



**CLAYTON CITY COUNCIL
REGULAR MEETING AGENDA**

**Tuesday, March 19, 2024
6:30 p.m.**

**Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517**

Zoom Videoconference and Call-in:

Webinar: <https://us02web.zoom.us/j/81342918951>

Telephone: 1 + (669) 900 - 9128 **Webinar ID:** 813 4291 8951

Jim Diaz, Mayor

Kim Trupiano, Vice Mayor

Peter Cloven, Councilmember

Holly Tillman, Councilmember

Jeff Wan, Councilmember

1. CALL TO ORDER AND ROLL CALL

2. CLOSED SESSION

- a. Public Employee Appointment (Gov. Code 54957)
Title: Interim City Manager

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENT ON NON - AGENDA ITEMS

Members of the public may address the City Council on non-agendized items within the Council's jurisdiction. To ensure an orderly meeting and an equal opportunity for everyone, each speaker is limited to three (3) minutes, or the time established by the Mayor. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked or may at its discretion request Staff to report back at a future meeting concerning the matter.

Public comment and input on other agenda items will be allowed when each item is considered by the Council.

5. CONSENT CALENDAR

Consent Calendar items are typically routine in nature and are considered for approval by one single motion. Members of the Council, audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question, discussion, or alternative action may request so through the Mayor.

- a. Approval of Meeting Minutes:
 - i. March 5, 2024, Regular Meeting
 - ii. March 8, 2024, Special Meeting
(City Clerk)
[\(View\)](#)
- b. Consider proclaiming the month of April as Autism Awareness Month and accepting the donation of an Autism Awareness flag to be flown during the month of April. (City Manager)
[\(View\)](#)
- c. Approve amendments to the Purchasing Policy to require an informational agenda item listing agreements signed under the City Manager's signing authority. (City Manager)
[\(View\)](#)
- d. Adopt a Resolution changing the amounts within various General Fund Reserve Assignments to support bridging operations to the November 2026 election, when the City Council plans to place a revenue measure on the ballot. (City Manager)
[\(View\)](#)
- e. Adopt a Resolution accepting the City's 2023 Housing Element Annual Progress Report (APR) and summary of actions related to implementation of other General Plan policies. (Community Development Director)
[\(View\)](#)

6. RECOGNITIONS AND PRESENTATIONS

- a. Certificates of Recognition to Public School Students for Exemplifying the "Do the Right Thing" Character Trait of "Self-Discipline" during the months of January/February 2024.
[\(View\)](#)

7. REPORTS

a. City Manager / Staff

- Link to ClearGov Transparency Portal:
<https://cleargov.com/california/contra-costa/city/clayton/checkbook>

8. PUBLIC HEARINGS

(There are no Public Hearings scheduled for this meeting.)

9. ACTION ITEMS

a. Receive a Staff update on the Interim City Manager and City Manager recruitment process, appoint a City Council ad hoc subcommittee to assist in the City Manager Recruitment Process for an Interim and Permanent City Manager, consider and approve an amendment to the Bob Murray Agreement for City Manager recruitment, and provide Staff direction as necessary. (Asst. to the City Manager/HR Manager)
[\(View\)](#)

b. Provide Direction to Staff on Initiating the Necessary Processes to Declare Portions of APN 118-370-077 and APN 118-520-001 as Surplus and Proceed with the Disposal of Said Property (City Manager)
[\(View\)](#)

10. COUNCIL ITEMS – Limited to Council requests and directives for future meetings.

11. COUNCIL REPORTS

12. ADJOURNMENT

The next regularly scheduled meeting of the City Council will be April 2, 2024.

Meeting Information and Access

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail and on the City's website at www.claytonca.gov
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.claytonca.gov
- Any writings or documents provided to a majority of the City Council after distribution of the agenda packet and regarding any public item on this agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours and is available for review on the City's website at www.claytonca.gov
- If you have a physical impairment requiring special accommodation to participate, please call the City Clerk's office at least 72 hours (about 3 days) before the meeting at (925) 673-7300.

Remote Access

The public may attend City Council meetings in-person or remotely via livestream on the City's website and through Zoom. As a courtesy, and technology permitting, members of the public may continue to provide live remote oral comment via the Zoom video conferencing platform. However, the City cannot guarantee that the public's access to teleconferