

THE INTEREST IN AND TO THE SURFACE OF THE LAND AND TO A DEPTH OF 500 FEET THEREUNDER HAS BEEN RELINQUISHED BY GRANT DEED (SURFACE RIGHTS) RECORDED OCTOBER 31, 2003 AS INSTRUMENT NO. 2003-540677 OF OFFICIAL RECORDS.

2. RIGHTS GRANTED IN THE DEED TO ERNEST C. AND MARY LOO BURROUGHS, TRUSTEES OF THE BURROUGHS REVOCABLE TRUST, UNDER AGREEMENT DATED NOVEMBER 16, 1982 RECORDED AUGUST 22, 2003 AS INSTRUMENT NO. 2003-418732 OF OFFICIAL RECORDS AS FOLLOWS:

AN UNDIVIDED 16/33 INTEREST IN ALL OIL, GAS, MINERALS AND HYDROCARBONS, SUBJECT TO THE

INTEREST DESCRIBED IN THE MINERAL POOLING AGREEMENT RECORDED SEPTEMBER 28, 1962, BOOK 4212, PAGE 144 AND AMENDED MINERAL POOLING AGREEMENT RECORDED APRIL 27, 1964, BOOK 4604, PAGE 338, OFFICIAL RECORDS.

THE INTEREST IN AND TO THE SURFACE OF THE LAND AND TO A DEPTH OF 500 FEET THEREUNDER HAS BEEN RELINQUISHED BY GRANT DEED (SURFACE RIGHTS) RECORDED OCTOBER 31, 2003 AS INSTRUMENT NO. 2003-540677 OF OFFICIAL RECORDS.

3. MINERAL RIGHTS AS DESCRIBED AND GRANTED IN THE GRANT DEED EXECUTED BY ERNEST C. BURROUGHS, ET AL, TO ERNEST C. BURROUGHS, ET AL RECORDED OCTOBER 31, 2003 AS INSTRUMENT NO. 2003-0540678 OFFICIAL RECORDS.

APN: 032-081-025-2

EXHIBIT B

Memorandum of Agreement

WHEN RECORDED MAIL TO:

Landsea Homes of California LLC,
3130 Crow Canyon Place, Suite 325
San Ramon, CA 94583
Attn: Josh Santos and Mark Forster.

Above space for recorder's use

MEMORANDUM OF PURCHASE AGREEMENT

THIS MEMORANDUM OF PURCHASE AGREEMENT ("**Memorandum**") is made as of the date of recordation hereof, between THE CITY OF OAKLEY, a California municipal corporation ("**Seller**"), and LANDSEA HOMES OF CALIFORNIA LLC, a Delaware limited liability company ("**Buyer**"), who agree as follows:

RECITALS

A. Seller is the owner of the real property located in the City of Oakley (the "**City**"), Contra Costa County (the "**County**"), California, as more particularly described in **Exhibit 1** ("**Property**").

B. Seller and Buyer have entered into that certain Purchase Agreement ("**Agreement**") with respect to the sale of the Property, upon and subject to the provisions and conditions set forth in the Agreement. The Agreement is incorporated in this Memorandum by this reference.

C. Seller and Buyer desire to execute this Memorandum and cause the same to be recorded in the Official Records for the purpose of memorializing the Agreement and to provide third parties with notice of the Agreement.

AGREEMENT

1. Pursuant to the Agreement and this Memorandum, Seller hereby agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property, upon and subject to the provisions and conditions set forth in the Agreement, as the same may be amended from time to time. Pursuant to the Agreement, Seller may not knowingly place or allow any additional deed of trust, lien, encumbrance or other exception to title to the Property.

2. This Memorandum is being recorded to provide notice to any and all subsequent interests in the Property of the rights and obligations of the parties to the Agreement and is not intended to modify or change the provisions of the Agreement. To the extent of any

inconsistency between the Agreement and this Memorandum, the Agreement shall control. This Memorandum shall inure to the benefit of and shall be binding upon Buyer and Seller and their respective successors and assigns.

3. Upon the recordation of a grant deed executed and acknowledged by Seller that conveys all or a portion of the Property to Buyer, this Memorandum shall automatically terminate with respect to such portion of the Property (but shall remain in effect with respect to any portion of the Property that has not been conveyed to Buyer).

4. This Memorandum may be executed in one or more counterparts, of each which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SELLER: THE CITY OF OAKLEY, a California municipal corporation

By:_____
Name:_____
Title:_____

BUYER: LANDSEA HOMES OF CALIFORNIA LLC, a Delaware limited liability company

By:_____
Name:_____
Title:_____

EXHIBIT 1
to the Memorandum of Agreement

Legal Description of the Property

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

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____

EXHIBIT C

GRANT DEED

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL
THIS GRANT DEED AND ALL
TAX STATEMENTS TO:

.

(Above Space for Recorder's Use Only)

APN:

GRANT DEED

The undersigned grantor declares:

Documentary transfer tax is $_____
(X) computed on full value of property conveyed, or
( ) computed on full value, less value of liens and encumbrances remaining at time of sale.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, THE CITY OF OAKLEY, a California municipal corporation ("Grantor"), hereby GRANTS to LANDSEA HOMES OF CALIFORNIA LLC, a Delaware limited liability company, the following described real property (the "Property") located in the City of Oakley, Contra Costa County, State of California:

SEE EXHIBIT "1" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed as of the ___ day of _____, _____.

GRANTOR:

THE CITY OF OAKLEY, a California municipal corporation

By:_____
Name:_____
Title:_____

EXHIBIT "1" to GRANT DEED

Legal Description of the Property

[To be attached]

EXHIBIT D

General Assignment

THIS GENERAL ASSIGNMENT AGREEMENT ("**Assignment**"), is made as of the _____ day of _____, _____, by and between THE CITY OF OAKLEY, a California municipal corporation ("**Assignor**") and LANDSEA HOMES OF CALIFORNIA LLC, a Delaware limited liability company ("**Assignee**").

W I T N E S E T H:

Assignor has sold to Assignee the real property in the City of Oakley, California, as are more particularly described in **Schedule 1** attached hereto ("**Property**"). Assignor desires to transfer to Assignee, and Assignee desires to acquire from Assignor, all of Assignor's rights, privileges and easements appurtenant to the Property (the "**Appurtenances**"), and all improvements thereon (the "**Improvements**"). The Property, the Appurtenances and the Improvements are hereinafter referred to collectively as the "**Real Property**." The Real Property is being conveyed by Assignor to Assignee pursuant to a grant deed ("**Grant Deed**") of or about even date herewith.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Assignor hereby grants, assigns, transfers, conveys and delivers to Assignee any and all of Assignor's right, title, interest, benefits and privileges that Assignor possesses in and to the following (collectively, the "**Rights**"):

(a) All contract rights, warranties, guaranties and licenses which benefit the Real Property;

(b) all contractual and statutory indemnities and warranties received by Assignor from third parties relating to the Property, including utility and other service providers, engineers, architects, consultants, contractors and subcontractors, and the associated rights and remedies, including indemnification rights, under any contract Assignor may have with any engineers, architects, consultants, contractors, and subcontractors for claims related to the Property;

(c) All soils tests, appraisals, engineering, seismic and geological reports and similar materials relating to any or all of the Real Property;

(d) All governmental entitlements (including, but not limited to, all environmental impact reports, negative declarations, map approvals, conditional use permits, building permits and certificates of occupancy for the Improvements), approvals, permissions, environmental clearances, authority to subdivide the Property, rights, licenses, permits and any prepaid impact fees attributed to the Property that relate to all or any of the Real Property; and

(e) All general intangibles relating to the development or use of the Real Property, including, without limitation, all names under which or by which the Real Property or

any portion thereof may at any time be operated or known, all rights to carry on business under any such names or any variant thereof, all trademarks and goodwill in any way relating to the Real Property and all plans, designs and specifications relating to the design of the residences and other improvements planned to be constructed on the Property.

2. Assignor hereby represents and warrants to Assignee that, effective as of the date of recordation of the Grant Deed, (i) Assignor has not assigned, sold, mortgaged, pledged or otherwise transferred all or any of Assignor's right, title or interest in or to any of the Rights to any party other than Assignee and (ii) Assignor owns the Rights free and clear from any and all liens, encumbrances and security interests.

3. This Assignment shall be binding upon and inure to the benefit of the successors, assigns, and legal representatives.

4. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Assignment, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

5. This Assignment shall be governed by, interpreted under, and enforced and construed in accordance with the laws of the State of California.

6. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first hereinabove written.

ASSIGNOR:

THE CITY OF OAKLEY, a California municipal corporation

By:_____
Name:_____
Title:_____

ASSIGNEE:

LANDSEA HOMES OF CALIFORNIA LLC, a Delaware limited liability company

By:_____
Name:_____
Title:_____

SCHEDULE 1

LEGAL DESCRIPTION OF THE PROPERTY

DEFINITION OF A FINISHED LOT

A Finished Lot shall refer to a Lot (i) which is graded in accordance with the grading plans approved by the City and all other applicable authorities, with the pad elevations certified by Buyer's civil engineer to within +/- 0.1', and compaction certification by Buyer's geotechnical engineer in accordance with recommendations of Buyer's geotechnical engineer; so that Buyer shall be able to obtain a building permit and commence construction of its contemplated single-family residences on any Lot within the Property, and upon the completion of construction of any such residence shall be able to obtain a permanent certificate of occupancy for the home; (ii) which has water and sewer services installed and stubbed to the Lot; (iii) which has any applicable electricity, telephone, telecommunications and cable television conduit installed and stubbed to the Lot; (iv) which has storm drain, water, sewer, street surface, curb, gutter, sidewalk and pavement frontage improvements, street lights, street signs (which will be installed by Buyer after the City issues addresses, and if the City has not issued addresses prior to Closing, then Buyer may install temporary streets signs until such time as Buyer is able to install permanent signs, and in either case, installation of the streets signs when addresses have not been issued shall not be required for Closing hereunder), street striping, constructed and installed; and (v) which has any retaining walls and/or retaining wall drains installed as needed per the approved plans.

In furtherance of the foregoing, a "***Finished Lot***" shall refer to a Lot:

(1) Which is graded in accordance with the grading plans, approved by the City, to within +/- 0.1', with the pad elevation certified letters by Buyer's civil engineer and compaction certification letters by Buyer's geotechnical engineer in accordance with recommendations of Buyer's geotechnical engineer.

(2) That has water and sanitary sewer services installed and stubbed into the Lot from the back of curb/sidewalk with curb markings to indicate the location of the water and sanitary sewer laterals. Water service to include the curb stop and approved water boxes installed and to grade. Sewer service to include clean-out, cap, and wye with an approved sewer box installed and to grade.

(3) That has all electricity, telephone and cable television conduits installed and stubbed into the Lot from the property line or back of curb/sidewalk at the time of sale and "capable" of being energized/pressurized/connected for immediate service upon completion of a single-family residence on such Lot. The electric mains must be accepted by all governing agencies and energized for use.

(4) That has all public storm drain systems, public water systems, sanitary sewer systems, curb, gutter, sidewalk, joint electric/phone/CATV utilities, and street pavement for public access, streetlights, street signs, street striping, perimeter fencing/walls, retaining walls, retaining wall drainage, and Lot frontage improvements constructed and installed.

(5) That includes PVC conduit sleeving under sidewalks for future irrigation water lines and private lot drainage, on both sides of each driveway (two per Lot).

(6) That has all property corners surveyed and marked and property lines identified on curbs by project engineer.

OAKLEY
CALIFORNIA

DATE: November 14, 2023

TO: Joshua McMurray, City Manager

FROM: Ken Strelo, Planning Manager

Approved and Forwarded to the City Council

SUBJECT: Adopt a Resolution Authorizing Submittal of Individual Grant Applications for All Department of Resources Recycling and Recovery (CalRecycle) Grant Programs for Which the City of Oakley is Eligible

Summary

This item is related to Individual Grant Applications administered by the Department of Resources Recovery and Recycling (CalRecycle) for the purposes of furthering the State of California's efforts to reduce, recycle and reuse solid waste generated in the state; thereby, preserving landfill capacity and protecting public health and safety and the environment. CalRecycle offers various grants, some of which are for to specific programs, such as Use Oil Recycling or the City/County Payment Program that covers recycling and education related to recycling amongst other related activities. This resolution, which authorizes the City Manager or their designee to submit grant applications and execute on all related documents on behalf of the City Council, will be required as a backup document in order to submit individual grant applications, such as for the Fiscal Year 2022-2023 Local Agency Grant Program by CalRecycle of which the City may be eligible for approximately $93,000 in grant funds. The resolution will be effective for five years from the date of approval at which time a new resolution will need to be adopted.

Consistency with the Oakley Strategic Plan 27+

The City of Oakley Strategic Plan 2022-2027+ (SP27+), adopted by the City Council in April of 2022, includes a Finance and Fiscal Responsibility Goal that states, "the City will leverage its financial resources for the long-term benefit of our residents and businesses while maintaining sufficient reserves to provide stability and ensure a successful future." Passing this resolution will allow the City to apply for potential grant funds of over $90,000 that could be used to supplement the City's compliance with SB 1383 related to food waste legislation.

Fiscal Impact

None. This resolution will allow the City to submit for future grant applications where related Staff time may be included in the planned expenditures.

Staff Recommendation

Staff recommends that the City Council adopt the resolution authorizing submittal of individual grant applications for all Department of Resources Recycling and Recovery (CalRecycle) grant programs for which the City of Oakley is eligible.

Attachments

1. Proposed Resolution

RESOLUTION -23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING SUBMITTAL OF INDIVIDUAL GRANT APPLICATIONS FOR ALL DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) GRANT PROGRAMS FOR WHICH THE CITY OF OAKLEY IS ELIGIBLE

FINDINGS

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley authorizes the submittal of applications to CalRecycle for all grants for which the City of Oakley is eligible; and

BE IT FURTHER RESOLVED that the City Manager, or their designee, is hereby authorized and empowered to execute in the name of the City of Oakley all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project; and

BE IT FURTHER RESOLVED that these authorizations are effective for five years from the date of adoption.

PASSED AND ADOPTED by the City Council of the City of Oakley, California this 14th day of November 2023 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

Aaron Meadows, Mayor Date

ATTEST:

Libby Vreonis, City Clerk Date

DATE: November 14, 2023

Approved and Forwarded to the City Council

TO: Joshua McMurray, City Manager

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

SUBJECT: Approval of an Agreement with NCE for Environmental Technical Studies and Permitting Services associated with Capital Improvement Project Number 189 – Piper Lane Drainage Channel Trash Capture Device Project

Background and Analysis

The City's Capital Improvement Program (CIP) for the Fiscal Year 2023/2024 includes a project to design and construct the Piper Lane Drainage Channel Trash Capture Device. Two large storm drain pipes flow into the south end of the channel where storm water from approximately 1000 acres of the City. The attached map shows the area affected. When fully constructed, this trash capture device will prevent all trash transported through the pipes from entering the channel and from flowing downstream into the Delta.

With the implementation of the new National Pollutant Discharge Elimination System permit (NPDES) by the State Water Board last year, trash and the prevention of it entering the waterways of the State have become some of the most important problems for agencies to deal with. In 2012, the City had a total of 28 individual inlet trash capture devices installed in 4 areas as part of the compliance with the NPDES permit in place at that time, as well as the plans to install additional devices in other areas. The construction of large-scale devices, such as the ones proposed, is a substitute for approximately 1,000 of the individual devices.

The total not-to-exceed cost is $74,947 for the environmental technical studies and the preparation of permitting documents. CIP 189 currently has a total of $603,628 budgeted with $55,127 allocated to design and $548,500 for construction.

Consistency with the Oakley Strategic Plan 27+

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

Fiscal Impact

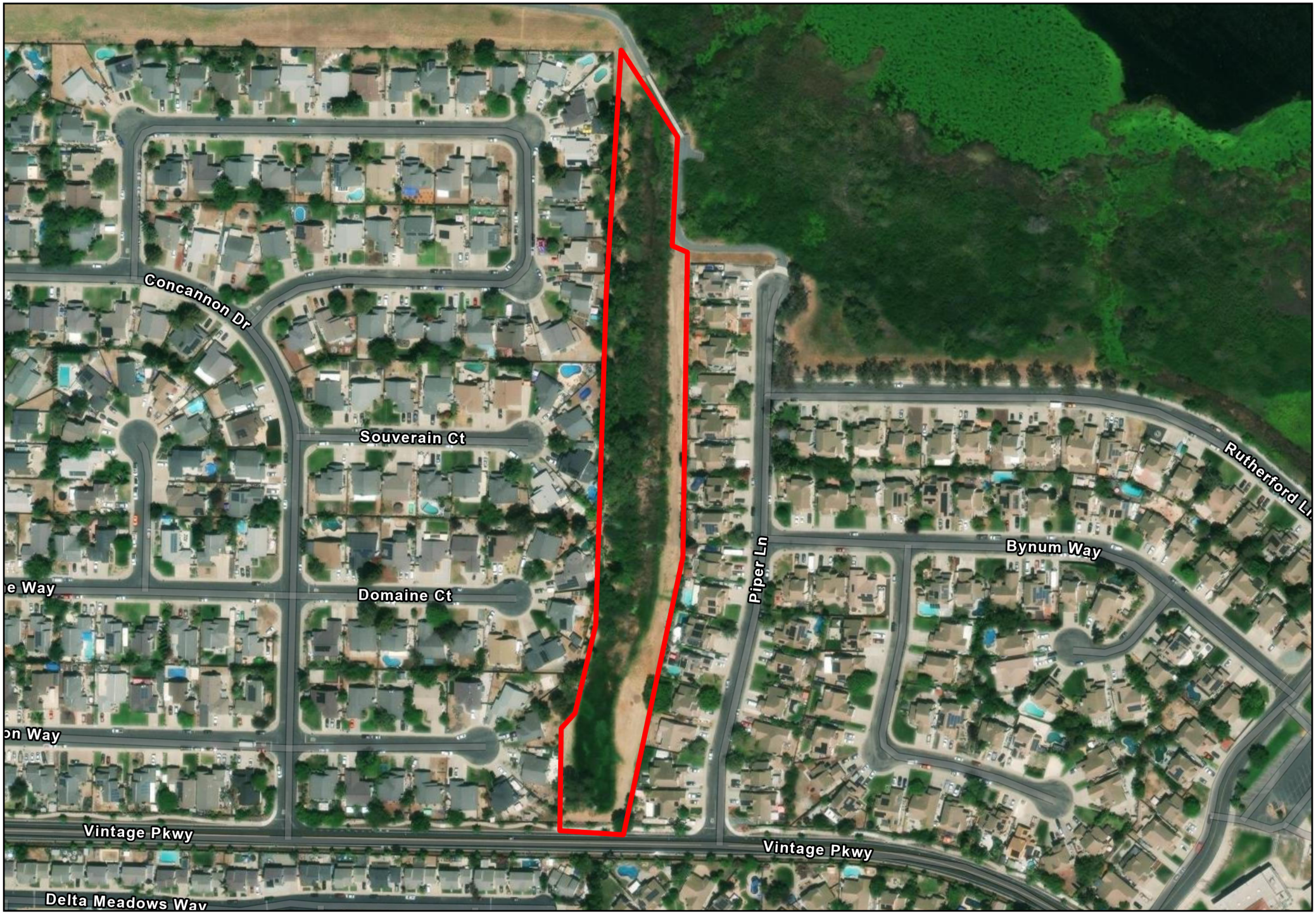
The funding for CIP 189 is already approved as part of the FY 2023/24 budget and is funded by 145-Stormwater NPDES and 120-ARPA.

Staff Recommendation

Staff recommends that the City Council adopt the Resolution approving the agreement with NCE and authorizing the City Manager to execute the agreement.

Attachments

1. Map of Site
2. Resolution
3. NCE Proposal



OAKLEY
CALIFORNIA

CIP 189 - Piper Lane Drainage Channel
Trash Capture Project Site

N

RESOLUTION NO.___-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING AN AGREEMENT WITH NCE FOR ENVIRONMENTAL TECHNICAL STUDIES AND PERMITTING SERVICES ASSOCIATED WITH CAPITAL IMPROVEMENT PROJECT NUMBER 189 – PIPER LANE DRAINAGE CHANNEL FULL TRASH CAPTURE DEVICE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, as part of the Fiscal Year 2023/24 Budget, the City of Oakley approved a 5-Year Capital improvement Program (CIP); and

WHEREAS, Project Number 189 is to design and construct the Piper Lane Drainage Channel Trash Capture Device Project; and

WHEREAS, NCE has submitted a cost proposal for environmental technical studies and permitting services for CIP Project Number 189 for an amount not to exceed $74,947.00; and

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the City Council of the City of Oakley hereby approves an agreement for NCE for environmental technical studies and permitting services for CIP 189 and authorizes the City Manager to execute the agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 14th of November 2023 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

October 10, 2023

Jason Kabalin and Brianne Visaya
City of Oakley
3231 Main Street
Oakley, CA 94561

Re: Scope and Fee to Provide Environmental Technical Studies and Permitting for the Piper Lane Trash Capture Project

Dear Mr. Kabalin:

NCE appreciates the opportunity to work with the City of Oakley (City) on this important project. Below is a description of NCE's understanding of the Project and our proposed Scope of work.

Project Understanding

With the adoption of the Trash Amendments by the State Water Resources Control Board in April 2015, the implementation of stormwater trash control programs has become a high priority compliance issue for owners/operators of Municipal Separate Storm Sewer Systems (MS4) throughout the State of California. Trash control programs are designed to demonstrate reduction in trash and litter discharged from MS4s and to protect the water quality and beneficial uses of local receiving water bodies (e.g., creeks, rivers, lakes, and bays) from the impacts of trash. The Amendments require that control programs be implemented to comply with trash discharge prohibitions and water quality objectives, which state that trash cannot be discharged in levels that impact beneficial uses of receiving waters.

The project site is located in an urbanized and modified area of the City and is adjacent to natural habitat areas to the north. We understand that the City intends to install a state approved full trash capture system at the end of an existing culvert just north of Piper Lane to treat a local watershed. The City and their design consultant have completed designs for the project and now need technical environmental studies to be completed, and permitting of the project. NCE understands that California Environmental Quality Act (CEQA) environmental review has already been completed for the Project through the City's Capital Improvement Program (CIP). NCE assumes any National Environmental Protection Act (NEPA) compliance will be completed by the U.S. Army Corps of Engineers (USACE), as the lead federal agency for the Project due a Section 404 permit being required. The project will also need to comply with Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act in support of the 404 Permit. In addition to the 404 permit from the USACE, the Project will require a 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB) and a 1600 Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW).

NCE will build on our experience delivering regulatory compliance and permitting on other full trash capture Projects to guide this Project. NCE proposes to complete the following tasks in support of the project:

Scope of Services

Task 1: Technical Studies

Task 1a – Aquatic Resources Delineation and Letter Report

NCE will delineate aquatic resources within the defined project area. This effort will involve background research, field work, and the preparation of an Aquatic Resources Delineation (ARD) that meets the requirements of the U.S. Army Corps of Engineers (USACE) (i.e., *Minimum Standards for Acceptance of Preliminary Wetland Delineations*, dated November 30, 2001). The ARD will support the preparation of the Project's NEPA environmental documents and permit applications to the USACE, RWQCB, and CDFW.

Prior to any field work, NCE will conduct a data review of the Project area. The data review will include United States Geological Survey (USGS) topography, United States Fish and Wildlife Service's (USFWS) National Wetland Inventory data, imagery, determination of the Natural Resources Conservation Service (NRCS) listed soils as hydric or non-hydric, review of climate data, and the preparation of field maps. The field maps will be prepared, and field data will be collected based on the following resources:

- 1987 USACE Wetland Delineation Manual
- Regional Supplement to the USACE of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0), May 2010
- A Field Guide to the Identification of the Ordinary High-Water Mark (OHWM) in the Arid West Region of the Western United States, August 2008 (if field conditions warrant this method)
- Sacramento District, Information Requested for Verification of Corps Jurisdiction, Revised April 2016
- Updated Map and Drawing Standards for the South Pacific Division Regulatory Program, issued February 10, 2016

As part of the field work, NCE will map soil pit locations and potential jurisdictional Waters of the US (WOUS), including wetlands in ESRI ArcGIS format (can be converted to AutoCAD format). For each potentially jurisdictional WOUS (or set of associated WOUS, such as wetlands adjacent to a drainage), NCE will follow USACE protocol by determining if a significant nexus exists between the WOUS and a known traditional navigable waterway.

NCE shall provide a digital copy of the draft Aquatic Resources Delineation Letter Report to the City for review and comment. The City will provide NCE with one set of consolidated comments. NCE will obtain, review, and integrate appropriate comments submitted by the City. NCE will then revise the draft Aquatic Resources Delineation Letter Report and submit the final Letter Report as part of the USACE Section 404 and RWQCB Section 401 Permit Applications. NCE will also

prepare a Request for Aquatic Resources Delineation Preliminary Jurisdictional Determination for submittal to the USACE. A digital copy of the final documents will be provided to the City.

Deliverables

- Draft and Final ARD Letter Report to be included in USACE Section 404 and RWQCB Section 401 Permit Application (electronic, PDF format)

Assumptions

- Field work associated with the ARD shall require no more than one (1) day to complete and the City will provide designated access points for field staff to gain entrance
- Any necessary rights-to-enter will be obtained by City prior to field work
- The City will provide one consolidated set of comments for the deliverable
- Minimal revisions to the ARD shall be necessary to produce the Final version

Task 1b. Section 106 Cultural Resources Assessment and Letter Report

In compliance with Section 106 of the NHPA and to meet CEQA and Section 404 permitting requirements, NCE will conduct a cultural resources technical study to determine the potential effects the proposed project may have on historical and cultural resources.

A NCE archaeologist will conduct a site visit to the direct and indirect Area of Potential Effect (APE), and to record the setting in photographs and notes. Prior to conducting the site visit, NCE will conduct archival research. NCE will submit a records request to the Northwest Information Center (NWIC). Records will be requested within one-quarter mile of the maximum potential project area. Additional archival sources (e.g., GLO plat maps, historic USGS maps, county, and state maps) will be examined as appropriate.

NCE will prepare and submit a letter to the Native American Heritage Commission (NAHC), requesting a search of their Sacred Lands File (SLF) and contact information for interested tribes. Upon receipt of the NAHC contact list, NCE will prepare a letter for City to send each identified tribe representative on City letterhead requesting information regarding the project area. If interested Tribes provide a response, contact information will be noted and follow-up correspondence will inform them that they will be contacted during the next phase of the project when project elements are better understood.

NCE will prepare an archaeological survey letter report (ASR) for the proposed project. Given NCE's experience with such projects, the probability of encountering historical and archaeological resources is judged to be low. For this project, NCE assumes no cultural resources will be identified. In addition, because CEQA has already been completed for the project, AB52 Native American consultation is not required. If cultural resources are identified as a result of the records search, as part of the pedestrian survey, or as provided by the City, NCE can initiate Native American consultation on behalf of the City for separate scope and fee.

The letter report will include a discussion and assessment of previously identified and/or newly identified cultural resources recorded on California Department of Parks and Recreation (DPR) site forms. Identified sites will be evaluated against the significance criteria of the California Register of Historical Resources and the National Register of Historic Places and recorded in a DPR-523 form set attached to the cultural resources letter report.

NCE shall provide a digital copy of the draft ASR to the City for review and comment. The City will provide NCE with one set of consolidated comments. NCE will obtain, review, and integrate appropriate comments submitted by the City. NCE will then revise the draft ASR and submit the final ASR as part of the USACE Section 404 Permit Application.

Deliverables

- Draft and Final ASR (electronic, PDF format)

Assumptions

- Field work associated with the reconnaissance-level survey shall require no more than two (2) days to complete and the City will provide designated access points for field staff to gain entrance
- Any necessary rights-to-enter will be obtained by City prior to field work
- City will not require any hard copies of report
- Assumes no cultural resource will be identified
- Assumes no comments on draft report from USACE
- Assumes no Native American consultation will be required under AB 52
- Assumes Native American consultation under Section 106 will be the responsibility of the USACE
- NCE assumes the records search for the project will cost no more than $500. Given that the number of resources identified can vary greatly, should the required records search cost more NCE will submit a budget augmentation request to the City

Task 1c. Biological Resources Report

NCE will prepare a Biological Resources Report for the project. Prior to conducting field surveys, NCE will review online databases and biological and botanical references in order to identify potential species and habitat types that may exist in the project vicinity. The following resources will be reviewed:

- the USFWS species list of federally proposed and listed endangered and threatened species that could occur in and near the project site (includes the proposed alternatives);
- a species list from the California Natural Diversity Database (CNDDB); and,
- a vegetation species/habitat list from California Native Plant Society (CNPS).

NCE will conduct a reconnaissance-level field survey to identify and approximate the habitat types in the area, determine if suitable habitat is present for state and federally listed species,

and assess the presence and absence of locally rare plants that require consideration under CEQA. The field survey area will include a 200-feet buffer around the proposed project site.

NCE shall provide a digital copy of the draft Biological Resources Report to the City for review and comment. The City will provide NCE with one set of consolidated comments. NCE will obtain, review, and integrate appropriate comments submitted by the City. NCE will then revise the draft Biological Resources Report and submit the final Report as part of the regulatory permit applications to the USACE, RWQCB, and CDFW.

Deliverables

- Draft and Final Biological Resource memo (electronic, PDF format)

Assumptions

- Field work associated with the reconnaissance-level field survey will require no more than one (1) day to complete and the City will provide designated access points for field staff to gain entrance
- No protocol level surveys are included in this scope of work
- Minimal revisions to the Draft Biological Resources Letter Report will be necessary to produce the Final version

Task 2. Resource Agency Permitting and Coordination

2a. Initial Agency Outreach and Environmental Permit Tracker

Following the Project Kickoff meeting, NCE will conduct initial agency outreach. This initial agency outreach will occur with USACE, RWQCB, and CDFW, and will identify the primary point of contact, introduce the project, discuss the overall schedule, identify key issues, and confirm application requirements and timing of subsequent check-ins. NCE anticipates the initial outreach efforts will include a phone call or web meeting lasting up to one (1) hour per agency for up to three (3) agencies.

Prior to the initial agency outreach, NCE will prepare an Environmental Tracker (Excel based spreadsheet tool) to track and document the outcomes of these discussion. This task also includes time for managing the Environmental Tracker throughout the project to document agency contacts, routine agency coordination/communications, permit application status, mitigation measures from environmental documents, and the permit conditions included in final approved permits.

NCE staff also anticipate regular check-ins with regulatory agency staff during the life of the project that are in addition to the formal meetings, field reviews, and submittals noted below.

Deliverables

- Initial agency outreach with USACE, CDFW, and RWQCB
- Development and ongoing management of Environmental Permit Tracker

Assumptions

- NCE will perform initial agency outreach for up to three (3) agencies
- Each engagement will last up to one (1) hour
- Up to six meetings during the permitting phase of the project is allocated for updating and managing the Environmental Permit Tracker

2b. USACE Section 404 Permit Application

NCE will prepare a Section 404 Nationwide #3 permit application for submittal to the USACE. The permit application will include the following:

- Cover letter to USACE
- Application forms
- ARD Report
- Biological Resources Report
- Figures and drawings
- Cultural Resources Letter Report

NCE shall provide a digital copy of the permit application to the City for review and comment. The City will provide NCE with one set of consolidated comments. NCE will obtain, review, and integrate appropriate comments submitted by the City. NCE will then revise the draft permit application and submit the final permit application to the USACE. NCE will follow up with USACE once the application is submitted.

Deliverables

- Draft and Final permit application (electronic, PDF format)

Assumptions

- USACE is the lead federal agency and will initiate Section 7 consultation with USFWS and/or National Marine Fisheries Service if necessary
- Permit condition compliance, monitoring, and reporting are not a part of this scope of work because the project specific permit requirements are currently unknown.

RWQCB Section 401 Water Quality Certification Request

A Section 401 Water Quality Certification is required from the RWQCB for both temporary and/or permanent impacts to Waters of the State. NCE will prepare a Water Board Discharges of Dredged or Fill Material to Waters of the State application (also known as a Water Quality Certification application). Per the September 11, 2020, EPA final ruling, NCE will also complete the 401 Water Quality Certification Request, which is an addendum of 9 elements, and include it with the Water Quality Certification application submittal. Lastly, per the September 12, 2020, final rule, NCE will email a Pre-Fill Meeting Request to the RWQCB and copy the USACE 30 days prior to submitting the Water Quality Certification application. NCE and a representative from the City will attend the Pre-Fill meeting (virtual) with the RWQCB.

NCE shall provide a digital copy of the permit application to the City for review and comment. The City will provide NCE with one set of consolidated comments. NCE will obtain, review, and integrate appropriate comments submitted by the City. NCE will then revise the draft permit application and submit the final permit application to the RWQCB. NCE will follow-up with the RWQCB once the application is submitted.

Deliverables

- Draft and Final Notification of Water Quality Certification application (electronic, PDF format).

Assumptions

- The City will provide payment for the permit application fee.
- The RWQCB will accept the Restoration Plan for temporary impacts and will not require any modifications.
- The required dewatering or temporary water diversion plan will be prepared by the construction Contractor or others.
- A water quality monitoring plan will not be required by the RWQCB.
- Permit condition compliance, monitoring, and reporting is not a part of this scope of work because the project specific permit requirements are currently unknown.

2d. CDFW Lake and Streambed Alteration Agreement Application

NCE will prepare and submit a CDFW Notification of Lake or Streambed Alteration application. The application package will include:

- A project description.
- Proposed impacts to the creek and riparian habitat.
- The type, linear feet, and total area of riparian vegetation proposed for impact.
- The type, number, and size of trees to be removed.
- Documentation of any special status fish, wildlife, plants, or supporting habitat at or near the project site.
- Biological Survey Report.
- Mapped fish and/or wildlife resources.
- Waters of the State of California and U.S. ARD Report
- Water quality Best Management Practices to protect fish, wildlife, and plant resources.
- Avoidance and/or minimization measures to protect fish, wildlife, and plant resources.
- Project mitigation and/or compensation to protect fish, wildlife, and plant resources.

NCE will provide an electronic copy of the Draft Notification of Lake or Streambed Alteration application to the City for review. NCE will obtain, review, and integrate appropriate comments submitted by the City and will then revise the permit application and prepare the Final

Notification of Lake or Streambed Alteration application for submittal to the CDFW. NCE will follow up with CDFW once the application is submitted.

Deliverables

- Draft and Final Notification of Lake or Streambed Alteration application (electronic, PDF format).

Assumptions

- The City will provide payment for the permit application fee.
- A CDFW Incidental Take Permit will not be needed.
- Permit condition compliance, monitoring, and reporting is not a part of this scope of work because the project specific permit requirements are currently unknown.

Task 3. Project Management and Meetings

NCE's Project Manager (Cord Hute) will arrange a Kick-Off Meeting with the City to initiate work on the project. The objectives of the Kick-Off Meeting will be:

- Review the Scope of Work
- Establish Lines of Communication
- Establish Project Schedule and Milestones
- Discuss any Project Specific Issues

The Kick-off meeting will be virtual, and attended by NCEs Project Manager, an NCE Principal, a Staff Scientist, as well as representatives from the City.

NCE's Project Manager will coordinate and facilitate progress meetings (1 meeting per month for the approximately 6-month length of surveys, report and permit application preparation, and securing permits) with the City and other team members to maintain good communications and monitor schedule. Progress meetings will be held virtually.

Deliverables

- Kick-off/Progress meeting agendas (up to 7)
- Monthly invoicing (up to 6)

Assumptions

- Assumes virtual project kickoff meeting one (1) hour in length
- Assumes 6 virtual progress meetings with City with each lasting up to one (1) hour in length. Meetings will include NCE Project Manager and City Project Manager

Fee Estimate

NCE proposes to provide the above-listed services on a time and materials basis in accordance with our 2023 Schedule of Charges. We estimate that our total fees for this scope of services will not exceed **$74,947.00**. The table below illustrates the costs for each task of the project. Actual hours and fees may vary between tasks as the project progresses. If agreeable, please provide a Subcontract Agreement for review and signature.

Task #	Proposed budget
1 – Technical Studies	$ 31,727.00
2 - Resource Agency Permitting and Consultation	$ 35,705.00
3 – Project Management and Meetings	$ 7,515.00
Total Budget	**$ 74,947.00**

We appreciate the opportunity to continue to work with the City and look forward to working with you on the Piper Lane Trash Capture Project. If you have any questions or additional needs, please call Cord Hute at (510) 215-3620.

Respectfully,

NCE

Jason Drew, CPSWQ, CPESC, QSD/QSP
Principal

Cord Hute
Senior Scientist II

DATE: November 14, 2023

TO: Joshua McMurray, City Manager

FROM: Evan Gorman, Associate Planner

Approved and Forwarded to the City Council

SUBJECT: 2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23) – Request for three (3) year extension to the expiration of Tentative Map 9537

Summary

This is an application by GKW Architects, Inc. ("Applicant") requesting to extend the approval of Tentative Map 9537 (known as "2480 Oakley Road Residential Development Subdivision") for a period of three (3) additional years ("Project"). This would be the first discretionary extension for this approval. The approved Tentative Map consists of approximately 4.6 acres subdivided into twenty-two (22) single-family residential lots and one (1) additional lot representing the future private road through the development. The project site is located at 2480 Oakley Road and is zoned R-6 (Single-Family Residential) District. APN 037-100-043.

Background

GENERAL PLAN AND ZONING

- The General Plan Land Use Designation for the project site is Residential Low/Medium (RLM) (Designated in Oakley's 2020 Focused General Plan update, the original project approval designated the land Single Family Residential, High-Density through City Council Resolution 88-20).
- The site is zoned R-6 (Single-Family Residential) District (Ordinance 12-20).

PREVIOUS ENTITLEMENTS

On June 23, 2020, the City Council approved Tentative Map 9537 and the associated Mitigated Negative Declaration through City Council Resolutions No. 88-20 and No. 89-20. On August 11, 2020 the City Council adopted Ordinance 12-20, which changed the zoning of the project site from LI (Light Industrial) District to R-6 (Single Family Residential) District in order to accommodate the project. The Tentative Map received a three (3) year entitlement period from its resolution approval date, and therefore, was originally set to expire on June 23, 2023.

Although the Tentative Map was initially set to expire in June of this year according to the resolution that approved the map, its correct expiration date is September 10, 2023. The original Tentative Map approval did not become effective until the date that the Rezone Ordinance No. 12-20 went into effect, September 10, 2020, which

effectively set the original expiration date to September 10, 2023. The applicant submitted a written request for an extension on August 8, 2023.

PLANNING COMMISSION PUBLIC HEARING

On October 17, 2023, the application was presented to the Planning Commission as a public hearing item. The role of the Planning Commission at that hearing was to receive the Staff Report from Staff and public testimony from the applicant, public, and any interested parties, and make a recommendation to the City Council on the project. At the end of that public hearing, the Planning Commission adopted Resolution 14-23 recommending the City Council make findings and approve the Tentative Map Extension. A copy of the adopted resolution and the Planning Commission Staff Report, which shares much of the contents of this Staff Report, are included as attachments to this Staff Report for additional reference and background.

Project Description

The applicant is requesting an extension of three (3) years to the entitlement of the approved Tentative Map. If approved, the map would not expire until September 10, 2026. The Subdivision Map Act permits an additional three (3) years of discretionary extensions beyond this application, should it be approved.

Environmental Review

The request for an extension to the Tentative Map will not result in any new physical impacts on the project, and therefore will not result in any new significant impacts when reviewed for conformance with the California Environmental Quality Act ("CEQA"). The project falls within the scope of the original CEQA analysis and no further environmental analysis is required.

Analysis

The Subdivision Map Act (Government Code 66452.6 (e)) allows the governing body with authority to approve a tentative map to extend that approval for a period not to exceed six (6) additional years from the original expiration date. The City Council may grant multiple approvals on the same tentative map, so long as requests for extensions are submitted prior to expiration of the map, pursuant to the Subdivision Map Act.

The applicant is requesting a three (3) year extension to the Tentative Map to provide more time to feasibly develop the project. Approval of this extension would ensure the Tentative Map would still be valid for an additional three years. Staff finds that allowing for a three-year extension to the approval will not result in any direct or indirect public health, safety, or welfare issues. If this proposal were denied and a new project was proposed in the future, it would likely have similar right of way

improvement requirements and the community would not see an added benefit from that.

CONDITIONS OF APPROVAL

Pursuant to the Subdivision Map Act, the City Council may approve or conditionally approve extensions to a tentative map. It is noted here and referenced in the proposed resolution's findings that all conditions of approval in City Council Resolution 89-20 that are not modified in the proposed resolution are still in full effect for this Tentative Map. Proposed conditions of approval reflect references to previous entitlements, standard language related to indemnification and applicant's responsibilities, the new expiration date, and updates to condition language regarding establishing funding mechanisms to cover ongoing financial impacts to fire protection services, police services, and maintenance and operation services associated with public landscaping, parks, streetlighting, and stormwater facilities. These updates will supersede previous conditions that relied only on Community Facilities Districts (CFDs) to establish those funding mechanisms.

Findings

Complete draft findings are included in the attached resolution.

Consistency with the Oakley Strategic Plan 27+

Approval of this application would be consistent with the goals in the section of the Oakley Strategic Plan 27+ entitled, "Community and Economic Development Goal". Reviewing applications for compliance with Oakley's development standards ensures strategic and thoughtful growth.

Fiscal Impact

The approval of this extension would not impact the General Fund. This is a developer funded account. All Staff time and City of Oakley generated materials are charged to the developer account funded by the developer.

Staff Recommendation

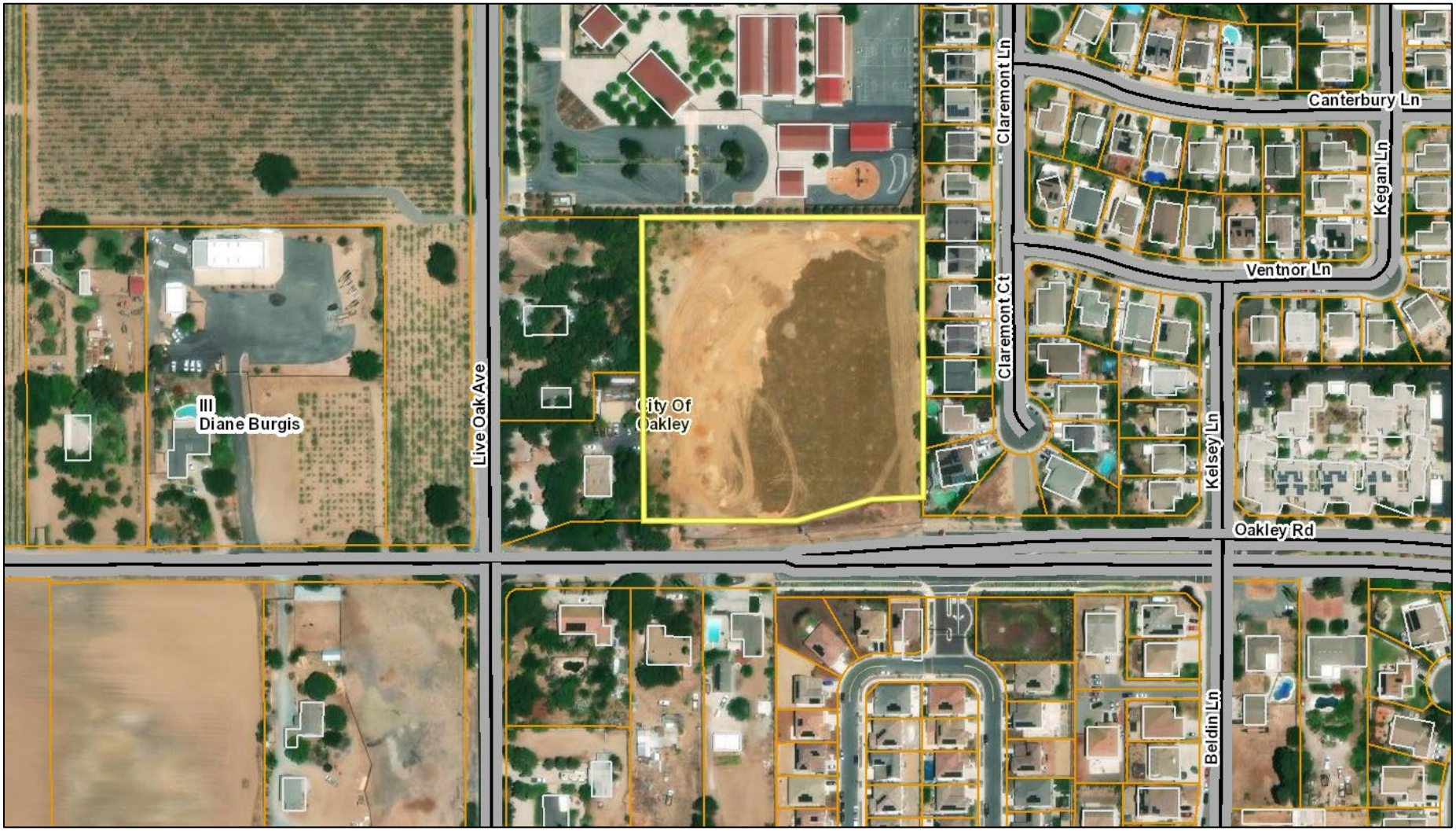
Staff recommends the City Council adopt the resolution approving 2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23), as conditioned.

Attachments

1. Vicinity Map
2. Public Hearing Notice
3. Approved Tentative Map
4. Planning Commission Staff Report from October 17, 2023
5. Planning Commission Resolution 14-23
6. Draft Resolution

Vicinity Map

2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23)
APN: 037-100-043



OAKLEY
CALIFORNIA

NOTICE OF PUBLIC HEARING

Notice is hereby given that on **November 14, 2023** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an application as described below:

Project Name: 2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23).

Project Location: The project site is located at 2480 Oakley Road, which is in the north western area of Oakley. APN 037-100-043.

Applicant: Gkw Architects, Inc., 710 E McGlincy Lane, Suite 109, Campbell, CA 95008. Attn: Gordon Wong; gordonkwong@gkwarchitects.com

Request: This is a request to extend the approval of Tentative Map 9537 (known as "2480 Oakley Road Residential Development Subdivision") for a period of three (3) additional years ("Project"). This will be the first discretionary extension for this approval. The approved Tentative Map consists of approximately 4.6 acres subdivided into twenty-two (22) single-family residential lots. The project site is located at 2480 Oakley Road and is zoned R-6 (Single-Family Residential) District. APN 037-100-043.

How to Review: The Staff Report and its attachments will be available for public review, on or before **November 8, 2023** at City Hall, 3231 Main Street, Oakley, CA 94561 or online at www.ci.oakley.ca.us/agendas-minutes-videos-archive/ by navigating to the **November 14, 2023 City Council** agenda and clicking the project title link. (Note: City Hall is closed on the 1st and 3rd Fridays of each month). Interested persons are invited to submit written comments prior to and may testify at the public hearing. Written comments may be submitted to Evan Gorman, Associate Planner at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to gorman@ci.oakley.ca.us.

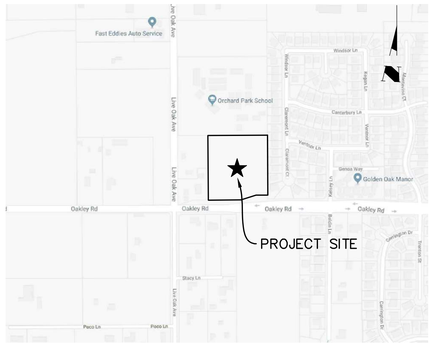
NOTICE IS ALSO GIVEN pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered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

TENTATIVE MAP

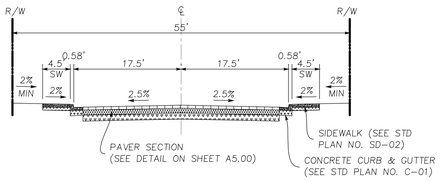
SUBDIVIDE ONE (1) LOT INTO TWENTY-THREE (23) LOTS

2480 OAKLEY ROAD, OAKLEY, CA 94561

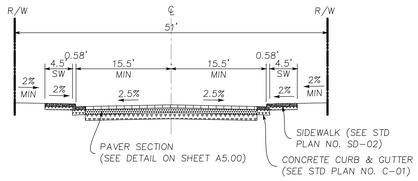
APN 037-100-043-1



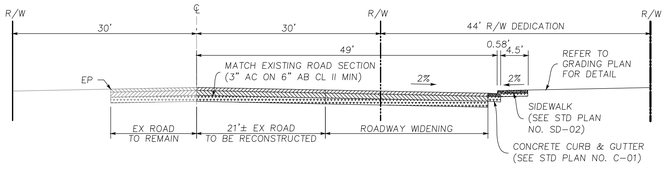
VICINITY MAP
NTS



TYPICAL ORCHARD COURT SECTION
FROM STA 10+50.50 TO 13+62.15
NTS



TYPICAL ORCHARD COURT SECTION
FROM STA 10+50.50 TO 13+62.15
FROM STA 16+41.75 TO 19+53.77
NTS



TYPICAL OAKLEY ROAD SECTION
NTS

LEGEND

	EXISTING	PROPOSED	TO BE REMOVED
SIDEWALK			
CURB AND GUTTER			
CENTER LINE	℄ R/W	℄ R/W	R/W
PROPERTY LINE	R/W	R/W	R/W
LOT LINE			
EASEMENT LINE			
EDGE OF PAVEMENT			
DRIVEWAY			
PCC OR AC			
STANDARD CITY MONUMENT			
BENCH MARK			
MANHOLE			
STORM DRAIN INLET			
WATER METER			
VALVE			
FIRE HYDRANT			
STREET LIGHT			
POWER POLE			
PULL BOX			
CABLE TELEVISION LINE	TV	TV	TV
ELECTRICAL LINE	E	E	E
IRRIGATION LINE	IR	IR	IR
NATURAL GAS LINE	G	G	G
OVERHEAD LINE	OH	OH	OH
SANITARY SEWER LINE	SS	SS	SS
STORM DRAIN LINE	SD	SD	SD
TELEPHONE LINE	T	T	T
WATER LINE	W	W	W
TRAFFIC SIGNAL CONDUIT	TS	TS	TS
LIGHTING CONDUIT	L	L	L
ROADSIDE SIGN & SIGN CODE	R1	R1	R1
FENCE			
TREE/SHRUB			

PROJECT DATA

1. SITE ADDRESS: OAKLEY ROAD, OAKLEY
2. ASSESSORS PARCEL NO: 037-100-043
3. OWNER: OAKLEY ROAD PARTNERS, LLC
   ADDRESS: 2480 OAKLEY ROAD, OAKLEY, CA 94561
   PHONE;
   EMAIL:
4. ARCHITECT: GKW ARCHITECT, INC
   GORDON K WONG, ARCHITECT AIA, LEED GA
   ADDRESS: 710 E MCGLINCY LN #109, CAMPBELL, CA 95008
   PHONE: (408) 796-1845
   EMAIL: GORDONKWONG@GKWARCHITECTS.COM
5. LANDSCAPE ARCHITECT: HEID LANDSCAPE, JEFFREY HEID ARCHITECT
   ADDRESS: 6179 ONEIDA DRIVE, SAN JOSE, CA 95123
   PHONE; (408) 691-5207
   EMAIL: WJHEIDASLA@GMAIL.COM
6. CIVIL ENGINEER: LC ENGINEERING/ NINH LE
   ADDRESS: 598 E SANTA CLARA ST. #270, SAN JOSE, CA 95112
   PHONE: (408)806-7187
   EMAIL: NLE@LCENGINEERING.NET
7. SOIL ENGINEER: GEO-ENGINEERING SOLUTIONS, INC
   ADDRESS: 2570 SAN RAMON VALLEY BLVD, SUITE #A102
   SAN RAMON, CALIFORNIA 94583
   PHONE: (925) 433-0450
   EMAIL: ESWENSON@GEO-ENG.NET
8. ZONING:
   EXISTING: LI (LIGHT INDUSTRIAL)
   PROPOSED: R-6 (SINGLE FAMILY RESIDENTIAL) DISTRICT
9. EXISTING USE: VACANT
10. PROPOSED USE: 22 SINGLE FAMILY RESIDENTIAL
11. MINIMUM UNIT SIZE: 6,000 SF
12. ALL DIMENSIONS AND PROPOSED GRADING ARE PRELIMINARY AND SUBJECT TO FINAL DESIGN.
13. STREET TREES SHALL BE PROVIDED AS REQUIRED BY THE CITY.
14. PROPOSED WATER, SANITARY SEWER, AND STORM DRAIN SHALL BE CONSTRUCTED AS PER DIABLO WATER DISTRICT, IRON HOUSE SANITARY DISTRICT, AND CITY OAKLEY STANDARDS.
15. STREET LIGHTS WILL BE INSTALLED PER THE CITY OF OALEY STANDARDS AND DEDICATED TO THE CITY.
16. WATER: DIABLO WATER DISTRICT
17. SEWER: IRON HOUSE SANITARY DISTRICT
18. GAS & ELECTRIC: PG&E
19. TELEPHONE: AT&T
20. CABLE TV: COMCAST
21. WELLS: NONE
22. THE SIZE, MATERIAL, AND LOCATION OF THE PROPOSED UTILITIES IS SUBJECT TO CHANGE, BASED ON DEMANDS, HYDRAULIC CALCULATIONS, AND/ OR CITY STANDARD GUIDELINES.

SHEET INDEX

SHEET TM-1: TITLE SHEET & GENERAL NOTE
SHEET TM-2: TENTATIVE MAP
SHEET C3.1: OVERALL SITE PLAN

REGISTERED PROFESSIONAL ENGINEER
N. M. LE
No. 47518
EXP. 12-31-19
CIVIL
STATE OF CALIFORNIA

NO.	REVISIONS	APP'D	DATE	BY

PT DESIGNED 02/02/19 DATE
PT DRAWN 02/02/19 DATE
NTS SCALE
NL CHECKED 02/02/19 DATE

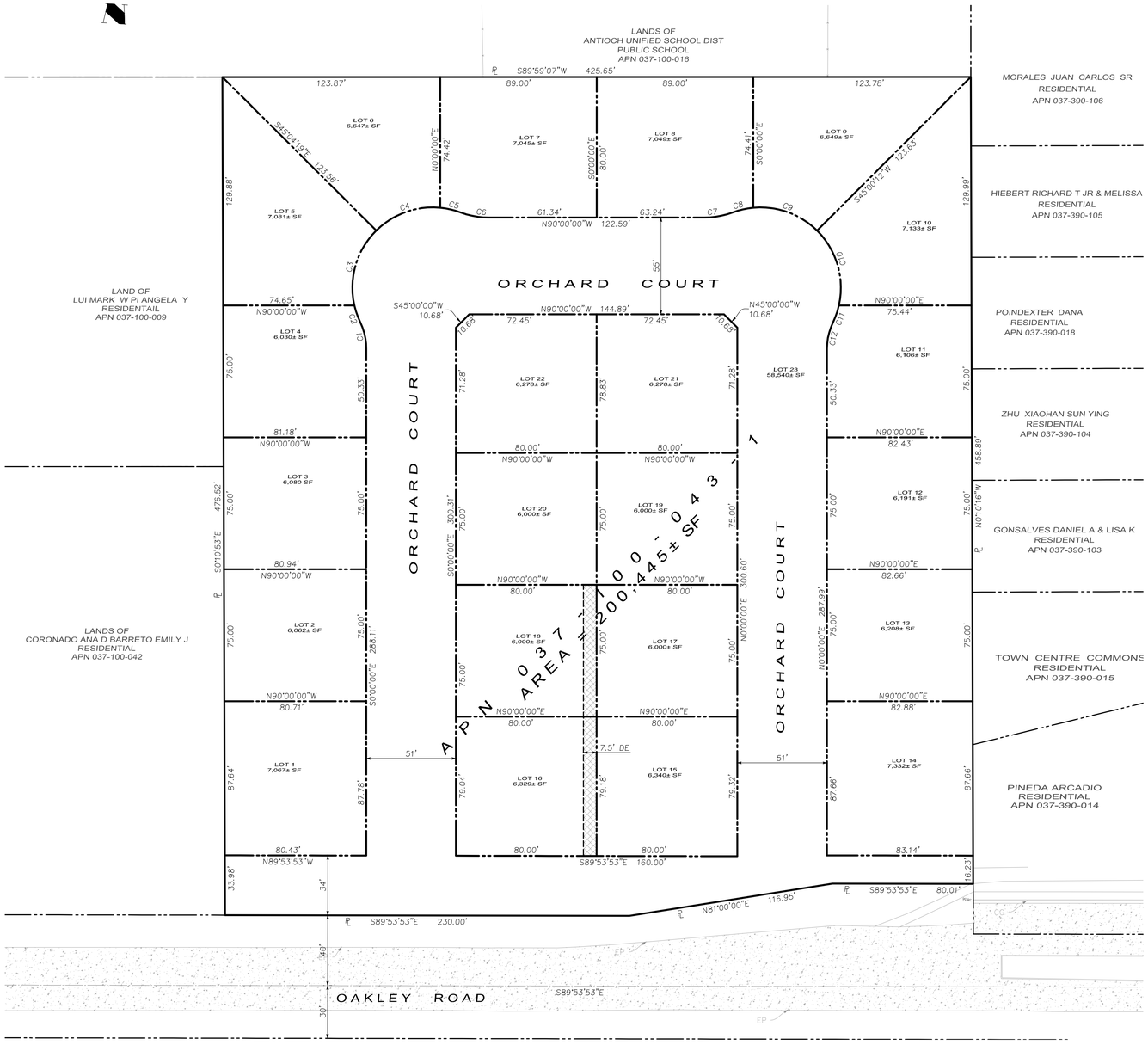
LC ENGINEERING
598 E Santa Clara St. #270
San Jose, CA 95112
Phone: (408) 806-7187
Fax: (408) 583-4006

TITLE SHEET AND GENERAL NOTE
LANDS OF OAKLEY ROAD PARTNERS, LLC
OAKLEY ROAD
APN 037-100-043-1

Oakley, California

PROJECT NO.
CONTRACT NO.

DRAWING NO. TM-1
SHT NO. 1 OF 3
FILE NO.



CURVE TABLE				
CURVE#	LENGTH	RADIUS	DELTA	TANGENT
C1	15.63'	35.00	25°35'26"	7.95'
C2	10.14'	45.63	12°43'57"	5.09'
C3	46.36'	45.63	58°12'26"	25.40'
C4	39.89'	45.63	50°05'11"	21.32'
C5	12.01'	45.63	15°04'39"	6.04'
C6	16.34'	45.63	20°30'47"	8.26'
C7	16.34'	45.63	20°30'46"	8.26'
C8	12.10'	45.63	15°11'25"	6.08'
C9	39.86'	45.63	50°03'12"	21.30'
C10	46.29'	45.63	58°07'38"	25.36'
C11	10.14'	45.63	12°43'57"	5.09'
C12	15.63'	35.00	25°35'26"	7.95'

PERCENT OF LANDSCAPE COVERAGE

LOT #	LOT SIZE	BUILDING	DRIVEWAY & PARKING	LANDSCAPE AREA	PERCENT OF LANDSCAPE COVERAGE
1	7,067 SF	2,239 SF	905 SF	3,923 SF	55.51%
2	6,062 SF	1,999 SF	710 SF	3,353 SF	55.31%
3	6,080 SF	1,906 SF	1,053 SF	3,121 SF	51.33%
4	6,030 SF	1,474 SF	745 SF	3,811 SF	63.20%
5	7,081 SF	1,883 SF	756 SF	4,442 SF	62.73%
6	6,647 SF	1,474 SF	728 SF	4,445 SF	66.87%
7	7,045 SF	2,239 SF	800 SF	4,006 SF	56.86%
8	7,049 SF	2,239 SF	912 SF	3,898 SF	55.30%
9	6,649 SF	1,474 SF	827 SF	4,348 SF	65.39%
10	7,133 SF	1,999 SF	664 SF	4,470 SF	62.67%
11	6,106 SF	1,474 SF	859 SF	3,773 SF	61.79%
12	6,191 SF	1,906 SF	1,020 SF	3,265 SF	52.74%
13	6,208 SF	1,999 SF	710 SF	3,499 SF	56.36%
14	7,332 SF	2,239 SF	896 SF	4,197 SF	57.24%
15	6,340 SF	1,474 SF	682 SF	4,184 SF	65.99%
16	6,329 SF	1,474 SF	714 SF	4,141 SF	65.43%
17	6,000 SF	1,999 SF	754 SF	3,237 SF	53.95%
18	6,000 SF	1,906 SF	1,020 SF	3,074 SF	51.23%
19	6,000 SF	1,906 SF	1,160 SF	2,934 SF	48.90%
20	6,000 SF	1,474 SF	748 SF	3,778 SF	62.97%
21	6,278 SF	1,474 SF	748 SF	4,056 SF	64.61%
22	6,278 SF	1,474 SF	735 SF	4,069 SF	64.81%
23	58,540 SF		46,768 SF	11,772 SF	20.11%



NO.	REVISIONS	BY	DATE	APP'D

PT DESIGNED 02/02/19 DATE
PT DRAWN 02/02/19 DATE
1" = 20' SCALE
NL CHECKED 02/02/19 DATE

ENGINEERING
598 E Santa Clara St. #270
San Jose, CA 95112
Phone: (408) 806-7187
Fax: (408) 583-4006

TENTATIVE MAP
LANDS OF OAKLEY ROAD PARTNERS, LLC
OAKLEY ROAD
APN 037-100-043-1
Oakley California

PROJECT NO.
CONTRACT NO.

DRAWING NO. TM-2
SHT NO. 2 OF 3
FILE NO.

PHASE 1 (11 RESIDENTIAL UNITS)

PHASE 2 (11 RESIDENTIAL UNITS)

N

NEW FENCE (SEE ARCHITECTURAL PLAN FOR DETAILS)

LANDS OF OAKLEY ROAD PARTNERS, LLC
APN 037-100-043-1
AREA=200,445± SF

ORCHARD COURT

OAKLEY ROAD

LOT 1 7,067± SF
BLDG 1 FF = 47.0

LOT 2 6,062± SF
BLDG 2 FF = 42.50

LOT 3 6,080 SF
BLDG 3 FF = 41.35

LOT 4 6,030± SF
BLDG 4 FF = 40.5

LOT 5 7,081± SF
BLDG 5 FF = 40.5

LOT 6 6,647± SF
BLDG 6 FF = 40.25

LOT 7 7,045± SF
BLDG 7 FF = 40.65

LOT 8 7,049± SF
BLDG 8 FF = 40.75

LOT 9 6,619± SF
BLDG 9 FF = 40.35

LOT 10 7,133± SF
BLDG 10 FF = 40.0

LOT 11 6,106± SF
BLDG 11 FF = 39.5

LOT 12 6,191± SF
BLDG 12 FF = 38.5

LOT 13 6,206± SF
BLDG 13 FF = 38.85

LOT 14 7,332± SF
BLDG 14 FF = 38.20

LOT 15 6,340± SF
BLDG 15 FF = 38.5

LOT 16 6,329± SF
BLDG 16 FF = 43.5

LOT 17 6,000± SF
BLDG 17 FF = 38.5

LOT 18 6,000± SF
BLDG 18 FF = 41.0

LOT 19 6,000± SF
BLDG 19 FF = 38.3

LOT 20 6,000± SF
BLDG 20 FF = 40.0

LOT 21 6,278± SF
BLDG 21 FF = 39.30

LOT 22 6,278± SF
BLDG 22 FF = 39.0

LOT 23 58,540± SF

BENCHMARK
MAG NAIL
ELEV = 45.64'

PT	02/02/19			
DESIGNED	DATE			
PT	02/02/19			
DRAWN	DATE			
1" = 20'				
SCALE				
NL	02/02/19			
CHECKED	DATE	BY	DATE	APP'D

REVISIONS | NO.

DRAWING NO. C3.1
SHT NO. 3 OF 3

OVERALL SITE PLAN
LANDS OF OAKLEY ROAD PARTNERS, LLC
OAKLEY ROAD
APN 037-100-043-1

Oakley California

FILE NO. | CONTRACT NO. | PROJECT NO.

LE ENGINEERING
598 E Santa Clara St, #270
San Jose, CA 95112
Phone: (408) 806-7187
Fax: (408) 583-4006

REGISTERED PROFESSIONAL ENGINEER
NICHOLAS M. LEE
No. 47518
CIVIL
STATE OF CALIFORNIA

GENERAL NOTES:

1. THE CITY OF OAKLEY MUST INSPECT AND APPROVE ALL STORM WATER TREATMENT MEASURES PRIOR TO GRANTING CERTIFICATE OF OCCUPANCY
2. SOIL USED IN LANDSCAPE BASED TREATMENT MEASURES SHALL MEET THE SOIL SPECIFICATIONS INCLUDED IN THE MOST RECENT VERSION OF THE MUNICIPAL REGIONAL STORMWATER NPDES PERMIT.
3. ALL STORMWATER TREATMENT MEASURES MUST BE MAINTAINED REGULARLY BY THE PROPERTY OWNERS, MANAGERS, AND HOA.
4. FLOODING: ZONE X - AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FIRM MAP NUMBER 06001C0286G, EFFECTIVE DATE AUGUST 3, 2009.
5. CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF BUILDING UTILITY ENTRANCE LOCATIONS.
6. THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES AS SHOWN ON THESE PLANS IS BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES AND, WHERE POSSIBLE, MEASUREMENTS TAKEN IN THE FIELD. THE INFORMATION IS NOT TO BE RELIED UPON AS BEING EXACT OR COMPLETE. THE CONTRACTOR MUST CALL THE APPROPRIATE UTILITY COMPANY AT LEAST 48 HOURS BEFORE ANY EXCAVATION TO REQUEST EXACT FIELD LOCATION OF UTILITIES. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES WHICH CONFLICT WITH PROPOSED IMPROVEMENTS SHOWN ON THESE PLANS. PRIOR TO THE START OF ANY SEWER, WATER, AND STORM DRAIN CONSTRUCTION, THE CONTRACTOR SHALL EXPOSE AND VERIFY THE LOCATION, SIZE, AND ELEVATION OF THE EXISTING SERVICES AT THE POINT OF CONNECTION AND SHALL NOTIFY THE ENGINEER IMMEDIATELY OF ANY DISCREPANCIES PRIOR TO PROCEEDING.
7. ALL NON STORM DRAIN UTILITIES ARE NOT COVERED UNDER THIS GRADING PERMIT AND ARE SHOWN FOR REFERENCE ONLY. SEPARATE BUILDING PERMITS ARE REQUIRED.

EROSION CONTROL NOTES:

1. PORTABLE TOILET MUST BE KEPT A MINIMUM OF 50 FEET AWAY FROM ALL STORM DRAIN INLETS.
2. FOR MINOR EQUIPMENT MAINTENANCE, DRIP PANS AND DRIP CLOTHS WILL BE USED AND PROPERLY DISPOSED OF IF IT IS NECESSARY TO DRAIN AND REPLACE FLUIDS ON SITE.
3. ON SITE VEHICLES AND EQUIPMENT WILL BE INSPECTED REGULARLY FOR LEAKS, AND, IF NECESSARY, WILL BE REPAIRED IMMEDIATELY.
4. IF THERE ARE ANY CONFLICTS BETWEEN CASQA BMPS AND PROJECT CONTRACT DOCUMENT REQUIREMENTS, FOLLOW PROJECT CONTRACT DOCUMENT REQUIREMENTS.
5. ALL MATERIALS SPILLED, DROPPED, WASHED, OR TRACKED FROM VEHICLES ONTO ROADWAYS OR INTO STORM DRAINS MUST BE REMOVED IMMEDIATELY.
6. SUFFICIENT OIL AND GREASE ABSORBING MATERIALS AND FLOTATION BOOMS SHALL BE MAINTAINED ON SITE OR READILY AVAILABLE TO CONTAIN AND CLEAN-UP FUEL OR CHEMICAL SPILLS AND LEAKS.
7. DUST ON THE SITE SHALL BE CONTROLLED. THE USE OF MOTOR OILS AND OTHER PETROLEUM BASED OR TOXIC LIQUIDS FOR DUST SUPPRESSION OPERATIONS IS PROHIBITED.
8. RUBBISH, TRASH, GARAGE, LITTER, OR OTHER SUCH MATERIALS SHALL BE DEPOSITED INTO SEALED CONTAINERS. MATERIALS SHALL BE PREVENTED FROM LEAVING THE PREMISES THROUGH THE ACTION OF WIND OR STORMWATER DISCHARGE INTO DRAINAGE DITCHES OR WATERS OF THE STATE.
9. CONSTRUCTION TRAFFIC IS TO BE KEPT CLEAR OR THE STORMWATER TREATMENT AREAS AFTER THEY HAVE BEEN BACKFILLED AND GRADED IN ORDER TO AVOID CONTAMINATION AND COMPACTION OF EXISTING SOILS.
10. STORMWATER TREATMENT FACILITIES SHALL BE PROTECTED FROM CONSTRUCTION SITE RUNOFF. ONCE IMPORTED MATERIALS ARE INSTALLED IN THOSE FACILITIES, RUNOFF FROM UNSTABLE AREAS MUST BE DIVERTED FROM SUCH FACILITIES.

MULCHING:

MULCHING SHALL BE REQUIRED OVER ALL AREAS WITH DISTURBED SOILS CREATED FROM EITHER DEMOLITION OR GRADING OPERATIONS.

PREPARATION/ METHODS AND EQUIPMENT

STRAW MULCH: SHOULD BE APPLIED IN AN EVEN, UNIFORM MANNER, EITHER BY HAND OR BY MULCH BLOWING EQUIPMENT. STRAW MULCHES MUST BE ANCHORED TO PREVENT THE MULCH FROM BEING BLOWN OR WASHED OFF THE SITE. ANCHORING IS ACHIEVE IN TWO WAYS:

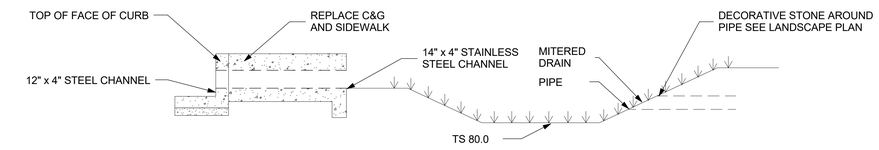
CRIMPING: THE MULCH IS ANCHORED BY RUNNING A HEAVY DISK WITH FLAT, DULL, SERRATED, CLOSELY SPACED BLADES OVER THE MULCHED SOIL. EFFECTIVE CRIMPING EMBEDS THE MULCH ABOUT 2 INCHES INTO THE SOIL WITHOUT COMPLETELY COVERING IT. THE DISK SHOULD BE RUN ONCE OR TWICE ACROSS THE SOIL. ABOUT 2 1/ 2 TON OF STRAW MULCH PER ACRE SHOULD BE APPLIED IF THE MULCH IS ANCHORED BY CRIMPING.

TACKING: ACHIEVED USING A EMULSIFIED ASPHALT OR BINDER EITHER INDEPENDENTLY OR FOLLOWED BY CRIMPING. IF TACKED, STRAW MULCH MAY BE APPLIED AT A RATE OF 1 3/4 TON PER ACRE, AND TACKED WITH EMULSIFIED ASPHALT AT A RATE OF 500 GALLONS PER ACRE.

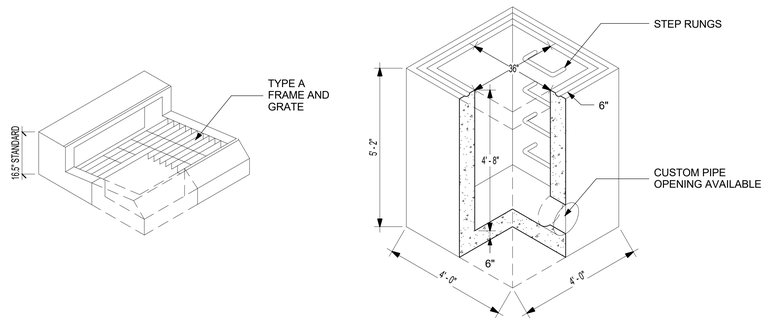
WOOD FIBER MULCH: TYPICALLY APPLIED WITH A HYDROSEEDER AT A RATE OF 1000 TO 1500 POUNDS PER ACRE, OR AS A SLURRY CONSISTING OF AT LEAST 150 POUNDS OF BINDER, 400 POUNDS OF WOOD FIBER MULCH, AND 200 GALLONS OF WATER PER ACRE.

REQUIREMENTS:

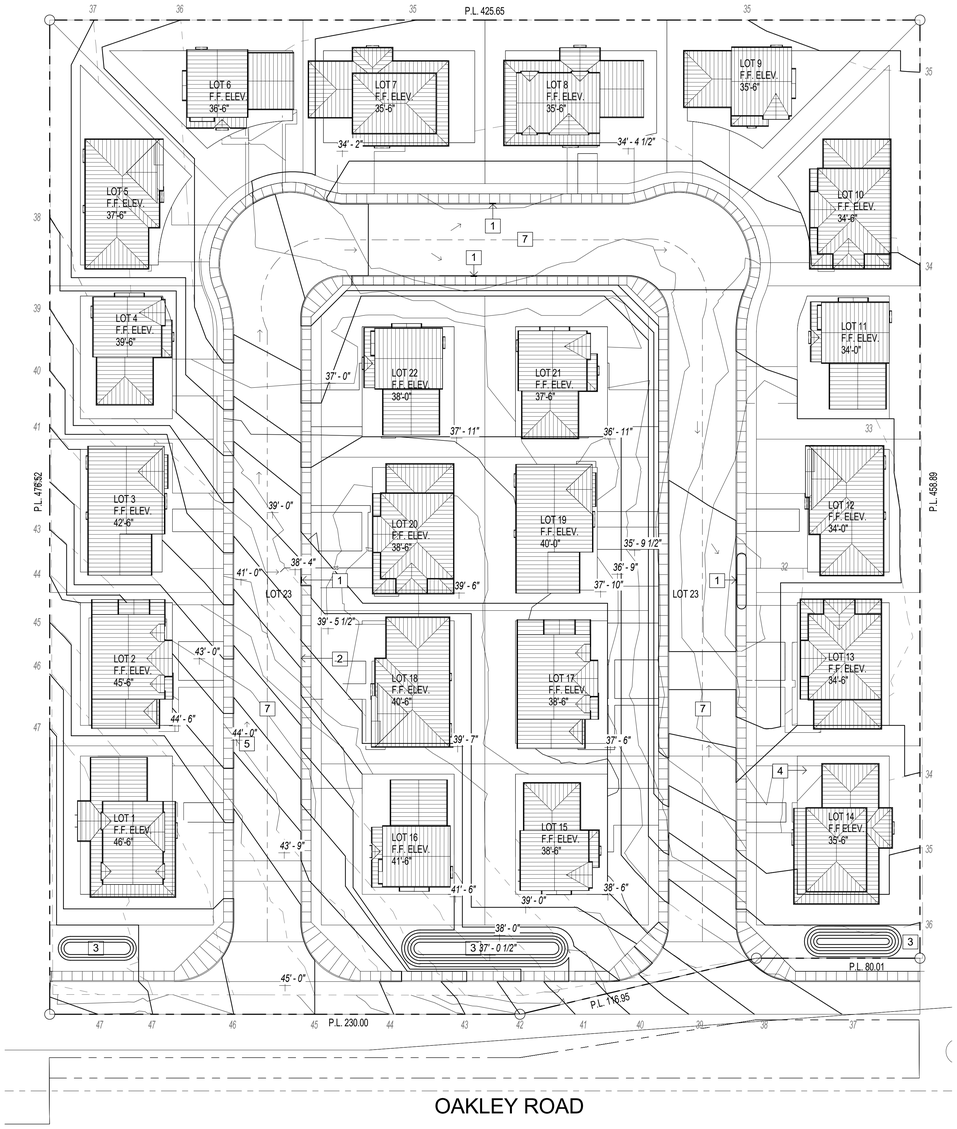
MAINTENANCE MULCHED AREAS REQUIRE FREQUENT INSPECTION FOR DAMAGE AND DETERIORATION. REQUIREMENTS WILL VARY GREATLY BASED ON TYPE OF MULCH USED AND THE TYPE OF VEGETATION ESTABLISHED.



2 Infiltration Basin Area
NTS



3 Type A Curb Inlet
1/2" = 1'-0"



GRADING & DRAINAGE PLAN KEYNOTES:

1	CURB DRAIN
2	6" CONCRETE CURB & GUTTER
3	BIO-INFILTRATION BASIN / DMA
4	BUILDING PAD
5	FLOW LINE
6	FIRE HYDRANT
7	STREET CROWN

LINE LEGEND

	6' TALL FENCE
	PROPERTY LINE
	SETBACK LINE
45 — 45	EXISTING CONTOUR LINES
45 — 45	PROPOSED CONTOUR LINES

1 Preliminary Grading & Drainage Plan, Proposed
1" = 30'-0"

0' 15' 30' 60' 120'

LICENSED ARCHITECT
GORDON K WONG
RENEWAL 08/31/2021
C-34045
STATE OF CALIFORNIA

LONG NGUYEN, PROJECT REP
710E MCGLINCY LANE SUITE 109
CAMPBELL, CA 95008
(408) 202 - 8181
GKW Architects.com

GORDON K WONG AIA, LEED GA
710E MCGLINCY LANE SUITE 109
CAMPBELL CA 95008
(408) 315-2125 LIC# 34045,
GKW ARCHITECTS.COM

ARCHITECTS
RESIDENTIAL · COMMERCIAL

Civil Title Sheet

Oakley Development
2480 Oakley Road
Oakley, CA

Project Schedule Revision
Civil Title Sheet
C1
SCALE As indicated
8/9/2019 5:18:07 PM

SEWER NOTES

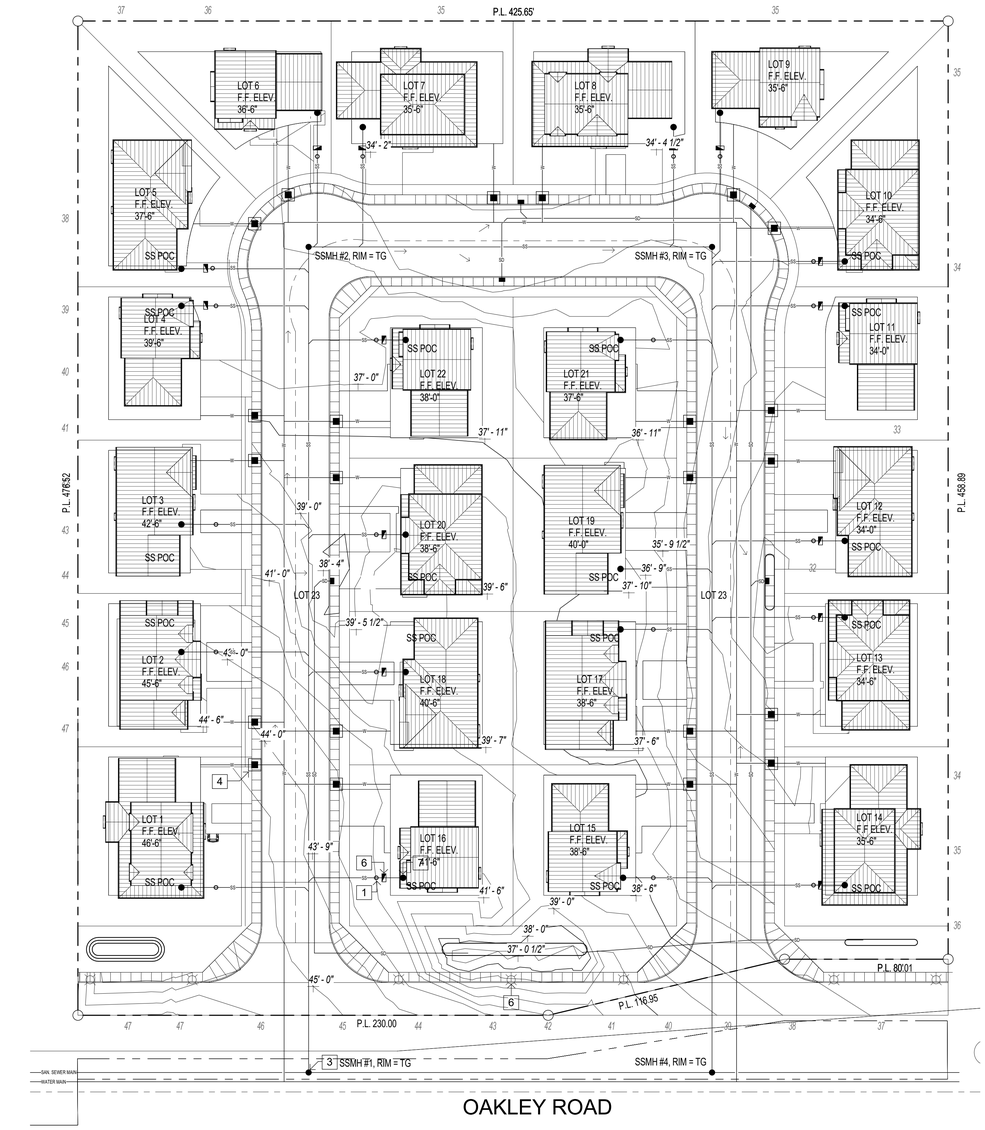
1. THE DEVELOPMENT'S SANITARY SEWER MAINS AND MANHOLES SHALL BE PRIVATE, OWNED AND MAINTAINED A HOMEOWNER'S ASSOCIATION OR SIMILAR MAINTENANCE RESPONSIBILITY AGREEMENT.
2. ALL SEWER MAIN AND APPURTENANCES SHALL BE CONSTRUCTED IN ACCORDANCE TO THE CITY'S "SPECIFICATIONS FOR THE CONSTRUCTION OF SEWER MAINS AND APPURTENANCES (12" DIAMETER OR LESS)," LATEST REVISION AT THE TIME OF PERMIT APPROVAL.
3. SEWER CONNECTION FEES ARE DUE AND PAYABLE PRIOR TO FINAL INSPECTION.

UTILITIES NOTES

1. ALL EXISTING OVERHEAD LINES ALONG PROPERTY FRONTAGE ON OAKLEY ROAD SHALL BE UNDERGROUND.

WATER NOTES

1. THE DEVELOPMENT'S WATER SYSTEM SHALL BE PRIVATE, OWNED AND MAINTAINED A HOMEOWNER'S ASSOCIATION OR SIMILAR MAINTENANCE RESPONSIBILITY AGREEMENT.
2. THE APPLICANT/DEVELOPER SHALL INSTALL AN ABOVE-GROUND REDUCE PRESSURE BACKFLOW PREVENTION ASSEMBLY ON EACH IRRIGATION WATER METER, PER CITY STANDARD. PROVIDE SUFFICIENT AREA BEHIND THE PROPERTY LINE FOR THE BACKFLOW DEVICE PAD AND REQUIRED LANDSCAPE SCREENING. THE SIZE OF THE PAD WILL BE DEPENDENT UPON TYPE, SIZE, AND MODEL OF THE BACKFLOW DEVICE SELECTED.



UTILITY NOTES:

1	CLEAN OUT BOX	
2	STORM DRAIN	
3	SANITARY SEWER MANHOLE	
4	WATER SERVICE	
5	BACK FLOW PREVENTOR	
6	STREET LIGHT	
7	INVERT	

LINE LEGEND

	6' TALL FENCE
	PROPERTY LINE
	SETBACK LINE
SS	SANITARY SEWER
SD	STORM DRAIN
W	WATER
	SURFACE FLOW PATH

ABBREVIATIONS & LEGEND

CD	CURB DRAIN
C&G	CURB AND GUTTER
DMA	DRAINAGE MANAGEMENT AREA
EX	EXISTING
FF	FINISH FLOOR
IB	INFILTRATION BASIN
IMP	INTEGRATED MANAGEMENT PRACTICE
INV	INVERT
FL	FLOW LINE
G	GRATE
POC	POINT OF CONNECTION
RB	RAIN BARREL
SD	STORM DRAIN
SDR	STANDARD DIMENSION RATIO
SF	SQUARE FEET
SS	SANITARY SEWER
SSMH	SANITARY SEWER MANHOLE
TC	TOP OF CURB
TS	TOP OF SOIL
TW	TOP OF WALL
PVC	POLYVINYL CHLORIDE
W	WATER

1 Preliminary Utilities Plan, Proposed
1" = 30'-0"

0' 15' 30' 60' 120'

Demolition Plan

LICENSED ARCHITECT
GORDON K WONG
RENEWAL 08/31/2019
C-34045
STATE OF CALIFORNIA

YOON HO OH, PROJECT REP
710E MCGLINCY LANE SUITE 109
CAMPBELL, CA 95008
(408) 796-1845
GKW Architects.com

GORDON K WONG AIA, LEED GA
710E MCGLINCY LANE SUITE 109
CAMPBELL CA 95008
(408) 315-2125 LIC# 34045,
GKW ARCHITECTS.COM

ARCHITECTS
RESIDENTIAL · COMMERCIAL

Oakley Residential Development
2480 Oakley Road
Oakley, CA

Project Schedule Revision

Demolition Plan

C2

SCALE 1" = 30'-0"

8/9/2019 5:18:10 PM

DATE: October 17, 2023

TO: Joshua McMurray, City Manager

FROM: Evan Gorman, Associate Planner

Approved and Forwarded to the Planning Commission

SUBJECT: 2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23) – Request for three (3) year extension to the expiration of Tentative Map 9537

Summary

This is an application by GKW Architects, Inc. ("Applicant") requesting to extend the approval of Tentative Map 9537 (known as "2480 Oakley Road Residential Development Subdivision") for a period of three (3) additional years ("Project"). This would be the first discretionary extension for this approval. The approved Tentative Map consists of approximately 4.6 acres subdivided into twenty-two (22) single-family residential lots and one (1) additional lot representing the future private road through the development. The project site is located at 2480 Oakley Road and is zoned R-6 (Single-Family Residential) District. APN 037-100-043.

Background

GENERAL PLAN AND ZONING

- The General Plan Land Use Designation for the project site is Residential Low/Medium (RLM) (Designated in Oakley's 2020 Focused General Plan update, the original project approval designated the land Single Family High-Density through City Council Resolution 88-20).
- The site is zoned R-6 (Single-Family Residential) District (Ordinance 12-20).

PREVIOUS ENTITLEMENTS

On June 23, 2020, the City Council approved Tentative Map 9537 and the associated Mitigated Negative Declaration through City Council Resolutions No. 88-20 and No. 89-20. On August 11, the City Council adopted Ordinance 12-20, which changed the zoning of the project site from LI (Light Industrial) District to R-6 (Single Family Residential) District in order to accommodate the project. The Tentative Map received a three (3) year entitlement period from its resolution approval date, and therefore, was originally set to expire on June 23, 2023.

Although the Tentative Map was initially set to expire in June of this year according to the resolution that approved the map, its correct expiration date is September 10, 2023. The original Tentative Map approval did not become effective until the date that the Rezone Ordinance No. 12-20 went into effect, September 10, 2020, which

effectively set the original expiration date to September 10, 2023. The applicant submitted a written request for an extension on August 8, 2023.

Project Description

The applicant is requesting an extension of three (3) years to the entitlement of the approved Tentative Map. If approved, the map would not expire until September 10, 2026. The Subdivision Map Act permits an additional three (3) year extension beyond this application, should it be approved.

Environmental Review

The request for an extension to the Tentative Map will not result in any new physical impacts on the project, and therefore will not result in any new significant impacts when reviewed for conformance with the California Environmental Quality Act ("CEQA"). The project falls within the scope of the original CEQA analysis and no further environmental analysis is required.

Analysis

The Subdivision Map Act (Government Code 66452.6 (e)) allows the governing body with authority to approve a tentative map to extend that approval for a period not to exceed six (6) additional years from the original expiration date. Following Planning Commission review, the City Council may grant multiple approvals on the same tentative map, so long as requests for extensions are submitted prior to expiration of the map, pursuant to the Subdivision Map Act.

The applicant is requesting a three (3) year extension to the Tentative Map to provide more time to feasibly develop the project. Approval of this extension would ensure the Tentative Map would still be valid for an additional three years. Staff finds that allowing for a three-year extension to the approval will not result in any direct or indirect public health, safety, or welfare issues. If this proposal were denied and a new project was proposed in the future, it would likely have similar right of way improvement requirements and the community would not see an added benefit from that.

CONDITIONS OF APPROVAL

Pursuant to the Subdivision Map Act, following Planning Commission review the City Council may approve or conditionally approve extensions to a tentative map. It is noted here and referenced in the proposed resolution's findings that all conditions of approval in City Council Resolution 89-20 that are not modified in the proposed resolution are still in full effect for this Tentative Map. Proposed conditions of approval reflect references to previous entitlements, standard language related to indemnification and applicant's responsibilities, the new expiration date, and updates

to condition language regarding establishing funding mechanisms to cover ongoing financial impacts to fire protection services, police services, and maintenance and operation services associated with public landscaping, parks, streetlighting, and stormwater facilities. These updates will supersede previous conditions that relied only on Community Facilities Districts (CFDs) to establish those funding mechanisms.

Findings

Complete draft findings are included in the attached resolution.

Consistency with the Oakley Strategic Plan 27+

Approval of this application would be consistent with the goals in the section of the Oakley Strategic Plan 27+ entitled, “Community and Economic Development Goal”. Reviewing applications for compliance with Oakley’s development standards ensures strategic and thoughtful growth.

Fiscal Impact

The approval of this extension would not impact the General Fund. This is a developer funded account. All Staff time and City of Oakley generated materials are charged to the developer account funded by the developer.

Staff Recommendation

Staff recommends the Planning Commission adopt the resolution recommending the City Council approve the Tentative Map Extension (TME 01-23), which would extend the approval for an additional three (3) years.

Attachments

1. Vicinity Map
2. Public Hearing Notice
3. Approved Tentative Map
4. Draft Resolution

RESOLUTION NO. 14-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OAKLEY RECOMMENDING THAT THE OAKLEY CITY COUNCIL ADOPT A RESOLUTION MAKING FINDINGS AND APPROVING A TENTATIVE MAP EXTENSION FOR THE PROJECT KNOWN AS 2480 OAKLEY ROAD SUBDIVISION 9537 (TME 01-23)

WHEREAS, on August 8, 2023, Gordon Wong of GKW Architects, Inc. ("Applicant"), requested approval of a Tentative Map Extension. The applicant is requesting to extend the approval of Tentative Map 9537 (known as "2480 Oakley Road Subdivision") for a period of three (3) additional years ("Project"). The approved Tentative Map consists of approximately 4.6 acres subdivided into twenty-two (22) single-family residential lots. This project site is located at 2480 Oakley Road; APN 037-100-043; and

WHEREAS, the approved tentative map consists of an approximately 4.6 acre site subdivided into twenty-two (22) lots; and

WHEREAS, the General Plan Land Use Designation for the project site is Residential Low/Medium (RLM). The site is zoned "R-6" (Single Family Residential) District; and

WHEREAS, it can be seen with certainty that the request for an extension to the tentative parcel map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act ("CEQA") analysis which resulted in a Mitigated Negative Declaration. No further environmental analysis is necessary or required; and

WHEREAS, on or before October 6, 2023, the Notice of Public Hearing for the project was published in the Contra Costa Times, and was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road, and at the project location, and mailed out to all owners of property within 500 feet of the project boundaries, outside agencies, and parties requesting such notice; and

WHEREAS, on October 17, 2023, the Planning Commission opened the public hearing at which it received a report from City Staff, oral and written testimony from the public and applicant, and deliberated on the project. At the conclusion of its deliberations, the Planning Commission took a vote and adopted this resolution to recommend approval of the Tentative Map Extension to the City Council; and

WHEREAS, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

WHEREAS, these Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, the Subdivision Map Act, Tentative Map 9537, the R-6 District, and the information submitted to the Planning Commission at its October 17, 2023 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the Subdivision (hereafter the "Record").

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

A. Regarding the application requesting approval of 2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23), the Planning Commission finds that:

1. The proposed tentative map extension does not modify any of the original tentative map's design, and therefore, all of the findings made on the original tentative map (City Council Resolution 89-20) are still valid and apply to this extension; and

2. All conditions of approval in City Council Resolutions 88-20 and 89-20, not otherwise modified by this resolution, are still in effect.

B. The project complies with Measure J Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the Planning Commission hereby recommends that the City Council grant the Applicant's request for the Tentative Map Extension (TME 01-23), subject to the following conditions of approval:

Conditions of Approval

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the application received by the Planning Division dated **August 8, 2023**, as well as additional information acquired since that time and made part of the project file.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED (BOLD CONDITIONS ADDED OR AMENDED AT PUBLIC HEARING):

Planning Division Conditions

1. Applicant shall comply with the requirements of the Oakley Municipal Code and applicable Conditions of Approval from City Council Resolution Nos. 88-20 and 89-20, as well as City Council Ordinance No. 12-20. Any exceptions must be stipulated in these Conditions of Approval.

2. This approval shall extend the approval of the tentative map for a period of three (3) additional years, resulting in Tentative Map 9537 expiring on September 10, 2026, unless it is further extended pursuant to the Subdivision Map Act or other automatic extensions. This extension shall constitute three (3) years of the maximum six (6) years of discretionary extension(s) allowed under Government Code section 66452.6(e).

3. The applicant shall establish a funding mechanism to cover the ongoing financial impact their project has on fire protection services provided in the City. All costs associated with meeting this condition of approval shall be paid for by the applicant. Compliance with this requirement shall be to the satisfaction of the City Engineer and shall be completed prior to final map approval. This condition supersedes condition 82(A) in Resolution No. 89-20.

4. The applicant shall establish a funding mechanism to cover the ongoing financial impact their project has on police services provided in the City. All costs associated with meeting this condition of approval shall be paid for by the applicant. Compliance with this requirement shall be to the satisfaction of the City Engineer and shall be completed prior to final map approval. This condition supersedes condition 82(B) in Resolution No. 89-20.

5. The applicant shall establish a funding mechanism to cover the ongoing financial impact their project has on maintenance and operation services associated with public landscaping, parks, streetlighting, and stormwater facilities. All costs associated with meeting this condition of approval shall be paid for by the applicant. Compliance with this requirement shall be to the satisfaction of the City Engineer and shall be completed prior to final map approval. This condition supersedes condition 82(C) in Resolution No. 89-20.

6. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.

7. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

Advisory Notes

The following Advisory Notes are provided to the applicant as a courtesy but are not a part of the conditions of approval. Advisory Notes are provided for the purpose of informing the applicant of additional ordinance requirements that must be met in order to proceed with development.

A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
B. The project will require a grading permit pursuant to the Ordinance Code.
C. Applicant shall comply with the requirements of Ironhouse Sanitary District.
D. The applicant shall comply with the requirements of the Diablo Water District.
E. Comply with the requirements of the East Contra Costa Fire Protection District.
F. Comply with the requirements of the Building Inspection Division. Building permits are required prior to the construction of most structures.
G. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
I. The applicant shall obtain an encroachment permit for construction within existing City rights of way.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.

B. Comply with the requirements of the Ironhouse Sanitary District.

C. Comply with the requirements of the Contra Costa County Fire Protection District.

D. Comply with the requirements of the Diablo Water District.

E. Comply with the requirements of the Building Inspection Department. Building permits are required prior to the construction of most structures.

PASSED AND ADOPTED by the Planning Commission of the City of Oakley at a meeting this 17th day of October, 2023 by the following vote:

AYES:	Chuiko, Krieg, Price, Verduzco
NOES:	Ramirez
ABSENT:	
ABSTENTIONS:	

APPROVED:

Oleksii Chuiko, Chair

10/17/2023

Date

ATTEST:

Libby Vreonis, City Clerk

RESOLUTION NO. -23

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS AND APPROVING A TENTATIVE MAP EXTENSION FOR THE PROJECT KNOWN AS 2480 OAKLEY ROAD SUBDIVISION 9537 TENTATIVE MAP EXTENSION (TME 01-23) APN 037-100-043

WHEREAS, on August 8, 2023, Gordon Wong of GKW Architects, Inc. ("Applicant"), filed an application requesting approval of a Tentative Map Extension to extend the approval of Tentative Map 9537 (known as "2480 Oakley Road Subdivision") for a period of three (3) additional years ("Project"). The approved Tentative Map consists of approximately 4.6 acres subdivided into twenty-two (22) single-family residential lots. This project site is located at 2480 Oakley Road; APN 037-100-043; and

WHEREAS, on September 7, 2023, the project was deemed complete per Government Code section 65920 et. seq; and

WHEREAS, the approved tentative map consists of an approximately 4.6 acre site subdivided into twenty-two (22) lots; and

WHEREAS, the General Plan Land Use Designation for the project site is Residential Low/Medium (RLM). The site is zoned "R-6" (Single Family Residential) District; and

WHEREAS, it can be seen with certainty that the request for an extension to the tentative map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act ("CEQA") analysis which resulted in a Mitigated Negative Declaration (SCH# 2020040315). No further environmental analysis is necessary or required; and

WHEREAS, on October 17, 2023, the Planning Commission held a duly noticed public hearing on the project at which it received a report from City Staff, oral and written testimony from the public, and deliberated on the project. At the conclusion of its deliberations, the Planning Commission took a vote and adopted Planning Commission Resolution No. 14-23 recommending the City Council approve the Tentative Map Extension; and

WHEREAS, on or before November 3, 2023, the Notice of Public Hearing for the project was published in the Contra Costa Times, and was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road, and at the project location, and mailed out to all owners of property within 500 feet of the project boundaries, outside agencies, and parties requesting such notice; and

WHEREAS, on November 14, 2023, the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public and applicant, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the Tentative Map Extension; and

WHEREAS, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

WHEREAS, these Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, the Subdivision Map Act, Tentative Map 9537, the R-6 District, and the information submitted to the City Council at its November 14, 2023 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the Subdivision (hereafter the "Record").

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

A. Regarding the application requesting approval of 2480 Oakley Road Subdivision 9537 Tentative Map Extension (TME 01-23), the City Council finds that:

   1. The proposed tentative map extension does not modify any of the original tentative map's design, and therefore, all of the findings made on the original tentative map (City Council Resolution 89-20) are still valid and apply to this extension; and

   2. All conditions of approval in City Council Resolutions 88-20 and 89-20, not otherwise modified by this resolution, are still in effect.

B. The project complies with Measure J Growth Management requirements.

BE IT FURTHER RESOLVED THAT, on the basis of the above Findings and the Record, the City Council approves the Applicant's request for the **Tentative Map Extension (TME 01-23),** subject to the following conditions of approval:

Conditions of Approval

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the application received by the Planning Division dated **August 8, 2023**, as well as additional information acquired since that time and made part of the project file.

THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED (BOLD CONDITIONS ADDED OR AMENDED AT PUBLIC HEARING):

Planning Division Conditions

1. Applicant shall comply with the requirements of the Oakley Municipal Code and applicable Conditions of Approval from City Council Resolution Nos. 88-20 and 89-20, as well as City Council Ordinance No. 12-20. Any exceptions must be stipulated in these Conditions of Approval.

2. This approval shall extend the approval of the tentative map for a period of three (3) additional years, resulting in Tentative Map 9537 expiring on September 10, 2026, unless it is further extended pursuant to the Subdivision Map Act or other automatic extensions. This extension shall constitute three (3) years of the maximum six (6) years of discretionary extension(s) allowed under Government Code section 66452.6(e).

3. The applicant shall establish a funding mechanism to cover the ongoing financial impact their project has on fire protection services provided in the City. All costs associated with meeting this condition of approval shall be paid for by the applicant. Compliance with this requirement shall be to the satisfaction of the City Engineer and shall be completed prior to final map approval. This condition supersedes condition 82(A) in Resolution No. 89-20.

4. The applicant shall establish a funding mechanism to cover the ongoing financial impact their project has on police services provided in the City. All costs associated with meeting this condition of approval shall be paid for by the applicant. Compliance with this requirement shall be to the satisfaction of the City Engineer and shall be completed prior to final map approval. This condition supersedes condition 82(B) in Resolution No. 89-20.

5. The applicant shall establish a funding mechanism to cover the ongoing financial impact their project has on maintenance and operation services associated with public landscaping, parks, streetlighting, and stormwater facilities. All costs associated with meeting this condition of approval shall be paid for by the applicant. Compliance with this requirement shall be to the satisfaction of the City Engineer and shall be completed prior to final map approval. This condition supersedes condition 82(C) in Resolution No. 89-20.

6. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.

7. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

Advisory Notes

The following Advisory Notes are provided to the applicant as a courtesy but are not a part of the conditions of approval. Advisory Notes are provided for the purpose of informing the applicant of additional ordinance requirements that must be met in order to proceed with development.

A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
B. The project will require a grading permit pursuant to the Ordinance Code.
C. Applicant shall comply with the requirements of Ironhouse Sanitary District.
D. The applicant shall comply with the requirements of the Diablo Water District.
E. Comply with the requirements of the East Contra Costa Fire Protection District.
F. Comply with the requirements of the Building Inspection Division. Building permits are required prior to the construction of most structures.
G. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
I. The applicant shall obtain an encroachment permit for construction within existing City rights of way.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.

B. Comply with the requirements of the Ironhouse Sanitary District.

C. Comply with the requirements of the Contra Costa County Fire Protection District.

D. Comply with the requirements of the Diablo Water District.

E. Comply with the requirements of the Building Inspection Department. Building permits are required prior to the construction of most structures.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 14th of November 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

_____

Aaron Meadows, Mayor Date

ATTEST:

_____

Libby Vreonis, City Clerk Date

OAKLEY
CALIFORNIA

Approved and Forwarded to the City Council

DATE: November 14, 2023
TO: Joshua McMurray, City Manager
FROM: Harumi Murata, Economic Development Analyst
SUBJECT: Adoption of 2023 Small Business Recovery Grant Program

Background and Analysis

Over recent years, multiple challenges—including COVID, the rise of e-commerce, and fluctuating financial markets—have compelled businesses to reevaluate nearly every facet of their operations, from supply chains to workforce dynamics, competitive scenarios, financing, and beyond. Considering these challenges and as outlined in our Economic Development Work Plan, Oakley's small businesses must have access to high-quality technical assistance for economic development.

Small Business Recovery Grant Program Structure:
The proposed program is centered around grant funding with a total budget of $235,000, derived from the American Rescue Plan (ARPA) funds. This amount includes an administration/operation cost and funds reserved for grants to be awarded to qualifying small businesses. The guidelines and procedures for this program will resemble those of the City's Retail & Light Industrial Tenant Improvement and Facade Program.

Eligible businesses can expect to receive grant payments of either $2,500 or $5,000, contingent upon a review of their specific needs and financial distress level. These grants can be utilized for a range of business-related expenses, including:

- Overhead costs
- Expenses related to ensuring safe operations and adhering to required safety protocols
- Costs incurred while adapting to new service delivery methods
- Rent relief or clearing pending utility bills
- Employee retention-related costs
- Marketing initiatives and promotional events

Within the City, businesses showcase a diverse array of characteristics, ranging from variations in sales figures (gross receipts) to differing employee counts. According to city records, approximately 60% are home-based operations. Our local economy features service-driven entities such as retail services, salons, food services, contractors, auto repair services, supplies, and construction businesses alongside professional offices like real estate, insurance, and accounting firms. In light of the proposed financial support initiative, staff recommends that assistance be prioritized for small, physical storefront businesses in the retail and food service sectors, among others, that can evidence a revenue loss from 2019 to 2021.

Eligibility for the grant program will be carefully structured to support a diverse business community within the City of Oakley. To guarantee the appropriate utilization of Federal (ARPA) funds, eligible businesses must maintain meticulous records and abide by all pertinent regulations, which might entail prevailing wage obligations according to federal and state laws.

The Small Business Recovery Grant Program will be facilitated digitally through an online application portal on the Economic Development website, providing a streamlined and accessible process for applicants.

Consistency with the Oakley Strategic Plan 27+

This proposal aligns with the principles of 'Strategic and Thoughtful Growth' under the Community and Economic Development goals, suggesting a strategic alignment of our commercial and industrial growth to fulfill both immediate and long-term visions.

Fiscal Impact

Funding for the proposed Small Business Grant program would come from $235,000 in American Rescue Plan (ARPA) funds that have already been designated by the City Council for this purpose.

Staff Recommendation

Staff recommends that the City Council approve the proposed Small Business Recovery Grant Program and allocate $235,000 for grants to be awarded to eligible small businesses.

Attachments

1) Resolution

RESOLUTION NO. XX-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE SMALL BUSINESS RECOVERY GRANT PROGRAM

WHEREAS, the City has previously allocated $235,000 in American Rescue Plan (ARPA) funds for the use of funding to assist businesses with absorbing costs associated with the financial impacts of the COVID-19 pandemic and to support business recovery.

NOW, THEREFORE, BE IT RESOLVED, The City Council of the City of Oakley hereby authorizes and directs staff to launch, promote, and implement "Small Business Recovery Grant Program" as generally described in the accompanying staff report, and using $235,000 in ARPA funds to be formally appropriated for the program.

PASSED AND ADOPTED by the City Council of the City of Oakley this 14th day of November 2023 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

OAKLEY
CALIFORNIA

DATE: November 14, 2023

TO: Joshua McMurray, City Manager

FROM: Ken Strelo, Planning Manager

Approved and Forwarded to the City Council

SUBJECT: City of Oakley Climate Action Plan Request for Proposals and Qualifications (RFP) for Planning Consulting Services – Request City Council approval of the RFP

Summary

The Oakley Planning Division has drafted a Request for Proposals and Qualifications (RFP) for the purpose of hiring planning consulting services to assist the City in completing the City of Oakley Climate Action Plan (CAP). Since the anticipated budget exceeds $50,000, which would require City Council approval of a future contract with a consultant, the RFP is being presented to the Council for approval prior to soliciting it to consultants. If approved, Staff will solicit the RFP, conduct the selection process, and bring a contract back to the City Council for consideration and approval prior to beginning work on the project.

Background

A Climate Action Plan, or "CAP" is an adopted document that lays out a plan for how an agency will aim to reduce greenhouse gas (GHG) emissions usually through decarbonization and greening efforts. The State of California has set forth climate goals for continued reduction of GHG emissions and total carbon neutrality by 2045. Carbon neutrality would mean a balance of carbon emissions and carbon sequestering within the State. California's Climate Change Scoping Plan encourages local governments to adopt goals to reduce GHG emissions consistent with the State's goals which are 15% below 1990 levels by 2020, 40% below 1990 levels by 2030, and 80% below 1990 levels by 2050. While the City has taken some initial steps toward these goals, such as conducting GHG emission inventories and adopting a Strategic Energy Plan, adopting a Climate Action Plan that complies with the State's GHG reduction targets is a crucial next step.

A City of Oakley Climate Action Plan is identified in the Oakley General Plan under Chater 6: Open Space and Conservation. Goal 6.2 of the General Plan is titled "Energy, Air Quality, and Greenhouse Gas Emissions." It aims to "Maintain or improve air quality and climate resiliency through sustainable energy, transportation, land use, and local government planning and actions that reduce energy usage, pollutants, and greenhouse gas emissions." Program 6.2.B under this goal states, "Adopt and

implement a Climate Action Plan by 2025 that complies with State greenhouse gas emission targets."

Consistency with the Oakley Strategic Plan 27+

The City of Oakley Strategic Plan 2022-2027+ (SP27+), adopted by the City Council in April of 2022, also addresses the City's CAP. The SP27+'s Community and Economic Development Goal states, "The City of Oakley will inspire and encourage Community & Economic Development through strategic and thoughtful growth, a business-friendly environment, and local employment opportunities." Within that goal are several sub-goals, one of which is the Strategic and Thoughtful Growth Sub-goal. That sub-goal includes seven objectives, each split into multiple bullet points. One of the objectives is to "Enhance Environmental Stewardship," which includes a bullet point to "Implement energy, air quality, and greenhouse gas emissions goals within the Oakley General Plan, including the adoption and implementation of a Climate Action Plan by 2025 that complies with State greenhouse gas reduction targets."

Fiscal Impact

The proposed RFP includes a Not to Exceed Amount of $100,000. This amount will be covered by appropriated funds under Consulting for the Planning Division in the General Fund. The City Council appropriated $200,000 under this line item for Fiscal Year 2023-2024. Approval of this RFP would result in $100,000 being encumbered for the CAP and the remaining $100,000 still appropriated for other long-term Planning Projects on the horizon. City Staff time and materials will be covered as part of regular salaries under the General Fund.

Staff Recommendation

Staff recommends that the City of Oakley City Council adopt the resolution approving the Request for Proposals and Qualifications for the City of Oakley Climate Action Plan and authorize the City Manager to make a recommendation on a consultant for City Council consideration at a later date. All finalists' proposals will be included with that City Council packet.

Attachments

1. Requests for Proposals and Qualifications (RFP) for Planning Consulting Services for the City of Oakley Climate Action Plan (CAP)
2. Draft Resolution

OAKLEY
CALIFORNIA

Request for Proposals and Qualifications (RFP)
for Planning Consulting Services for the

CITY OF OAKLEY CLIMATE ACTION PLAN (CAP)

RFP RELEASE DATE: [date]

PROPOSALS DUE BY: 5:00 P.M [day of week] [date]

I. Introduction

The City of Oakley is requesting proposals from qualified consultants to provide professional services to assist the City with the creation of its Climate Action Plan (CAP). This Request for Proposals (RFP) is intended to provide interested firms with general information regarding expectations for a professional services agreement (Agreement) to be awarded and the submission process.

The Oakley City Council adopted the City of Oakley Strategic Plan 2022-2027+ (SP27+) in April of 2022. The SP27+ revisits what is important to the diverse communities and recalibrates the City's collective priorities. The SP27+'s Community and Economic Development Goal states "[t]he City of Oakley will inspire and encourage Community & Economic Development through strategic and thoughtful growth, a business-friendly environment, and local employment opportunities." Within that goal are several sub-goals, one of which is the Strategic and Thoughtful Growth Sub-goal. That sub-goal includes seven objectives, each split into multiple bullet points. One of the objectives is to "Enhance Environmental Stewardship," which includes a bullet point to "[i]mplement energy, air quality, and greenhouse gas emissions goals within the Oakley General Plan, including the adoption and implementation of a Climate Action Plan by 2025 that complies with State greenhouse gas reduction targets." Adoption of the CAP by 2025 that complies with State greenhouse gas reduction targets is also addressed in Policy 6.2.4 and Program 6.2.B, which fall under Goal 6.2 "Energy, Air Quality, and Greenhouse Gas Emissions" of the Oakley General Plan.

The City of Oakley adopted a Strategic Energy Plan in the Fall of 2015 and Greenhouse Gas Emission (GHG) Emissions Inventories for both Community-Wide and Local Government Operations emissions in 2005. An update to the GHG Emissions Inventories was done in 2010 (under single cover). The City has made steps towards meeting goals found in the General Plan and documents mentioned herein; however, it does not have a mechanism in place for effectively or efficiently tracking that progress. The CAP update will include an updated GHG emissions inventory, reduction targets consistent with State targets, and an implementation and monitoring strategy.

The City anticipates the CAP update process to span approximately one year and result in a consultant cost not to exceed $100,000 (One Hundred Thousand dollars).

II. Estimated Timeline and Response Dates

[Date RFP is released	RFP Release Date
[1-month after release] (Proposals will be accepted until 5:00 P.M.)	Proposal Due Date

Proposals will be accepted until [date above] at 5:00 P.M.	Ken Strelo, Planning Manager strelo@ci.oakley.ca.us
Proposals shall be submitted **electronically** via email attachment, Sharepoint (etc.), CD, or USB drive to:	Mailing Address: City of Oakley Planning Division 3231 Main Street Oakley, CA 94561 Attn: RFP Oakley CAP
	Incomplete responses, late responses, and/or responses not in compliance with the RFP format and requirements will not be considered.
[1-week duration following date above]	City's selection committee reviews submissions for compliance with RFP requirements and evaluates consultants' qualifications.
[Within 1-week of end of week above]	Selection committee notifies top consultant for award of the agreement, and all other responders of the City's selection.

III. Project Description and Scope of Work

Staff is seeking experts to develop a forward-thinking and locally relevant plan. The plan should include a realistic number of actionable, achievable, and impactful steps that the City can take to achieve its goals.

The consultant will develop the Climate Action Plan in cooperation with staff, the Planning Commission, the City Council, relevant stakeholders, and members of the community. City staff will work closely with the selected consultant and are prepared to contribute in-house task assistance. The proposal should indicate which tasks/subtasks would be appropriate and/or desirable for City staff to complete and/or may be optional in order to accomplish the estimated budget amount.

The City is seeking proposals that generally reflect the following scope. Consultants are strongly encouraged to suggest refinements and innovative methodologies that ultimately achieve the work products listed below.

TASK 1. EXISTING CONDITIONS, PROJECTIONS, AND TARGETS

Review of Relevant Documents and Legislation

The project should begin with a review of existing documentation, including the following:

- City of Oakley General Plan Focused General Plan Update (Adopted January 11, 2022)
- Oakley 2010 Community-Wide & Local Government Operations Greenhouse Gas Emission Update
- City of Oakley Strategic Plan 2022-2027+ (Adopted April 2022)
- City of Oakley Economic Development Work Plan 2023-2026
- Oakley Strategic Energy Plan (Fall 2015)
- Contra Costa County Local Hazard Mitigation Plan

Additionally, the consultant should review and analyze state and regional programs and legislation to avoid redundancy and determine the appropriate role for Oakley in the next phase of climate mitigation and adaptation.

GHG Emissions Inventory

The first step of the mitigation component is a comprehensive update to the greenhouse gas emissions inventory for both community-wide and local government emissions. The consultant will then forecast projected emissions for activities covered by the plan and establish reduction targets consistent with State targets. Additionally, the consultant will assist the City with establishing a tool or mechanism with which the City can continue to update its emissions inventory on an ongoing basis. This subtask is considered mandatory for the Climate Action Plan.

Vulnerability Analysis

The Climate Adaptation Goal of the General Plan (Goal 8.5) aims to minimize risks to life, property, the economy, and the environment through Climate adaptation strategies that enhance and promote Oakley's community resiliency. The consultant will springboard from the General Plan and conduct a vulnerability analysis to determine how climate change will affect Oakley, what aspects of Oakley will be affected, how likely the impacts are, and how quickly they will occur. Social vulnerability should be a consideration in this analysis. This subtask is considered mandatory for the Climate Action Plan.

Task 1 Deliverable: Existing conditions memorandum and an emission inventory tool.

TASK 2. COMMUNITY ENGAGEMENT

The planning process should include an outreach component to raise awareness about climate change and to get feedback from the community and relevant stakeholders on potential mitigation and adaptation strategies. The outreach approach may look to implement broad community workshops, pop-ups at existing community events, targeted focus groups, and web-based engagement and analysis tools to communicate and engage with the community and decision-makers. The consultant will be expected to participate in the outreach events. All outreach and public meetings, whether in person or virtual, shall include accessibility for all and the City will favor consultants that can show access to an ADA accessibility expert and how they will achieve this component. This sub-task may include optional components (E.g., number of meetings, type of meetings, etc.) in order to assist the proposal in not exceeding the estimated budget amount.

Task 2 Deliverables: Outreach plan, plan implementation (developing materials, attending/hosting meetings, etc.), outreach summary memorandum.

TASK 3. DEVELOP CLIMATE MITIGATION AND ADAPTATION STRATEGIES

The mitigation strategies will provide a roadmap to reduce greenhouse gas emissions and to increase sustainability by limiting the major sources of greenhouse gas emissions and supporting pathways to sustainability.

The adaptation strategies will outline how the City will improve its response to the impacts of climate change such as increased flooding, heat waves, drought, and wildfires. The consultant should consider adaptive pathways, given the uncertainty in future climate change impacts.

The strategies will be informed by data in the existing conditions memorandum and stakeholder input and will help implement the goals and objectives. The strategies will be analyzed with a data-driven approach to identify the most cost-effective and beneficial projects. Each strategy will be evaluated based on how effectively the strategy supports the goals and objectives and will include the partners and stakeholders needed for each strategy as well as the steps needed for implementation such as environmental clearance, funding, and maintenance/operations. The consultant should prioritize CAP strategies and measures that are synergistic with projects identified in other City documents as mentioned in Task 1.

Task 3 Deliverable: Mitigation and adaptation strategies memorandum.

TASK 4. DRAFT PLAN

The draft plan should take a long-term approach to climate action while focusing on achievable measures. Climate mitigation and adaptation strategies should be fully developed and incorporated into the plan. Each strategy should include information about agencies and departments responsible for implementation as well as actionable steps, potential partnerships, estimated staffing requirements, and recommended funding sources. The plan should clearly define metrics, prioritize measures, and determine implementation timelines. The plan should recommend management and information system improvements, where appropriate, such as dashboards or scoreboards, to facilitate annual reporting.

The draft plan will be reviewed internally with responsible departments and staff. The project schedule should include adequate time for public comment on the draft plan. Review should include an analysis of the implications of each strategy on the environment, social equity, and the local economy.

Task 4 Deliverable: CAP administrative draft and CAP public draft.

TASK 5. CEQA REVIEW

The City anticipates that the selected consultant will complete the required CEQA review for the CAP update. The City will cover County Clerk filing and California Department of Fish and Wildlife review costs associated with Notice of Determination or Notice of Exemption, whichever is appropriate. The City will also circulate Tribal Consultation Notices per Tribal Cultural Resources (AB 52), if applicable. Consultants should review the RFP and provide their expert opinion on whether the CAP may be eligible for a CEQA Exemption, which should significantly reduce the potential budget.

Task 5 Deliverable: CEQA documents.

TASK 6. PRESENTATIONS TO PLANNING COMMISSION AND CITY COUNCIL

The consultant will support staff in preparing reports and presentations to the Planning Commission and City Council. In addition to presentations of the draft plan to both bodies, staff anticipates a midway check-in to summarize the existing conditions analysis and outline the proposed outreach strategy.

Additionally, the City anticipates forming an internal staff advisory committee to support the development of the CAP. The consultant should be prepared to check-in with this group as needed via email or virtual meetings throughout the planning process.

Task 6 Deliverables: Staff reports, presentations, participation in conference calls/meetings.

TASK 7. FINAL PLAN

The consultant will incorporate comments and findings from staff, Planning Commission, City Council, and the community into the final CAP document.

Task 7 Deliverable: Final Plan

TASK 8. TEXT FOR GENERAL PLAN

Based on the adopted CAP, the consultant will develop draft text to include in a General Plan update that will be completed by City staff at a later date. The language should be concise and work to reference the CAP rather than result in the need for a new General Plan Element or significant update.

Task 8 Deliverable: Draft text for the General Plan.

TASK 9. PROJECT MANAGEMENT

This task will include an initiation of the project, a confirmation of the schedule and contract or contracts, and a mutual understanding of the project direction. The kick-off meeting will provide an opportunity for all team members to finalize the schedule and work scope, discuss data collection and document review, and confirm communication protocols. This task also will include progress reports and invoicing as well as coordination calls with staff to discuss project direction, progress, and deliverables.

Task 9 Deliverables: Meetings, conference calls, progress reports, invoicing.

IV. Minimum Qualifications

The consultant should have substantial experience in the areas of climate mitigation and adaptation planning, vulnerability analysis, and community engagement.

The consultant team should include personnel knowledgeable in their areas of expertise. The City reserves the right to perform investigations as may be deemed necessary to insure competent persons will be utilized in the performance of the contemplated services.

More than one proposal from an individual, firm, partnership, corporation, or association, under the same or different names, will not be considered. Responses submitted after the due date and time will not be accepted.

The consultant is responsible for determining whether its services under the proposed Agreement, or its services rendered for any task assigned to it pursuant to the Agreement, requires the payment of prevailing wages to its agents, employees, and contractors for work related to that task.

V. Submittal Requirements

Interested parties are invited to respond by providing the information requested in this RFP. Responses should demonstrate the consultant's qualifications, experience, and understanding of the project requested and describe the consultant's ability to deliver a quality project on time. At a minimum, the responses shall comply with the General Conditions in section IX and provide the following:

1. **Team Profile.** Provide the consultant's company and proposed project team information as follows:

    a. Office Location(s)
    b. Licensed professionals
    c. Project manager and key individuals who will be assigned to the project:
        i. Resumes
        ii. Statements of experience
    d. List of proposed sub-consultants, identifying their area of work and including their qualifications.
    e. List of board members, partners, and any other relevant team members and their related experience.

2. **Comparable Consulting Experience.** Provide information about previous consulting experience related to climate action planning, vulnerability analysis, community engagement, etc. Information shall include:

    a. Name, location, and characteristics of projects.
    b. History in performing work required and bringing projects within scope of work, schedule, and budget. Include original budget and final cost of project.
    c. Date and duration of any similar projects.
    d. Description of important features of similar projects.

3. **Project Proposal.** Provide a proposed approach and projected timeline to conduct and complete the steps in the scope of work. Briefly describe the methodology and organizational approach the consultant would use to assist the City, including critical elements and special methodologies that would be used to ensure that City objectives are satisfied. Provide estimated hours and costs associated with each of the scoped tasks and summarize in a cost proposal. Some tasks/subtasks are considered mandatory and listed as such under each Tasks, while others may be considered as optional in order to produce an RFP within the City's Not to Exceed amount for this project. In order to receive a favorable review, consultants should seek to satisfy all mandatory tasks/subtasks while producing creative optional tasks/subtasks in order to provide a proposal that meets the Not to Exceed amount of $100,000.

4. **Conflicts of Interest.** Disclose any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to the firm, management, or employees of the firm or other persons relative to the services to be provided under the Agreement to be awarded pursuant to this RFP. If the consultant has no conflicts of interests, a statement to that effect shall be included in the Proposal.

5. **Acknowledgements.** Acknowledge the consultant has reviewed the General Conditions in section IX and agrees the proposal shall remain open for a minimum of 150 calendar days from the Submittal Deadline.

Proposals shall be submitted electronically via email attachment, Dropbox link, CD, or USB drive to Ken Strelo, Planning Manager at: strelo@ci.oakley.ca.us. USBs shall be mailed to Attn: Ken Strelo, Planning Manager, City of Oakley, 3231 Main Street, Oakley, CA 94561, Attn: RFP Oakley CAP.

Proposal shall be received on or before 5 p.m. on [RFP deadline date].

VI. Selection Process/Criteria

In soliciting proposals, it is the intent of the City to have the best possible product. The City reserves the right to act as the sole judge of the content of all responses. In addition, the City reserves the right to reject any or all submissions, and to waive irregularities in the selection procedures.

The City shall establish a selection committee in its sole discretion. The selection committee shall conduct an initial review of each submission to ensure they are timely and meet the minimum standards for consideration. The selection committee will then evaluate the qualified submission to identify the best consultants as finalists. The City will not discriminate against any interested firm or individual on the grounds of race, gender, sexual orientation, age, disability, or national origin in the contract award.

1. **Initial Review.** After the submission deadline, the selection committee will perform an initial review of the responses to ensure they comply with the requirements of the RFP for submittal and consideration.

2. **Qualifications/Proposal Review.** The selection committee will then consider the proposal and qualifications of the complete submissions. Consideration will be given based on, but not limited to:

    a. Familiarity with all aspects of the requested project;
    b. Experience of consultant's proposed project manager and key individuals on similar projects;
    c. Staff availability, stability, past performance on similar projects, as well as qualifications and past performance of consultant's key personnel;
    d. No personal or organizational conflicts of interest;
    e. References from other entities similar to the City of Oakley;
    f. Ability to meet the service criteria specified;
    g. Possession of and ability to retain qualified personnel, possession of licenses and certifications.

3. **Interviews/Discussions.** The selection committee may then request the finalists to make an oral presentation as part of the selection process. Interviews and presentations may be remote or virtual and the City can accommodate either at the request of each finalist. Presentations are to be conducted by the consultant's proposed Project Manager for this project. Regardless of whether a presentation is requested, the selection committee may conduct discussions with a finalist for the purpose of clarification to assure full understanding of, and conformance to, the RFP.

4. **Recommendation.** The selection committee shall then recommend the top consultant to the Community Development Department (CDD) Director.

VII. Confidentiality and Non-Disclosure

The City of Oakley recognizes that the submissions may include proprietary or confidential information. The City will take every reasonable precaution in protecting such information provided that it is clearly identified as proprietary or confidential on the page on which it appears. However, the City is subject to the California Public Records Act and must disclose records as required by the Act.

Information submitted as a part of this RFP will not be returned. The City reserves the right to reject any and all submissions.

VIII. Exhibits

The following exhibits are included with this RFP via hyperlink and direct url:

- City of Oakley General Plan Focused General Plan Update (Adopted January 11, 2022) (https://www.ci.oakley.ca.us/wp-content/uploads/2022/07/Oakley-General-Plan_Adopted-2022-01-11.pdf)

- Oakley 2010 Community-Wide & Local Government Operations Greenhouse Gas Emission Update (http://www.ci.oakley.ca.us/wp-content/uploads/2018/10/Oakley-LGO-Community-Update-2010.pdf)

- City of Oakley Strategic Plan 2022-2027+ (Adopted April 2022) (https://www.ci.oakley.ca.us/wp-content/uploads/2022/05/Oakley_SP_final.pdf)

- City of Oakley Economic Development Work Plan 2023-2026 (https://www.ci.oakley.ca.us/wp-content/uploads/2023/10/City-of-Oakley-2023-Work-Plan-Final-09-13-23-1.pdf)

- Oakley Strategic Energy Plan (Fall 2015) (http://www.ci.oakley.ca.us/wp-content/uploads/2015/09/Oakley-SEP-FINAL-Version.pdf)

- Contra Costa County Local Hazard Mitigation Plan (https://www.contracosta.ca.gov/6842/Local-Hazard-Mitigation-Plan)

IX. General Conditions

1. This RFP does not commit the City of Oakley to execute an agreement. The City reserves the right to accept or reject any or all submissions if the City determines it is in the best interest of the City to do so.

2. Submissions shall remain open, valid, and subject to acceptance anytime within one hundred fifty (150) calendar days after the proposal due date and up to the end of the agreement period.

3. Submissions shall not be withdrawn or corrected after being opened. The City will not be responsible for errors or omissions on the part of consultants in preparing their submissions.

4. The City reserves the right to issue addenda or amendments to this RFP.

5. In order to be considered, all submissions must be submitted in the manner set forth in this RFP. It is the respondent's responsibility to ensure that its submission arrives before the specified Submittal Deadline.

6. This RFP does not commit the City to pay any costs incurred in the preparation of a submission in response to this request and consultant agrees that all costs incurred in developing this submission are the consultant's responsibility.

7. The City reserves the right to award an agreement at this time for all or only some of the services requested.

X. Project Administration

All communications related to this RFP shall be directed to Ken Strelo, Planning Manager in the Community Development Department of the City of Oakley prior to submission. All questions relating to interpretation of the RFP must be submitted via email at least 7 calendar days prior to the submission date and responses will be in the form of written addenda to the Documents posted on the City website. Questions submitted after this time period may not be answered.

Ken Strelo, Planning Manager
City of Oakley
3231 Main Street
Oakley, CA 94561
Phone: (925) 625-7036
Email: strelo@ci.oakley.ca.us

XI. Waiver

By submitting a response to this RFP, each respondent expressly waives any and all rights that it may have to object to, protest or seek legal remedies whatsoever regarding any aspect of this request, the City's selection of the top proposal, the City's rejection of any or all responses, and any subsequent agreement that might be entered into as a result of this request.

RESOLUTION NO. -23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE REQUEST FOR PROPOSALS AND QUALIFICATIONS (RFP) FOR PLANNING CONSULTANT SERVICES FOR THE CITY OF OAKLEY CLIMATE ACTION PLAN (CAP) AND AUTHORIZING THE CITY MANAGER TO MAKE A STAFF RECOMMENDATION ON A CONSULTANT FOR CITY COUNCIL CONSIDERATION AT A LATER DATE

FINDINGS

WHEREAS, the City of Oakley adopted its first General Plan in 2002 and Zoning Ordinance in 2005; and

WHEREAS, a Climate Action Plan (CAP) is a document that lays out a plan for how an agency will aim to reduced greenhouse gas (GHG) emissions; and

WHEREAS, the State of California has set forth climate goals for continued reduction of GHG emissions and total carbon neutrality by 2045; and

WHEREAS, the State's Climate Change Scoping Plan encourages local governments to adopt goals to reduce GHG emissions consistent with the State's goals which are 15% below 1990 levels by 2020, 40% below 1990 levels by 2030, and 80% below 1990 levels by 2050; and

WHEREAS, Oakley General Plan Program 6.2.B states, "Adopt and implement a Climate Action Plan by 2025 that complies with State greenhouse gas emission targets;" and

WHEREAS, adopting a CAP that complies with the State's GHG reduction targets is a crucial next step for the City to meet the State's GHG emission targets; and

WHEREAS, the RFP includes an amount not to exceed $100,000, all of which is appropriated under Consulting for the Planning Division in the 2023-2024 Fiscal Year General Fund budget; and

WHEREAS, after solicitation of the RFP, Staff will allow one-month for submittals to be received at which point a Selection Committee made up of City Staff will conduct initial review of the submissions, conduct interviews and hold discussions with finalists, and recommend a top consultant to the Community Development Director; and

WHEREAS, the City Manager will present the recommended top consultant to the City Council for consideration of an approved contract and will include all finalists' proposals for reference.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the "Request for Proposals and Qualifications (RFP) for Planning Consulting Services for the City of Oakley Climate Action Plan", in an amount not to exceed $100,000, is hereby approved in the form and included as Attachment 1 of the November 14, 2023 Staff Report to City Council for this item, and the City Manager is authorized to solicit said agreement, receive proposals, interview candidates, and bring a Staff Recommendation back to the City Council for consideration at a later date.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the November 14, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____ _____
Libby Vreonis, City Clerk Date

STAFF REPORT

OAKLEY
CALIFORNIA

DATE: November 14, 2023
TO: Hon. Mayor and Members of the City Council
FROM: Derek Cole, City Attorney
SUBJECT: Second Amendment to Employment Agreement Between the City of Oakley and Joshua McMurray

Approved and Forwarded to the City Council

Background and Analysis

City Manager Joshua McMurray was appointed to his position in November 2023, after previously serving as Interim City Manager. The City Council and Mr. McMurray entered into an Employment Agreement on November 15, 2023. This agreement was amended in May of this year to raise the City Manager's salary.

The proposed Second Amendment to the City Manager's Employment Agreement would extend the term of the Agreement from June 30, 2024 to June 30, 2025. The Agreement would then provide for automatic, two-year extensions of the Agreement on July 1 of each year, unless the City Council elects not to provide for such renewal by June 1 of that year.

Consistency with the Oakley Strategic Plan 27+

The proposed action is consistent with the Sustainable Organization Goal.

Fiscal Impact

The proposed amendment to the City Manager's Employment Agreement does not change the amount of salary or benefits provided. The proposed action thus does not have any measurable fiscal impact.

Staff Recommendation

The City Council should adopt the Resolution Approving the Second Amendment to the Employment Agreement Between the City of Oakley and Joshua McMurray

Attachments

1. Resolution Approving Second Amendment to Employment Agreement
2. Second Amendment to City Manager Employment Agreement

RESOLUTION NO. XX-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING THE EXECUTION OF THE SECOND AMENDMENT TO THE CITY MANAGER'S EMPLOYMENT AGREEMENT

WHEREAS, the City entered into an Employment Agreement with the City Manager effective November 10, 2021.

WHEREAS, the City and City Manager entered into a First Amendment to the Employment Agreement on June 13, 2023.

WHEREAS, the City and City Manager desire to enter into a second amendment to the City Manager's Employment Agreement to provide for the extension and automatic renewal of the Employment Agreement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oakley authorizes the Mayor to execute the Second Amendment to the Employment Agreement Between the City of Oakley and Joshua McMurray, in the form as attached as Attachment A to this Resolution.

PASSED AND ADOPTED by the City Council of the City of Oakley this 14th day of November, 2023 by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk

_____
Date

SECOND AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OAKLEY AND JOSHUA McMURRAY

This Second Amendment ("Second Amendment") to the Employment Agreement between the City of Oakley and Joshua McMurray ("Manager"), effective November 10, 2021 ("Employment Agreement"), is entered into and effective on November 15, 2023. The Employment Agreement shall be amended as set forth below. All other terms of the Employment Agreement and the First Amendment to that Agreement, executed on the __ day of June 2023 ("First Amendment"), not amended shall remain the same as set forth in the Employment Agreement.

1. Section 4 to the Employment Agreement is amended to read as follows:

> "The term of this Agreement shall continue until June 30, 2025. Beginning on July 1, 2024, and each July 1 thereafter, the term of this Agreement shall automatically renew for two years unless the City shall give written notice to Manager of the City's election not to allow for such automatic renewal on or before the preceding June 1."

Executed on this _____ day of November, 2023.

_____	_____
Joshua McMurray	Aaron Meadows
City Manager	Mayor

Approved as to Form:

_____
Derek P. Cole
City Attorney

DATE: November 14, 2023

TO: Joshua McMurray, City Manager

FROM: Libby Vreonis, City Clerk

Approved and Forwarded to the City Council

SUBJECT: Appeal of Administrative Hearing Officer's Decision Involving Fireworks at Crockett Park, Oakley, California on July 4, 2023 Citation No.: AC-23-000767

Background and Analysis

On July 4, 2023, at approximately 9:12 p.m., an Oakley Police Officer was patrolling the area of Empire Avenue and Gateway Drive when he observed explosions and multiple fireworks illuminating the sky from inside Crockett Park (4150 Richard Way). He activated his body worn camera for the incident. Upon arrival, he noticed 50-100 juveniles running in different directions, getting inside various vehicles, and driving away. He walked to the parking lot and encountered Appellant and four other pedestrians. When the officer picked up an unspent firework, "Gold Dust", and asked who it belonged to, Appellant pointed to the firework and stated, "That's mine!" The officer seized the firework and Appellant was released from the scene.

On July 11, 2023, Code Enforcement mailed an administrative citation, AC-23-00767, to Appellant **(Attachment 1)**, citing a violation of Oakley Municipal Code Section 4.1.104.

On July 25, 2023, Appellant timely submitted a Request for Appeal of Administrative Citation for AC-23-00767, along with a hardship waiver for the hearing deposit **(Attachment 2)**. The hardship waiver was approved and a Notice of Hearing was mailed to Appellant informing her of an administrative hearing scheduled for September 7, 2023 **(Attachment 3)**.

On September 7, 2023, the administrative hearing was held. The Administrative Hearing Officer's Decision **(Attachment 4),** a copy of which was mailed to Appellant, affirmed the citation, and reduced the fine to be imposed from $1,000 to $500. The decision also provided Appellant could file a written appeal of the Administrative Hearing Officer's Decision with the City Clerk by 5:00 p.m. on October 9, 2023, to have the matter heard before the City Council.

On October 4, 2023, Appellant filed a written appeal **(Attachment 5)** with the City Clerk's Office. The appeal was submitted timely. Appellant seeks to have the charges against her reconsidered.

On October 18, 2023, a Notice of Hearing **(Attachment 6)** was e-mailed and mailed to Appellant advising of this hearing date, time, and location.

In the written appeal submitted by Appellant, the first reason stated for seeking the appeal is that there is "Questionable Evidence: It was a sparkler." To understand if Oakley Municipal Code Section 4.1.104(a) that was cited in AC-23-000767 applies, Oakley Municipal Code Section 4.1.102 should first be examined. It provides that:

> "Fireworks" means any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment. The term "fireworks" includes, but is not limited to, devices designed by the manufacturer as fireworks, firecrackers, torpedoes, skyrockets, roman candles, rockets, Daygo bombs, ***sparklers***, party poppers, paper caps, chasers, fountains, smoke parts, arial bombs, and firework kits. "Fireworks" includes both "dangerous fireworks" and "safe and sane" fireworks as those terms are defined in the California Health and Safety Code."

Sparklers are expressly defined by the Code to be fireworks and are therefore properly referred to as fireworks in citing Oakley Municipal Code Section 4.1.104(a) in AC-23-000767.

Oakley Municipal Code Section 4.1.104(a) provides:

> "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."

Appellant was encountered by an Oakley Police Officer in the parking lot of Crockett Park which is public property and when the officer picked up an unspent firework, "Gold Dust", and asked who it belonged to, Appellant stated, "That's mine!" California law provides that possession can be actual or constructive. Actual possession is holding or having immediate access to an item whereas constructive is when a person does not have immediate access to an item but has control of it or the right to control it. By her own statement, Appellant claimed possession of the firework, therefore while the firework was not in her hand, she claimed right to control it, resulting in constructive possession. No written, advanced authorization was issued by the Chief of Police for fireworks activity; therefore, Appellant's possession of the firework was unauthorized. Appellant's unauthorized constructive possession of the firework in the public park was in violation of Oakley Municipal Code Section 4.1.104(a).

In the written appeal submitted by Appellant, the second reason stated for seeking the appeal is that there are "Unaddressed Factors: It was my younger sister's car." Reference to the younger sister's car bears no relevance as Appellant clearly stated the unspent firework was hers, therefore she had control over it, and it was constructive possession. The Administrative Hearing Officer's Decision provides that Appellant was "asked if she had anything to say about the video, and she had no comment—she could have denied that it was her speaking. In fact, she admitted that the firework was hers." Appellant was provided an opportunity at the administrative appeal hearing to contest that the firework was not hers and did not; she admitted it was hers. As she was in unauthorized constructive possession of a firework on public property, she was in violation of Oakley Municipal Code Section 4.1.104(a).

Appellant has not stated any additional reasons for seeking an appeal. Appellant has indicated she is a college student and "a favorable resolution is critical to [her] future and academic pursuits. [She does] not have the money to pay the fine."

Consistency with the Oakley Strategic Plan 27+

This matter is consistent with the Oakley Strategic Plan 27+ Community Health and Safety Goal to have safe and healthy neighborhoods.

Fiscal Impact

Police time was utilized to respond to the fireworks and people gathered that were participating.

Staff Recommendation

Staff recommends that the City Council review the written record and any oral argument (at its discretion), affirm or deny the Administrative Hearing Officer's Decision, and announce its decision, or if the matter is continued, announce the decision at the meeting to which it is continued.

Attachments

1. Administrative Citation, AC-23-00767, 7/11/23
2. Request for Appeal of Administrative Citation and Request for Advance Deposit Hardship Waiver, 7/25/23
3. Approval of Hardship Waiver and Notice of Hearing, 8/17/23
4. Administrative Hearing Officer's Decision, 9/7/23
5. Appeal of Administrative Hearing Officer's Decision, 10/4/23
6. Notice of Hearing, 10/18/23

OAKLEY
CALIFORNIA

ADMINISTRATIVE CITATION

Mailing Date: July 11, 2023
VIVIAN SYMONE MATTHEWS
[redacted]

Citation No:	AC-23-000767
Responsible Party:	VIVIAN SYMONE MATTHEWS
Property Address:	
Parcel Number:	
Case Number:	CE-23-0761

To VIVIAN SYMONE MATTHEWS, Date: July 11, 2023

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 4, 2023, 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

OAKLEY
CALIFORNIA

(received stamp below)
RECEIVED
JUL 25 2023
Code Enforcement Division
City of Oakley

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): Vivian Symone matthews

Mailing Address: [redacted]

City: [redacted]

Phone [redacted] Fax: ( ) -

E-mail: [redacted]

Citation Information

Citation Number: AC-23-000767 Date of Citation: 7/04/23

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 not popping any fireworks and the Sparkler found in my Sister's car was from Stockton

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

Signature: [redacted] **Date:** 7/23/23, 2023

(FOR CITY OF OAKLEY USE ONLY)

Received by:

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

Received via: Mail / Person / Other

Payment: Advance Deposit / Hardship Waiver

Routing: Code Enforcement / City Clerk / City Attorney / Finance

OAKLEY

CALIFORNIA

FINANCIAL INFORMATION (OPTIONAL)

REQUEST FOR ADVANCE DEPOSIT HARDSHIP WAIVER

The information provided on this form is voluntary and optional. This form is intended to assist you in providing the type of information that may be needed to support your request and to help the City of Oakley determine if you are eligible for a hardship waiver. You may provide supporting documentation for the information you provide on this form (pay stubs, bank statements, mortgage statements, rental agreements, vehicle payment statements, utility statements, medical and dental bills, etc.) and any other documentation you believe affects your financial ability to prepay the advance deposit for your appeal.

EMPLOYMENT

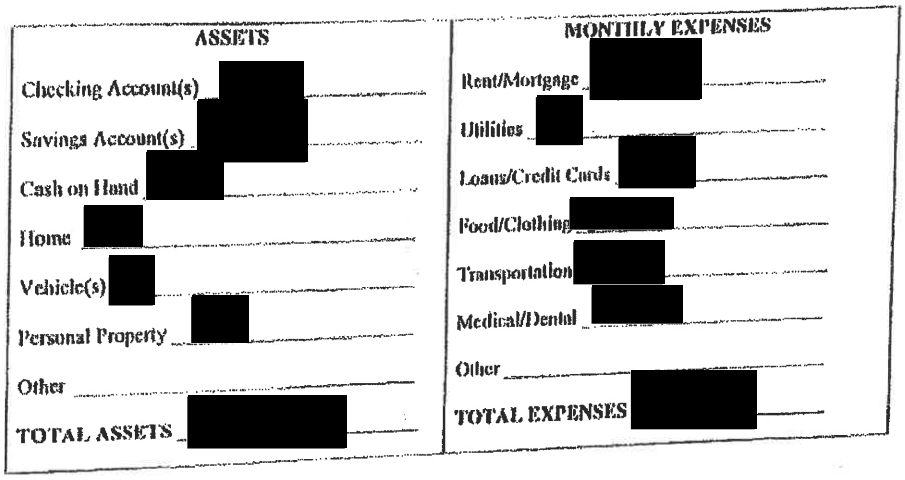
☑ Employed ☐ Unemployed ☐ Disabled ☐ Welfare ☑ Other: Student

Employer Name: [redacted]

Employer Addr: [redacted]

Employer Telep: [redacted]

Number of persons supported: 0 Monthly Net Income _____



ASSETS	
Checking Account(s)	[redacted]
Savings Account(s)	[redacted]
Cash on Hand	[redacted]
Home	[redacted]
Vehicle(s)	[redacted]
Personal Property	[redacted]
Other	
TOTAL ASSETS	[redacted]

MONTHLY EXPENSES	
Rent/Mortgage	[redacted]
Utilities	[redacted]
Loans/Credit Cards	[redacted]
Food/Clothing	[redacted]
Transportation	[redacted]
Medical/Dental	[redacted]
Other	
TOTAL EXPENSES	[redacted]

OAKLEY
CALIFORNIA

Aaron Meadows
Mayor

Anissa Williams
Vice Mayor

Dr. George Fuller
Councilmember

Shannon Shaw
Councilmember

Hugh Henderson
Councilmember

August 17, 2023

Vivian Symone Matthews
[redacted]

RE: Administrative Citation # AC-23-000767
Appellant/Citee: Vivian Symone Matthews

Your request for an advance deposit hardship waiver in association with your request for appeal of administrative citation #AC-23-000767 has been reviewed and approved.

You are hereby notified that your hearing will be held before William R. Galstan, Esq., an administrative hearing officer, at City Hall in the Administrative Services building located at 3231 Main Street, Oakley, CA 94561 on **September 7, 2023 at 10:00 a.m.**

At the hearing, you will be given the opportunity to testify and to present evidence relevant to the code violation specified in the administrative citation or to financial hardship. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.

Please read the attachment regarding Hearing Procedures.

Failure to appear without contacting the undersigned at least 24 hours prior to the scheduled hearing time will result in forfeiture of your appeal and all paid fine amount.

If you have any questions, please contact me at (925) 625-7048 or snodgrass@ci.oakley.ca.us

Kim Snodgrass, Deputy City Clerk
City of Oakley

ADMINISTRATIVE CITATION HEARING

Oakley, California

In the matter of	)	
	)	
VIVIAN MATTHEWS	)	**DECISION**
	)	
Citation #23-000767	)	

Hearing: The hearing was held on September 7, 2023. The Chief of Police appeared for the City, and Appellant appeared.

Violation: Sec. 4-1.104, use, etc. of fireworks

Decision: The Citation is AFFIRMED but the fine to be imposed is reduced from $1,000.00 to $500.00.

Reasons: Police officers observed fireworks being used at Crockett Park. Officer Arcaina approached Appellant, picking up an unspent firework "Gold Dust" and asked who it belonged to, and Appellant stated "That's mine". The Appeal letter states that Appellant was not using fireworks and the "sparkler" found in her sister's car was from Stockton.

The body camera footage was played at the hearing and it does indeed appear that Appellant acknowledged that the firework was hers. At the hearing I asked if she had anything to say about the video, and she had no comment—she could have denied that it was her speaking. In fact she admitted that the firework was hers.

The ordinance prohibits "possession" of a firework, it is not required to show that the firework was actually used or fired-off.

My attention was then directed to the type of firework involved, since Appellant had referred to it as a "sparkler". The Chief did not know what type of firework the officer found, but looked on the Internet and found that the name "Gold Dust" can apply to both a pyrotechnic type firework and also a sparkler. "Safe and Sane" fireworks are included in the ordinance as prohibited and are subject to the same penalties. However, I feel that the punishment should be appropriate for the offense involved. While sparklers do present some of the same dangers and hazards as pyrotechnic types, the danger is much reduced for the "safe and sane" types. Since the City has the burden of proof and could not identify what type of firework was found, I give Appellant the benefit of the doubt and reduce the fine for the reasons stated above.

Order: Appellant shall pay the $500.00 fine to the City within 30 days of the date of this Decision.

Deadline for compliance: Appellant's conduct has been completed; her obligation is now to pay the fine or file a further appeal.

Deadline for further appeal: If Appellant desires to appeal this decision to the Oakley City Council, she must file a written appeal with the City Clerk not later than 5:00 p.m. on October 9, 2023.

Dated: September 7, 2023

William R. Galstan

WILLIAM R. GALSTAN
Administrative Hearing Officer

RECEIVED
OCT 04 2023
BY:

Vivian Matthews
[redacted]

09-25-2023

Re: #23-000767

Dear Judge,

I hope this letter finds you well. I am writing to respectfully appeal the verdict in my case, #23-000767, where I was found guilty of fireworks on July 4th.I wish to request an appeal.

I am a college student currently residing at [redacted] and my future prospects are of utmost importance to me. The circumstances surrounding my case, including my character and the nature of the charges, have caused significant concern and distress for me and my family.

My reasons for seeking an appeal are as follows:

Questionable Evidence: It was a sparkler
Unaddressed Factors:It was my younger sister's car.

I wish to emphasize my deep respect for the legal system and my commitment to upholding its principles. I am not taking this appeal lightly but firmly believe that justice should prevail in all cases.

My primary objective in seeking this appeal is to have the charges against me reconsidered. Given my status as a college student, a favorable resolution is critical to my future and academic pursuits.I do not have the money to pay the fine

I respectfully request a hearing to present my case and discuss these matters further. I am open to any dates and times convenient for the court.

Thank you for your time and consideration. I look forward to the opportunity to present my case and address the concerns outlined in this letter. Your fairness and impartiality in this matter are greatly appreciated.

Sincerely,

Vivian Symone Matthews

OAKLEY
CALIFORNIA

Aaron Meadows
Mayor

Anissa Williams
Vice Mayor

Dr. George Fuller
Councilmember

Shannon Shaw
Councilmember

Hugh Henderson
Councilmember

October 18, 2023

VIVIAN SYMONE MATTHEWS
[redacted]

NOTICE OF HEARING

Re: Appeal of Administrative Citation Hearing Decision regarding Administrative Citation AC-23-000767; Violation of Oakley Municipal Code Section 4.1.104: Use, Discharge, Possession, Storage or Sale of Fireworks

Ms. Matthews,

In response to your letter requesting an appeal of an Administrative Citation Hearing Decision, you are hereby notified that a hearing is scheduled **Tuesday, November 14, 2023, beginning at 6:30 p.m. or soon thereafter** before the Oakley City Council during the regular City Council Meeting in the Oakley City Council Chambers located at 3231 Main Street, Oakley, CA 94561.

Please contact the undersigned at (925) 625-7013 or vreonis@ci.oakley.ca.us if you should have any questions or if you should need to reschedule (no later than 5:00 p.m. the day of the hearing). Failure to appear may result in forfeiture of the appeal hearing.

Libby Vreonis, City Clerk
City of Oakley

Cc: Joshua McMurray, City Manager

DATE: November 14, 2023

Approved and Forwarded to the City Council

TO: Joshua McMurray, City Manager

FROM: Libby Vreonis, City Clerk

SUBJECT: Hearing of Special Assessment of Costs-1430 Carpenter Road, Oakley, California (APN 034-070-031)

Background and Analysis

In early April 2023, Police contacted Code Enforcement to request property located at 1430 Carpenter Road to be boarded up due to calls several times a week of unauthorized persons entering the property and creating hazardous waste. Code Enforcement and Police conducted a visit to the home and found a broken door at the entrance to the garage and both rear entrances to have unsecured sliding glass doors. The power was still on, but there was no water. Weeds surrounding the property presented a fire hazard and a green pool/hot tub water was a safety hazard.

Specifically, the outside of the property contained at least the following violations of the Oakley Municipal Code (OMC): (1) high weeds (OMC § 4.22.008(f)); (2) an unsafe pool and other attractive nuisances dangerous to children, such as abandoned, broken or neglected equipment; machinery (OMC § 4.22.008(a)); (3) shopping carts, household equipment or broken or discarded furniture left on the property for an unreasonable period of time (OMC § 4.22.008(b)); and (4) boats, trailers, vehicle parts, or other article of personal property that had been abandoned or left in a state of partial construction or repair for an unreasonable period of time (OMC § 4.22.008(d).) In addition, the structure on the property was also deemed unfit for human occupancy in violation of section 108.1.3 of the International Property Maintenance Code as adopted by OMC § 1.6.102, and therefore, the property was red tagged on April 12.

The property owner is currently incarcerated and therefore, not living at the property. Consent to perform the emergency abatement was coordinated through the property owner's attorney and provided in writing to City staff on June 26. Abatement of the property was performed July 13-14. Abatement included spraying the pool and placing a treatment chemical in the hot tub, garbage cans pulled to the curb for pick up, trash and debris removal for items in front of the property, larger items relocated from the front yard to the back yard, tree trimming and weed abatement, and board up and lock of unsecured entrances.

In accordance with OMC §§ 1.6.134-1.6.146, the City Manager authorized the emergency abatement due to the immediate hazard to public health, safety, and welfare, and prepared a Report of Costs showing the total abatement costs that was

provided to and is on file with the City Clerk (Attachment 1). He then caused a Notice of Hearing of Special Assessment of Costs to be posted at the property of which the City Clerk also published and mailed to the property owner. Code Enforcement staff also prepared a Notice of Intent to Record a Lien which was recorded. The Notice of Hearing of Special Assessment of Costs and Notice of Intent to Record a Lien were also served to the property owner. The property owner has until November 13 to appeal the Notice of Intent to Record a Lien. As of the time this staff report was submitted, an appeal had not been filed.

OMC §§ 1.6.148-1.6.152 provides that the City Council shall receive and consider the Report of Costs and shall hear any objections of the owners of the property to be assessed for the abatement costs. The Council may modify the Report of Costs and the hearing may be continued if needed. At the conclusion of the hearing, the Council shall allow or overrule any objections to the proposed assessment. If no objections have been made or if the Council has overruled those made, the Council shall confirm by resolution (Attachment 2) the Report of Costs as submitted or as modified. The amount shall be submitted to the County of Contra Costa for assessment on the Fiscal Year 2024-2025 property tax roll. Pursuant to Oakley Municipal Code Section 1.6.152, the property owner may pay the full amount due to the City of Oakley after such costs are confirmed by the City Council and prior to the City filing the amount with the County Tax Collector.

Consistency with the Oakley Strategic Plan 27+

This matter is consistent with the Oakley Strategic Plan 27+ Community Health and Safety Goal to have safe and healthy neighborhoods.

Fiscal Impact

At the time the Report of Costs was prepared, the total amount for abatement was $10,421.75 ($9,400.00 for abatement costs + $1,021.75 for re-inspection fees). City Council Resolution 148-16 allows for actual costs incurred by Code Enforcement to be charged.

Staff Recommendation

Staff recommends that the City Council consider the Report of Costs, hear any objections on behalf of the property owner, and either confirm the Report of Costs as submitted or as modified through adoption of a resolution.

Attachments

1. Report of Costs
2. Proposed Resolution

Report of Costs

In accordance with City of Oakley Resolution 148-16, actual costs incurred for Code Enforcement abatement services and re-inspection services, and attorneys' fees in accordance with Oakley Municipal Code Section 1.6.302, at 1430 Carpenter Road, Oakley, CA 94561 (APN: 034-070-031), Case CE 23-0339, are being charged and will be heard by the Oakley City Council as a proposed special assessment on the property during its regular meeting to be held **November 14, 2023,** commencing at 6:30 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California.

Date	Description	Total Cost
	Re-inspection fees	$1,021.75
7/20/23	Abatement costs (A & J Hauling invoice)	$9,400.00
TOTAL COST PROPOSED AS ASSESSMENT		**$ 10,421.75**

Code Enforcement Case: CE-23-1178

Entered on: 10/19/2023 5:07 PM
Printed on: 10/23/2023

Topic: Reinspection Billing
Status: Open
Due Date: 01/17/24
Assigned To: Ashley Shaffer
Initiated by:
Hearing Date:
Hearing Time:

Permit

Permit #:
Business name:
License #:

Property Location

Occupant Name:
Address: 1430 CARPENTER RD , 94561
Phone:
Cell #:
APN : 034-070-031
Property Alert : CE Tech $91.62 FY23/24 CE OFC $87.49 FY23/24 OFC I: $81.99 (FY 22/23) TECH 1: $86.86 (FY 22/23) BLDG Inspector 1: $121.76 (FY22/23) OFC I: $71.16 (FY 21/22) TECH 1: $58.70 (FY21/22) BLDG Inspector 1: $104.12 (FY21/22)

Owner Information

Owner Name: COLE BILLY B II
Address: 1430 CARPENTER RD
OAKLEY, CA 94561-3855
Phone:
Cell #:

Actions

Action	By	Date	Time	Note/Observation
Time In Motion	Ashley Shaffer	04/06/2023		Inspection CE Officer time $81.99 x .75= $61.49
Time In Motion	Ashley Shaffer	04/06/2023		Email with PD regarding state of property CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	04/11/2023		Correspondence with City Attorney CE Officer time $81.99 x .75= $61.49
Time In Motion	Ashley Shaffer	04/12/2023		NOV & RED TAG CE Officer time $81.99 x .75= $61.49
Time In Motion	Ashley Shaffer	04/13/2023		Correspondence with City Attorney CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	04/14/2023		Email with PD regarding state of property CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	05/01/2023		Email with City Attorney CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	05/23/2023		Email with City Attorney CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	06/02/2023		Email with City Attorney CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	06/06/2023		Email with PD regarding state of property CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	06/09/2023		Email with City Attorney CE Officer time $81.99 x .75= $61.49
Time In Motion	Ashley Shaffer	06/12/2023		Correspondence with City Attorney CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	06/21/2023		Email with Vector CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	06/23/2023		Call with Vector CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	06/23/2023		Call with A&J hauling CE Officer time $81.99 x .25= $20.50
Time In Motion	Ashley Shaffer	06/26/2023		Inspection/board up CE Tech time $86.86 x 1= $86.86
Time In Motion	Ashley Shaffer	07/05/2023		Email with Vector CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	07/05/2023		Email with PD CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	07/12/2023		Email with City Attorney CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	07/12/2023		Email with Vector CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	07/13/2023		Inspection with Vector CE Tech $91.62 x 1= $91.62
Time In Motion	Ashley Shaffer	07/14/2023		Progress Inspection CE Officer $87.49 x .5 = $43.75
Time In Motion	Ashley Shaffer	07/14/2023		Call with Contractor CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	07/18/2023		Email with City Attorney CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	07/27/2023		Email with Vector CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	08/02/2023		Email with City Attorney CE Officer$87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	08/02/2023		Email with Contractor CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	08/02/2023		Inspection CE Officer $87.49 x 1 = $87.49
Time In Motion	Ashley Shaffer	09/27/2023		Call with contractor regarding invoice CE Officer $87.49 x .25 = $21.87
Time In Motion	Ashley Shaffer	09/28/2023		Invoice provided to City Clerk for publishing CE Officer $87.49 x .25 = $21.87

Violations

#	Violation Type	Grouping	Due Date	Status	Closed Date

Fees

Fee Type	Date	Charges	Payments	Details
Reinspection Billing	04/06/2023	61.49		CE Officer time $81.99 x .75= $61.49
Reinspection Billing	04/06/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	04/11/2023	61.49		CE Officer time $81.99 x .75= $61.49
Reinspection Billing	04/12/2023	61.49		CE Officer time $81.99 x .75= $61.49
Reinspection Billing	04/13/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	04/14/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	05/01/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	05/23/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	06/02/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	06/06/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	06/09/2023	61.49		CE Officer time $81.99 x .75= $61.49
Reinspection Billing	06/12/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	06/21/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	06/23/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	06/23/2023	20.50		CE Officer time $81.99 x .25= $20.50
Reinspection Billing	06/26/2023	86.86		CE Tech time $86.86 x 1= $86.86
Reinspection Billing	07/05/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	07/05/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	07/12/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	07/12/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	07/13/2023	91.62		CE Tech $91.62 x 1= $91.62
Reinspection Billing	07/14/2023	43.75		CE Officer $87.49 x .5 = $43.75
Reinspection Billing	07/14/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	07/18/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	07/27/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	08/02/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	08/02/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	08/02/2023	87.49		CE Officer $87.49 x 1 = $87.49
Reinspection Billing	09/27/2023	21.87		CE Officer $87.49 x .25 = $21.87
Reinspection Billing	09/28/2023	21.87		CE Officer $87.49 x .25 = $21.87
		1,021.75	**0.00**	

Inspection Notes

Date: _____ Time: _____

Findings:_____

_____

_____

_____

RESOLUTION NO.___-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CONFIRMING THE COST FOR EMERGENCY ABATEMENT OF A PUBLIC NUISANCE AND DIRECTING SPECIAL ASESSMENT UPON PROPERTY LOCATED AT 1430 CARPENTER ROAD, OAKLEY, CALIFORNIA (APN 034-070-031)

WHEREAS, The Oakley Municipal Code establishes standards in law to protect the health, safety and welfare of the community and the City's Code Enforcement Division is tasked with addressing violations of the Code, so as to ensure the health, safety and welfare of the community; and

WHEREAS, a public nuisance in violation of the Code was found to exist at property located at 1430 Carpenter Road, Oakley, California (APN 034-070-031) and abatement of such nuisance was conducted; and

WHEREAS, in accordance with Oakley City Council Resolution 148-16 and Oakley Municipal Code Sections 1.6.140 and 1.6.150, the cost incurred by the City to abate the nuisance, including the abatement and re-inspection fees have been documented on the Report of Costs on file with the City Clerk's Office in the total amount of $10,421.75; and

WHEREAS, a Notice of Hearing of Special Assessment of Costs was posted on the property, mailed to the address of record for the property owner, published, and served to the property owner, to inform property owner of the intent to make the costs a special assessment against the property; and

WHEREAS, City staff seeks to confirm such cost and to collect the amount through direct assessment for collection on the Contra Costa County Fiscal Year 2024-2025 property tax roll as authorized by Oakley Municipal Code Section 1.6.150.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that it hereby confirms the cost for abatement of a public nuisance in the amount of $10,421.75 and directs the special assessment of $10,421.75 upon property located at 1430 Carpenter Road, Oakley, California (APN 034-070-031) for collection on the Contra Costa County Fiscal Year 2024-2025 property tax roll.

The foregoing resolution was adopted at a regular meeting of the City Council of the City of Oakley held on the 14th day of November, 2023, and adopted by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk Date

DATE: November 14, 2023

Approved and Forwarded to the City Council

TO: Joshua McMurray, City Manager

FROM: Libby Vreonis, City Clerk

SUBJECT: Hearing of Special Assessment of Costs-131 E. Ruby Street, Oakley, California (APN 035-133-012)

Background and Analysis

On October 3, 2021, a fire engulfed property located at 131 E. Ruby Street, Oakley, California (APN 035-133-012). City staff red tagged the home the following day and thereafter saw evidence that the rear door of the property had been removed. The Fire District confirmed that the property should not have anyone inside as the structure was severely compromised and there was threat of collapse of the roof and stairs. Reports were received by Code Enforcement staff that the people were going onto the property daily and staff confirmed a pop-up trailer was on the property in which the son of the property owner was occupying, along with a small red tent. Staff discussed the need for permits if the home was to be rehabilitated and issued a Notice of Violation.

In November 2021, the property owner contacted Code Enforcement to request permission to get belongings from the home and for her pastor to take samples from inside the home to confirm if contamination or substances were such as to require the home to be condemned. Code Enforcement provided time to do this and, in the meanwhile, the property owner's son that had been camping on the property previously returned and was again camping in the back yard. As of mid-December, the camper remained in the rear yard, and the rear entrance of the home was unsecured. A Notice of Violation was issued.

In February 2022, the property was unsecure, including the rear entrance of the home and a window, and staff observed a woman coming out of the property. A Notice of Violation and Administrative Citation ($200) were issued to the property owner for (1) violation of IPMC Section 108.1.3 (Structure Unfit for Human Occupancy Due to Fire, $100) and (2) violation of Oakley Municipal Code Section 4.29.406 (Attractive Nuisance: Unsafe Building, machine, etc., $100).

In May 2022, Code Enforcement staff received a report of multiple cars parked at the property and people living in the basement. Staff confirmed multiple cars outside, a barbeque pit and motorized wheelchair on the porch, cans full of trash, and the back door unsecured. Staff spoke to the property owner to inform her if the property remains unsecure, the City will board it up and bill her. Police responded to the property but did

not find anyone living inside. A Notice of Violation and Administrative Citation ($400) were issued (the second fine for violations stated previously).

During June-July 2022, reports of people living in the home were received by staff. Police responded to the property and found 2 people and 3 dogs inside. Staff issued an Administrative Citation ($500—for violation of IPMC Section 108.1.3) and while posting an Order to Abate and Notice of Violation at the property, they noticed a man barbequing in the backyard area. On July 22, staff arranged for the property to be boarded and re-secured, and while there, 3 people were at the property, including the property owner's son. On August 23, staff observed 2 people sitting on the porch of the property. On September 29, 4 people, including the property owner's son, were in front of the property while he worked on his vehicle. One of the boards appeared to have been damaged and pulled back. On October 6, the red tag was extended to include the entire perimeter of the property. On October 20, a man was observed sitting on the porch with a dog on the grass and a bag of belongings on the sidewalk; Police were contacted to remove him. On November 28, staff observed flames coming from the property and determined people were barbequing on the property.

In January 2023, the receivership process was initiated. On April 5, staff posted to the property a Notice of Intent to Seek Appointment of Receiver. While posting, two adults were on the porch, and the property owner's son and another adult were inside the home. Staff handed the property owner's son the Notice prior to posting and he handed it back. He was informed that a copy was also being mailed to the residence as required by code. On July 30, Police responded to someone inside the residence and observed bolts had been removed from the door. The occupant told Police that a latch was installed from inside the home to keep the door locked and mentioned the property owners go there a lot. More reports of people living in the home were received between August 15-August 30. On August 31, Police arrested 2 people on the property. On September 27, the City contracted for entry points to the home to be boarded up. Thereafter, staff was contacted by a realtor working on behalf of the property owner to show the property. The realtor was informed a waiver would need to be signed before showing the property and staff would need 24 hours' notice to facilitate a showing.

In accordance with OMC §§ 1.6.134-1.6.146, the City Manager authorized emergency abatements due to the immediate hazard to public health, safety, and welfare on July 22, 2022, September 27, 2023, and October 16, 2023, and prepared a Report of Costs showing the total abatement costs that was provided to and is on file with the City Clerk (Attachment 1). He then caused a Notice of Hearing of Special Assessment of Costs to be posted at the property of which the City Clerk also published and mailed to the property owner. Code Enforcement staff also prepared a Notice of Intent to Record a Lien which was recorded. The Notice of Hearing of Special Assessment of Costs and

Notice of Intent to Record a Lien were also mailed to the property owner at an alternate address. The property owner has until November 13 to appeal the Notice of Intent to Record a Lien. As of the time this staff report was submitted, an appeal had not been filed.

OMC §§ 1.6.148-1.6.152 provides that the City Council shall receive and consider the Report of Costs and shall hear any objections of the owners of the property to be assessed for the abatement costs. The Council may modify the Report of Costs and the hearing may be continued if needed. At the conclusion of the hearing, the Council shall allow or overrule any objections to the proposed assessment. If no objections have been made or if the Council has overruled those made, the Council by resolution (Attachment 2) shall confirm the Report of Costs as submitted or as modified. The amount shall be submitted to the County of Contra Costa for assessment on the Fiscal Year 2024-2025 property tax roll. Pursuant to Oakley Municipal Code Section 1.6.152, the property owners may pay the full amount due to the City of Oakley after such costs are confirmed by the City Council and prior to the City filing the amount with the County Tax Collector.

Consistency with the Oakley Strategic Plan 27+

This matter is consistent with the Oakley Strategic Plan 27+ Community Health and Safety Goal to have safe and healthy neighborhoods.

Fiscal Impact

At the time the Report of Costs was prepared, the total amount for abatement was $31,783.82 ($1,260.00 for abatement costs + $2,521.22 for re-inspection fees + $28,002.60 for attorney fees). City Council Resolution 148-16 allows for actual costs incurred by Code Enforcement to be charged. OMC §§ 1.6.302-1.6.304 allows for recovery of attorney fees by the prevailing party for nuisance abatement actions or proceedings.

Staff Recommendation

Staff recommends that the City Council consider the Report of Costs, hear any objections on behalf of the property owner, and either confirm the Report of Costs as submitted or as modified through adoption of a resolution.

Attachments

1. Report of Costs
2. Proposed Resolution

Report of Costs

In accordance with City of Oakley Resolution 148-16, actual costs incurred for Code Enforcement abatement services and re-inspection services, and attorneys' fees in accordance with Oakley Municipal Code Section 1.6.302, at 131 E. Ruby Street, Oakley, CA 94561 (APN: 035-133-012), Case CE 22-0931, are being charged and will be heard by the Oakley City Council as a proposed special assessment on the property during its regular meeting to be held **November 14, 2023,** commencing at 6:30 p.m. in the Oakley City Council Chambers located at 3231 Main Street, Oakley, California.

Date	Description	Total Cost
2/22/22-10/23/23	Re-inspection fees*	$2,521.22
10/1/23	Abatement costs (A & J Hauling Invoice)	$1,260.00
	Attorney fees	$28,002.60
TOTAL COST PROPOSED AS ASSESSMENT		**$31,783.82**

*Itemized report of re-inspection fees is attached hereto

Code Enforcement Case: CE-22-0931

Entered on: 09/22/2022 2:02 PM
Printed on: 10/25/2023

Topic: Reinspection Billing
Status: Open
Due Date: 01/15/23
Assigned To: Jody Williams
Initiated by:
Hearing Date:
Hearing Time:

Permit

Permit #:
Business name:
License #:

Property Location

Occupant Name:
Address: 131 E RUBY ST , 94561
Phone:
Cell #:
APN : 035-133-012
Property Alert : CE Tech $91.62 FY23/24 CE OFC $87.49 FY23/24 OFC I: $81.99 (FY 22/23) TECH 1: $86.86 (FY 22/23) BLDG Inspector 1: $121.76 (FY22/23) OFC I: $71.16 (FY 21/22) TECH 1: $58.70 (FY21/22) BLDG Inspector 1: $104.12 (FY21/22)

Owner Information

Owner Name: RODRIGUEZ ANTHONY & JOSEPHINE
Address: 131 E RUBY ST
OAKLEY, CA 94561-2196
Phone:
Cell #:

Actions

Action	By	Date	Time	Note/Observation
Time In Motion	Ashley Shaffer	02/22/2022		Reinspection NOV & cite CE Officer Time $71.16 x 1 hours = $71.16
Time In Motion	Ashley Shaffer	05/03/2022		Phone complaint CE Officer Time $71.16 x .5 hours = $35.58
Time In Motion	Ashley Shaffer	05/10/2022		Phone complaint CE Officer Time $71.16 x .5 hours = $35.58
Time In Motion	Ashley Shaffer	05/10/2022		Phone call to owner CE Officer Time $71.16 x .25 hours = $17.79
Time In Motion	Ashley Shaffer	05/11/2022		Reinspection NOV & cite CE Officer Time $71.16 x 1 hours = $71.16
Time In Motion	Ashley Shaffer	05/12/2022		Phone call to owner CE Officer Time $71.16 x .25 hours = $17.79
Time In Motion	Ashley Shaffer	05/26/2022		Email complaint CE Officer Time $71.16 x .5 hours = $35.58
Time In Motion	Ashley Shaffer	05/26/2022		Phone call to owner CE Officer Time $71.16 x .25 hours = $17.79
Time In Motion	Ashley Shaffer	05/31/2022		PD inspection from complaint sent to CE-CE Officer Time $71.16 x .5 hours = $35.58
Time In Motion	Ashley Shaffer	06/08/2022		Email complaint CE Officer Time $71.16 x .5 hours = $35.58
Time In Motion	Ashley Shaffer	06/22/2022		Email with PW & Contractor CE Officer Time $71.16 x .25 hours = $17.79
Time In Motion	Ashley Shaffer	07/16/2022		OD complaint CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	07/19/2022		PD inspection from OD complaint, order to abate & NOV Cite-posted to property CE Officer Time $81.99 x .75 hours = $61.49
Time In Motion	Ashley Shaffer	07/19/2022		Email to City Attorney CE Officer Time $81.99 x .25 hours = $20.50
Time In Motion	Ashley Shaffer	07/19/2022		Email complaint CE Officer Time $81.99 x .5 hours = $41
Inspection	Jody Williams	07/22/2022		Met with contractor A&J Hauling at the property for board-up and & lock out to re-secure the structure.

Time In Motion	Ashley Shaffer	07/22/2022	Reinspection no NOV, Met with contractor A&J Hauling at the property for board-up and & lock out to re-secure the structure. CE Officer Time $81.99 x 1= $81.99
Time In Motion	Ashley Shaffer	07/25/2022	Email complaint CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	07/25/2022	Phone complaint CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	07/26/2022	Reinspection no NOV CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	07/27/2022	Phone call to owner, no connection CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	08/23/2022	Reinspection no NOV CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	08/23/2022	Email to PD regarding property CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	09/06/2022	Phone call regarding vehicle at property CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	09/12/2022	Email complaint CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	09/29/2022	Discussion with City Attorney CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	09/29/2022	Reinspection no NOV CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	10/06/2022	Email to PD regarding Red Tag status CE Officer Time $81.99 x .25 hours = $20.50
Time In Motion	Ashley Shaffer	10/20/2022	Reinspection no NOV CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	11/01/2022	Inspection observing electrical meter BLDG Inspector 1 $121.76 x .25 hours= $30.44
Time In Motion	Ashley Shaffer	11/02/2022	Phone call to PG&E CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	11/28/2022	Counter complaint CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	11/29/2022	Email with City Attorney CE Officer Time $81.99 x .25 hours = $20.50
Time In Motion	Ashley Shaffer	12/05/2022	Phone call with owner CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	12/05/2022	Email to City Attorney CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	12/06/2022	Estimate from Building Department CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	12/12/2022	Email to CDD CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	01/10/2023	Email to City Attorney CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	01/10/2023	Uploaded PD calls to case CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	01/19/2023	Uploaded documents to City Attorney's Drop Box CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	04/03/2023	Phone call with owner CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	04/05/2023	Correspondence with City Attorney CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	04/05/2023	Created and posted Notice of Intent/inspected CE Officer Time $81.99 x 1 hour = $81.99
Time In Motion	Ashley Shaffer	04/10/2023	Phone call with owner CE Officer Time $81.99 x .25 hours = $20.50
Time In Motion	Ashley Shaffer	04/11/2023	Phone call from CC County Supervisor's office CE Officer Time $81.99 x .5 hours = $41
Time In Motion	Ashley Shaffer	07/31/2023	Email with City Attorney CE Officer Time $87.49 x .25 hours = $21.87
Time In Motion	Ashley Shaffer	08/15/2023	Phone complaint CE Officer Time $87.49 x .25 hours = $21.87
Time In Motion	Ashley Shaffer	08/21/2023	Phone complaint CE Officer Time $87.49 x .25 hours = $21.87
Time In Motion	Ashley Shaffer	08/31/2023	Phone complaint CE Officer Time $87.49 x .25 hours = $21.87

Time In Motion	Ashley Shaffer	08/31/2023	Phone call to DWD CE Officer Time $87.49 x .5 hours = $43.75
Time In Motion	Ashley Shaffer	09/18/2023	Conversation with City Attorney CE Officer Time $87.49 x .5 hours = $43.75
Time In Motion	Ashley Shaffer	09/21/2023	Correspondence with Contractor CE Officer Time $87.49 x .5 hours = $43.75
Time In Motion	Ashley Shaffer	09/27/2023	Inspection/board up of property CE Officer Time $87.49 x 1 hours = $87.49
Time In Motion	Ashley Shaffer	10/02/2023	Phone call with realtor CE Officer Time $87.49 x .5 hours = $43.75
Time In Motion	Ashley Shaffer	10/11/2023	Correspondence with City Attorney CE Officer Time $87.49 x .25 hours = $21.87
Time In Motion	Ashley Shaffer	10/12/2023	Phone call with realtor CE Officer Time $87.49 x .5 hours = $43.75
Time In Motion	Ashley Shaffer	10/16/2023	Email with realtor and City Attorney CE Officer Time $87.49 x .5 hours = $43.75
Time In Motion	Ashley Shaffer	10/16/2023	Showing of property with Realtor and meet with contractor A&J Hauling to install key locks on the front door. CE Officer Time $87.49 x 1 hours = $87.49
Time In Motion	Ashley Shaffer	10/16/2023	Created and mailed letter of intent CE Officer Time $87.49 x .5 hours = $43.75
Time In Motion	Ashley Shaffer	10/17/2023	Email with City Attorney CE Officer Time $87.49 x .25 hours = $21.87
Time In Motion	Ashley Shaffer	10/17/2023	Showing of property with Realtor CE Officer Time $87.49 x 1 hours = $87.49
Time In Motion	Ashley Shaffer	10/23/2023	Showing of property with Realtor CE Officer Time $87.49 x 1 hours = $87.49

Violations

#	Violation Type	Grouping	Due Date	Status	Closed Date

Fees

Fee Type	Date	Charges	Payments	Details
Reinspection Billing	02/22/2022	71.16		CE Officer Time $71.16 x 1 hours = $71.16
Reinspection Billing	05/03/2022	35.58		CE Officer Time $71.16 x .5 hours = $35.58
Reinspection Billing	05/10/2022	35.58		CE Officer Time $71.16 x .5 hours = $35.58
Reinspection Billing	05/10/2022	17.79		CE Officer Time $71.16 x .25 hours = $17.79
Reinspection Billing	05/11/2022	71.16		CE Officer Time $71.16 x 1 hours = $71.16
Reinspection Billing	05/12/2022	17.79		CE Officer Time $71.16 x .25 hours = $17.79
Reinspection Billing	05/26/2022	35.58		CE Officer Time $71.16 x .5 hours = $35.58
Reinspection Billing	05/26/2022	17.79		CE Officer Time $71.16 x .25 hours = $17.79
Reinspection Billing	05/31/2022	35.58		CE Officer Time $71.16 x .5 hours = $35.58
Reinspection Billing	06/08/2022	35.58		CE Officer Time $71.16 x .5 hours = $35.58
Reinspection Billing	06/22/2022	17.79		CE Officer Time $71.16 x .25 hours = $17.79
Reinspection Billing	07/16/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	07/19/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	07/19/2022	20.50		CE Officer Time $81.99 x .25 hours = $20.50
Reinspection Billing	07/19/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	07/22/2022	81.99		CE OFFICER TIME @ $81.99
Reinspection Billing	07/22/2022	81.99		CE Officer Time $81.99 x 1= $81.99
Reinspection Billing	07/25/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	07/26/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	07/27/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	08/23/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	09/06/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	09/12/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	09/29/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	09/29/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	10/06/2022	20.50		CE Officer Time $81.99 x .25 hours = $20.50
Reinspection Billing	10/20/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	11/01/2022	30.44		BLDG Inspector 1 $121.76 x .25 hours= $30.44
Reinspection Billing	11/02/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	11/28/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	11/29/2022	20.50		CE Officer Time $81.99 x .25 hours = $20.50
Reinspection Billing	12/05/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	12/05/2022	41.00		CE Officer Time $81.99 x .5 hours = $41

Reinspection Billing	12/06/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	12/12/2022	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	01/10/2023	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	01/10/2023	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	01/19/2023	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	04/03/2023	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	04/05/2023	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	04/05/2023	81.99		CE Officer Time $81.99 x 1 hour = $81.99
Reinspection Billing	04/10/2023	20.50		CE Officer Time $81.99 x .25 hours = $20.50
Reinspection Billing	04/11/2023	41.00		CE Officer Time $81.99 x .5 hours = $41
Reinspection Billing	07/31/2023	21.87		CE Officer Time $87.49 x .25 hours = $21.87
Reinspection Billing	08/15/2023	21.87		CE Officer Time $87.49 x .25 hours = $21.87
Reinspection Billing	08/21/2023	21.87		CE Officer Time $87.49 x .25 hours = $21.87
Reinspection Billing	08/31/2023	21.87		CE Officer Time $87.49 x .25 hours = $21.87
Reinspection Billing	08/31/2023	43.75		CE Officer Time $87.49 x .5 hours = $43.75
Reinspection Billing	09/18/2023	43.75		CE Officer Time $87.49 x .5 hours = $43.75
Reinspection Billing	09/21/2023	43.75		CE Officer Time $87.49 x .5 hours = $43.75
Reinspection Billing	09/27/2023	87.49		CE Officer Time $87.49 x 1 hours = $87.49
Reinspection Billing	10/02/2023	43.75		CE Officer Time $87.49 x .5 hours = $43.75
Reinspection Billing	10/11/2023	21.87		CE Officer Time $87.49 x .25 hours = $21.87
Reinspection Billing	10/12/2023	43.75		CE Officer Time $87.49 x .5 hours = $43.75
Reinspection Billing	10/16/2023	43.75		CE Officer Time $87.49 x .5 hours = $43.75
Reinspection Billing	10/16/2023	87.49		CE Officer Time $87.49 x 1 hours = $87.49
Reinspection Billing	10/16/2023	43.75		CE Officer Time $87.49 x .5 hours = $43.75
Reinspection Billing	10/17/2023	21.87		CE Officer Time $87.49 x .25 hours = $21.87
Reinspection Billing	10/17/2023	87.49		CE Officer Time $87.49 x 1 hours = $87.49
Reinspection Billing	10/23/2023	87.49		CE Officer Time $87.49 x 1 hours = $87.49
		2,521.22	**0.00**	

Inspection Notes

Date: _____ Time: _____

Findings: _____

_____

_____

_____

RESOLUTION NO.___-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY CONFIRMING THE COST FOR EMERGENCY ABATEMENT OF A PUBLIC NUISANCE AND DIRECTING SPECIAL ASESSMENT UPON PROPERTY LOCATED AT 131 E. RUBY STREET, OAKLEY, CALIFORNIA (APN 035-133-012)

WHEREAS, The Oakley Municipal Code establishes standards in law to protect the health, safety and welfare of the community and the City's Code Enforcement Division is tasked with addressing violations of the Code, so as to ensure the health, safety and welfare of the community; and

WHEREAS, a public nuisance in violation of the Code was found to exist at property located at 131 E. Ruby Street, Oakley, California (APN 035-133-012) and abatement of such nuisance was conducted; and

WHEREAS, in accordance with Oakley City Council Resolution 148-16 and Oakley Municipal Code Sections 1.6.140, 1.6.150 and 1.6.302, the cost incurred by the City to abate the nuisance, including the abatement, re-inspection fees and attorneys' fees have been documented on the Report of Costs on file with the City Clerk's Office in the total amount of $31,783.82; and

WHEREAS, a Notice of Hearing of Special Assessment of Costs was posted on the property, mailed to the address of record for the property owner, published, and mailed to an alternate address for the property owner, to inform property owner of the intent to make the costs a special assessment against the property; and

WHEREAS, City staff seeks to confirm such cost and to collect the amount through direct assessment for collection on the Contra Costa County Fiscal Year 2024-2025 property tax roll as authorized by Oakley Municipal Code Section 1.6.150.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that it hereby confirms the cost for abatement of a public nuisance in the amount of $31,783.82 and directs the special assessment of $31,783.82 upon property located at 131 E. Ruby Street, Oakley, California (APN 035-133-012) for collection on the Contra Costa County Fiscal Year 2024-2025 property tax roll.

The foregoing resolution was adopted at a regular meeting of the City Council of the City of Oakley held on the 14th day of November, 2023, and adopted by the following vote:

AYES:
NOES:
ABSTENTION:
ABSENT:

APPROVED:

_____
Aaron Meadows, Mayor

ATTEST:

_____
Libby Vreonis, City Clerk Date

Business Name	Primary Contact Email Address	Primary Address Phone #	Full Primary Address	Active Licenses
ALISA PETERS		(925) 470-7440	3663 MAIN ST OAKLEY CA 94561-5781	BUSINESS LICENSE
BETHANY MEALS, LMFT	BETHANYAMEALS@GMAIL.COM	(925) 305-3541	4748 WINCHESTER DR OAKLEY CA 94561	HOME BASED BUSINESS LICENSE
CREEKSIDE NOTARY AND CONSULTING, LLC	MICHELE@CREEKSIDENOTARY.COM	(925) 584-4493	100 HEAVENLY WAY OAKLEY CA 94561	HOME BASED BUSINESS LICENSE
JJ RICH DESIGNS	RENA.R.ALEXANDER18@GMAIL.COM	(510) 520-5024	203 LITTLETON ST OAKLEY CA 94561	HOME BASED BUSINESS LICENSE
LLANO GRANDE LANDSCAPING CORP	LLANOGRANDELAND@YAHOO.COM	(925) 418-5626	283 HONEY LN OAKLEY CA 94561-2734	HOME BASED BUSINESS LICENSE
MONICA GAUL	GAULMONICA@GMAIL.COM	(925) 207-9653	23 BROOKS CT OAKLEY CA 94561	HOME BASED BUSINESS LICENSE
PIC SNIPER PHOTOGRAPHY		(925) 978-6508	16 GARY CT OAKLEY CA 94561	HOME BASED BUSINESS LICENSE
SRH REALTY	SRHREALTY@OUTLOOK.COM	(925) 978-6814	4009 BLACKSMITH CIR OAKLEY CA 94561	HOME BASED BUSINESS LICENSE
YOUR SOLAR GUY	YOURSOLARGUY2021@GMAIL.COM	(925) 752-4646	1591 ASHWOOD DR OAKLEY CA 94561-1906	HOME BASED BUSINESS LICENSE
9				

LOS ANGELES & SAN FRANCISCO

Daily Journal

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MONDAY, JULY 31, 2023

PERSPECTIVE

MUNICIPAL AFFAIRS

New "pay to play" statute is a groundbreaking change in local ethics law

By Derek P. Cole

A new statute has fundamentally altered the relationship between local elected officials and regulated parties. SB 1439, California's new "pay to play" statute, took effect on Jan. 1. It enacts a sweeping change in local ethics law.

SB 1439 breathes substantial new life into a 30-year old law known as the Levine Act. Local elected officials, such as city council members and county supervisors, may no longer participate in certain matters in which parties have given them more than $250 in campaign contributions. (Gov. Code, § 84308(c).) And when these parties apply for common approvals, officials may not accept more than $250 in contributions from them while the applications are pending and for an additional 12 months. (*Id.*, § 84308(b).)

It is a fact of life that elected officials accept campaign contributions from regulated parties. Developers, franchisees, and those who regularly contract with local agencies are frequent campaign contributors. These parties now face the prospect of disqualifying their favored candidates by making relatively small campaign contributions.

The key features of SB 1439, as clarified by recent Fair Political Practices Commission (FPPC) regulations, are:

Non-retroactivity. The Governor signed SB 1439 a little more than a month before the November 2022 General Election. By that point, many successful candidates had surely taken in more than $250 from covered campaign contributors. Fortunately for these candidates and contributors, the FPPC has interpreted that SB 1439 applies only to contributions and proceedings on and after Jan. 1, 2023. (2 Cal. Code. Regs., § 18438(a).)

Covered matters. Matters for which disqualifications are required include applications for land use permits and entitlements, professional licenses, municipal franchises, and non-competitively bid contracts. (Gov. Code, § 84308(a)(5); 2 Cal. Code Regs., § 18348.2(a)(3)(A)-(D).) Interestingly – and some might say not surprisingly – labor contracts are not covered.

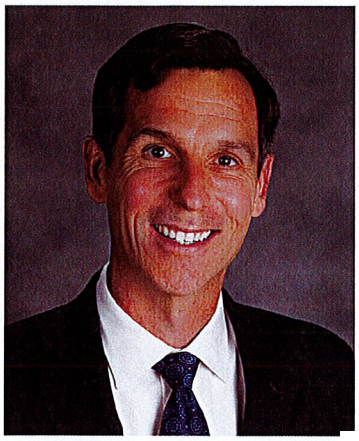
Agents. Importantly, when applying the $250 threshold, contributions from parties *and* their agents are included. (Gov. Code, § 84308(b)-(c).) Persons are agents when they represent parties before agencies for compensation. (2 Cal. Code Regs., § 18438.3(a).) Attorneys should note that when they represent parties and are employees of law firms, they *and* their firms are considered agents. (*Id.*, § 18438.3(b).)

Participants. Disqualification is required not only when applicants have made more than $250 in contributions to local officials but also when "participants" in these matters have done the same. Participants include those who "actively support[] or oppose[]" and have financial interests of their own in the matters at issue. (Gov. Code, § 84308(a)(2).) Participants express those positions by lobbying in person, testifying, or submitting written positions to agencies. (*IbId.*; 2 Cal. Code Regs., § 18438.4.)

Time periods covered. SB 1439 covers two time periods. First, before covered parties submit applications, local officers are later disqualified from participating in matters involving the parties if, within the preceding 12 months, the parties contributed more than $250 to their campaigns. (Gov. Code, § 84308(c).) Second, once applications affecting parties are "pending," officers may not "accept, solicit, or direct" campaign contributions over $250 from the parties. (*Id.*, § 84308(b).) The FPPC has recently enacted a regulation providing that applications are "pending" if the applications are before local officials or it is reasonably foreseeable they will come before them. For elected officials, matters are before them when they are placed on meeting agendas. (2 Cal. Code Regs., § 18438.2(b)(1)(A).)

States of mind. When applications are pending, local officials are precluded from accepting, soliciting, or directing campaign contributions over $250 from the applicants. During this time, they are also precluded from accepting, soliciting, or directing contributions from participants when they "know or have reason to know" of the participants' financial interests. (Gov. Code, § 84308(b).) Officials possess this awareness when they have actual knowledge of the participants' interests or the participants express "facts in written or oral statements" that make their interests apparent. (2 Cal. Code Regs., § 18438.7(a).)

Derek P. Cole *is a partner and co-founder of Cole Huber LLP. His practice focuses on municipal law and litigation.*



If contributions were made before applications are filed, officers may not participate in a matter when they "willingly or knowingly" received contributions over $250 within the past 12 months from parties or participants whom they know or have reason to know have financial interests in the covered matters. (Gov. Code, § 84308(c).) A forthcoming FPPC regulation will provide that such awareness is not demonstrated solely by the participant's disclosure of their contributions as required by law.

Returns of contributions. A forthcoming regulation will also allow officials to return contributions in certain circumstances, allowing them to participate in otherwise covered matters. Returns are allowed when contributions from parties were received before the officers knew or had reason to know of proceedings involving the parties. Returns involving participants may be made if the contributions were made before the officers knew or had reason to know of the participants' financial interests in the proceedings. (2 Cal. Code Regs., § 18438.7(c).) The forthcoming regulations will also allow for officers to participate in matters before the returns are made in certain circumstances. (*Id.*, § 18438.7(d).)

Disclosures. Officers who are disqualified under SB 1439 must disclose their disqualifying interests on the record, either orally or in writing. (2 Cal. Code Regs., § 18438.8(a).) Parties and their agents must also disclose the contributions they have made to officers under specified circumstances. (*Id.*, § 18438.8(b).)

SB 1439 is a fundamental change in local ethics law. It is not surprising that business interests have challenged SB 1439 on constitutional grounds. Their challenge was recently dismissed but they are sure to appeal. (*Fam. Bus. Assn. of Cal. v. FPPC*, Sacramento Sup. Ct. No. 34-2023-00335169-CU-MC-GDS, May 25, 2023.)

In precluding the participation of officials who receive more than $250 in campaign contributions from parties or participants, SB 1439 sets an incredibly low bar for disqualification. Proponents view this as a much-needed reform. Opponents view the law as an abridgement of their rights. One thing both sides can agree upon is that the new law is groundbreaking.

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OAKLEY
CALIFORNIA

DATE: November 14, 2023

TO: City Council

FROM: Joshua McMurray, City Manager

Approved and Forwarded to the City Council

SUBJECT: Work Session - Library and O'Hara Residential Projects Design and Economic Feasibility Analysis Update

Background and Analysis

The City has continued the process of exploring the feasibility of a new downtown library. As background, Baker Tilly was hired to help the City prepare an initial feasibility analysis which was presented to the City Council on January 24, 2023. The City Council directed Staff to focus on an option that would place high density, multi-family housing on the City block bound by O'Hara Avenue to the west, Acme Street to the north, 2nd Street to the east and Ruby Street to the south. The purpose of the housing component is to allow 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 new library would be located on the Civic Center campus, in the location where the current corp yard sits.

This initial analysis was promising, and we hired a consulting team lead by Urban Field Studio with Economic Planning Systems and HKIT Architects to further study how we can best create the most value for the O'Hara parcel and site plan the library on the Civic Center campus. The focus of the secondary analysis was to explore further both the residential component of the project and how much realistic residual value the City could generate to help fund the construction of the new library. The presentation will cover a series of test fits for the O'Hara block and potential revenue. A variety of densities and product types were analyzed, and the presentation will cover them in detail to ensure the City Council has enough information to provide direction on this component of the project.

The analysis also looked at various site plans for the library building on the Civic Center campus. The presentation will cover the progression of that work. There will also be a funding component of the presentation that will look at current City funds along with other funding options that could be considered. The funding options will cover approximate City funds that could be made available to the project. Staff's focus was to present options that were realistic and the approach to "live within or means" was discussed early on and used to narrow down a preferred site plan that will be presented at the City Council meeting. It is important to note the City has many priorities, which can sometimes shift, based on City Council direction.

Consistency with the Oakley Strategic Plan 27+

This item is consistent with the Strategic Plan 27+ Community and Economic Development Goal. Specifically, under the Strategic and Thoughtful Growth Objective:

> *Consider relocating the co-hosted City/ High School Library to a downtown location that can be a unifying location for Seniors, Youth, Veterans, and possible satellite location for County services.*

Fiscal Impact

This work for this item was authorized by the City Council on July 11, 2023.

Staff Recommendation

Staff recommends that the City Council receive the presentation by Staff and the consulting team and provide direction related to next steps.

VIA EMAIL

Derek Cole
City Attorney's Office
City of Oakley
2281 Lava Ridge Court
Suite 300
Roseville, CA 95661
dcole@colehuber.com

Paul Beard
Chief of Police
Oakley Police Department
3231 Main St.
Oakley, CA 94561
info@ci.oakley.ca.us

May 25, 2023

Re: <u>Oakley Police Department's Violations of State Law for Sharing License Plate Reader Data</u>

Dear Mr. Cole and Mr. Beard,

We write regarding records obtained by our offices in response to a California Public Records Act Request ("PRA Records"),[1] which state that the Oakley Police Department ("the Department") shares automated license plate reader ("ALPR") information, including the locations of drivers, with out-of-state law enforcement agencies. This sharing violates two state laws that prohibit sharing of information with out-of-state entities about the provision of abortion care, Cal. Penal Code § 13778.2, and sharing of information collected by ALPR systems. Cal Civ. Code § 1798.90.55(b). We are particularly concerned that anti-abortion states may seek to exploit this information to track, locate, and prosecute abortion seekers and providers. Regardless of your Department's intent, this act of sharing poses a risk to people and violates state law. We therefore urge that you immediately investigate any sharing relationship with these

[1] https://www.muckrock.com/foi/oakley-3351/automated-license-plate-readers-oakley-police-department-136087/

agencies, prohibit the Department from sharing in this fashion again, and reconsider the Department's use of ALPR technology.

I. ALPR Surveillance of Oakley Drivers' Locations Violates Their Civil Liberties and Civil Rights and Could be Used to Prosecute Out-of-State Abortion Seekers.

ALPR technology is a powerful surveillance system that can be used to invade the privacy of individuals and violate the rights of entire communities. ALPR systems collect and store location information about drivers whose cars pass through ALPR cameras' fields of view, which, along with the date and time of capture, can be built into a database that reveals sensitive details about where individuals work, live, associate, worship, seek medical care, and travel.[2] Much of this information has traditionally been unavailable to law enforcement without a search warrant. Further, ALPR systems are easily misused to harm marginalized communities.[3] As with other surveillance technologies, police often deploy license plate readers in poor and historically overpoliced areas, regardless of crime rates.[4]

Additionally, and particularly since the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*,[5] which overturned *Roe v. Wade*,[6] ALPR technology and the

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[2] *See, e.g.*, *Automatic License Plate Readers*, ELECTRONIC FRONTIER FOUND., March 29, 2023, https://www.eff.org/sls/tech/automated-license-plate-readers; *You Are Being Tracked: How License Plate Readers Are Being Used to Record Americans' Movements*, AM. CIV. LIBERTIES UNION, July 2013, https://www.aclu.org/other/you-are-being-tracked-how-license-plate-readers-are-being-used-record-americans-movements.

[3] *See, e.g.*, Angel Diaz & Rachel Levinson-Waldman, *Automatic License Plate Readers: Legal Status and Policy Recommendations for Law Enforcement Use*, BRENNAN CTR. FOR JUST., Sept. 10, 2020, https://www.brennancenter.org/our-work/research-reports/automatic-license-plate-readers-legal-status-and-policy-recommendations; Christine Hauser, *Aurora Police Chief Apologizes After Officers Handcuff Children on the Ground*, N.Y. TIMES, Aug. 5, 2020, https://www.nytimes.com/2020/08/05/us/aurora-police-black-family.html (ALPR falsely flagged a Black family's SUV as stolen, leading to a stop during which entire family, including four children, was forced to lie on the ground during the stop); Vasudha Talla, *Records Reveal ICE Agents Run Thousands of License Plate Queries a Month in Massive Location Database*, ACLU OF NORTHERN CAL., June 2019, https://www.aclunc.org/blog/records-reveal-ice-agents-run-thousands-license-plate-queries-month-massive-location-database; Matt Cagle, *San Francisco – Paying the Price for Surveillance Without Safeguards*, ACLU OF NORTHERN CAL., May 22, 2014, https://www.aclunc.org/blog/san-francisco-paying-price-surveillance-without-safeguards; Adam Goldman and Matt Apuzzo, *With Cameras, Informants, NYPD Eyed Mosques*, ASSOCIATED PRESS, Feb. 23, 2012, https://www.ap.org/ap-in-the-news/2012/with-cameras-informants-nypd-eyed-mosques.

[4] Dave Maass and Jeremy Gillula, *What You Can Learn from Oakland's Raw ALPR* Data, ELECTRONIC FRONTIER FOUND., Jan. 21, 2015, https://www.eff.org/deeplinks/2015/01/what-we-learned-oakland-raw-alpr-data; Barton Gellman and Sam Adler-Bell, *The Disparate Impact of Surveillance*, THE CENTURY FOUND., Dec. 21, 2017, https://production-tcf.imgix.net/app/uploads/2017/12/03151009/the-disparate-impact-of-surveillance.pdf; *see also, e.g.*, Kaveh Waddell, *How License-Plate Readers Have Helped Police and Lenders Target the Poor*, THE ATLANTIC, Apr. 22, 2016 https://www.theatlantic.com/technology/archive/2016/04/how-license-plate-readers-have-helped-police-and-lenders-target-the-poor/479436/ (summarizing data indicating that Oakland Police Department deployed ALPRs "disproportionately often in low-income areas and in neighborhoods with high concentrations of African-American and Latino residents").

[5] 142 S. Ct. 2228 (2022).

[6] 410 U.S. 113 (1972).

information it collects is vulnerable to exploitation against people seeking, providing, and facilitating access to abortion.[7] Law enforcement officers in anti-abortion jurisdictions who receive the locations of drivers collected by California-based ALPRs may seek to use that information to monitor abortion clinics and the vehicles seen around them and closely track the movements of abortion seekers and providers.[8] This threatens even those obtaining or providing abortions in California, since several anti-abortion states plan to criminalize and prosecute those who seek or assist in out-of-state abortions.[9]

II. The Department Shares Local Drivers' Data with Out-of-State Agencies, including Agencies in Anti-Abortion States.

The PRA Records obtained by our office state that the Department shares ALPR information with law enforcement agencies across the country, including with at least one agency in a state where abortion is banned or highly restricted. The Department lists out-of-state agencies as sharing partners with the ability to search your Department's local ALPR information, including scans of license plates and the location of the scanned plate. These out-of-state agencies have the ability to search sensitive local ALPR information but are not subject to the important privacy protections imposed by the California state legislature.

III. Sharing of ALPR Information with Out-of-State Agencies Violates State Law and Undermines California's Protections for Reproductive Health Privacy.

Any sharing of ALPR information with out-of-state agencies violates state law and the only way to prevent these violations, and the harm caused by exposing sensitive driver information to out-of-state agencies, is to cease such sharing. Under the California Civil Code, as amended by Senate Bill No. 34, "[a] public agency shall not sell, share, or transfer ALPR information, except to another public agency, and only as otherwise permitted by law." Civ. Code § 1798.90.55(b). A "public agency" is defined as "the state, any city, county, or city and county, or any agency or political subdivision *of the state*." *See* Civ. Code § 1798.90.5(f) (emphasis added). The Civil Code, therefore, prohibits an agency from sharing or transferring ALPR information with or to out-of-state agencies, including those listed in the PRA Records.

In addition, sharing ALPR information with law enforcement in states that criminalize abortion undermines California's extensive efforts to protect reproductive health privacy. Since

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[7] Johana Bhuiyan, *How expanding web of license plate readers could be 'weaponized' against abortion*, THE GUARDIAN, Oct. 6, 2022, https://www.theguardian.com/world/2022/oct/06/how-expanding-web-of-license-plate-readers-could-be-weaponized-against-abortion.

[8] Dave Maass, *Automated License Plate Readers Threaten Abortion Access. Here's How Policymakers Can Mitigate the Risk*, ELECTRONIC FRONTIER FOUND., Sept. 28, 2022, https://www.eff.org/deeplinks/2022/09/automated-license-plate-readers-threaten-abortion-access-heres-how-policymakers.

[9] *See, e.g.*, Caroline Kitchener and Devlin Barrett, *Antiabortion lawmakers want to block patients from crossing state lines*, WASHINGTON POST, June 30, 2022, https://www.washingtonpost.com/politics/2022/06/29/abortion-state-lines/; Josh Moon, *Alabama AG: state may prosecute those who assist in out-of-state abortions*, ALABAMA POLITICAL REPORTER, Sept. 15, 2022, https://www.alreporter.com/2022/09/15/alabama-ag-state-may-prosecute-those-who-assist-in-out-of-state-abortions/.

last summer when the Supreme Court decided *Dobbs*, the Legislature has passed more than a dozen laws to protect reproductive freedom, including laws that prohibit law enforcement from cooperating with out-of-state entities regarding abortions that are lawful in California.[10]

As shown in the PRA Records, the Department shares ALPR information with at least one law enforcement agency in an anti-abortion state. Sharing ALPR information with these agencies raises concerns in light of the recently enacted Assembly Bill No. 1242, which prohibits state and local public agencies from "cooperat[ing] with or provid[ing] information" to out-of-state agencies "regarding an abortion that is lawful under the laws of this state and that is performed in this state." Cal. Penal Code § 13778.2.

The sharing of ALPR information is harmful because it exposes the sensitive location information of drivers to misuse in states without California's privacy protections. The only way to prevent these harms and address these violations of the law is the terminate the out-of-state sharing.

Additionally, sharing ALPR information with out-of-state agencies undermines the California Constitution's long-standing protections for reproductive rights[11] and the values guiding state law, as set out in the legislative findings and declarations of the Reproductive Privacy Act:

> "The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that . . . [e]very woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion . . . [and t]he state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion[.]"

Cal. Health & Safety Code § 123462. These declared rights are undermined by Oakley sending ALPR information to out-of-state law enforcement agencies that may use it to investigate and punish people who seek abortion.

IV. The Department Should End the Illegal Sharing of ALPR Information and Any Further Use of ALPRs.

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[10] *See* Joe Garofoli, *Newsom signs California abortion protections into law following GOP push for a nationwide ban*, SAN FRANCISCO CHRONICAL, Sept. 27, 2022, https://www.sfchronicle.com/bayarea/article/Newsom-signs-California-abortion-protections-into-17470927.php; *New Protections for People Who Need Abortion Care and Birth Control*, OFFICE OF GOVERNOR GAVIN NEWSOM, Sept. 27, 2022, https://www.gov.ca.gov/2022/09/27/new-protections-for-people-who-need-abortion-care-and-birth-control/.

[11] *See* People v. Belous (1969) 71 Cal. 2d 954. The California Constitution was recently amended to expressly enumerate these long-standing protections. *See* Cal. Const. Art. 1, § 1.1 ("The state shall not deny or interfere with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion[.]") (*added Nov. 8, 2022, by Prop. 1. Res. Ch. 97, 2022. Effective Dec. 21, 2022*).

We urge the Department to investigate—and end—the sharing documented above. We ask that you provide proof in writing that such sharing has ended and any record reflecting the same. Cal. Const., art. I, § 3(b)(2); Gov't Code §§ 7920 et seq.

Further, the risks to civil liberties and civil rights that ALPR technology creates are well-documented. Even if the Department takes steps to prevent the formal sharing of data with out-of-state agencies, the risk of informal sharing with these same agencies will remain. Thus, the best way to ensure that Oakley's residents and visitors are safe from unnecessary intrusion into their personal lives is to reject the use of ALPR technology altogether.

We look forward to your prompt action and response by June 15, 2023. If you have any questions, please do not hesitate to reach out to Jennifer Pinsof at ALPR@eff.org.

Sincerely,

Jennifer Pinsof
Staff Attorney
Electronic Frontier Foundation

Matt Cagle
Senior Staff Attorney
ACLU Foundation of
Northern California

Mohammad Tajsar
Senior Staff Attorney
ACLU Foundation of
Southern California

cc: Attorney General Rob Bonta
Office of the Attorney General
California Department of Justice
1300 "I" Street
Sacramento, CA 95814-291

From:	ALPR
To:	Derek Cole; info
Subject:	Legal mail about ALPRs follow up
Date:	Thursday, November 2, 2023 9:58:01 AM
Attachments:	Oakley.pdf

CAUTION: This email originated from outside of Cole Huber LLP. Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

We write to follow up on the attached May 25, 2023 letter sent by the Electronic Frontier Foundation, ACLU of Northern California, and ACLU of Southern California concerning your jurisdiction's automated license plate reader (ALPR) information disclosure practices. The letter noted that public records show your agency is sharing ALPR information with out-of-state, federal, and/or private entities in violation of California law.

As you may know, the California Office of the Attorney General recently published an Information Bulletin (No. 2023-DLE-06) confirming that "SB 34 does not permit California [law enforcement agencies] to share ALPR information with private entities or out-of-state or federal agencies, including out-of-state and federal law enforcement agencies."

The Attorney General's Information Bulletin is clear. Your agency is violating California Civil Code § 1798.90.55(b) when it shares ALPR information with out-of-state or federal agencies.

Please confirm that you have stopped sharing ALPR information with out-of-state and federal agencies and private entitites. Also, pursuant to the California Public Records Act, please send a copy of your agency's current "Data Sharing Report." We look forward to your prompt response by November 16, 2023.

Sincerely,

Jennifer Pinsof
Staff Attorney
Electronic Frontier Foundation
ALPR@eff.org

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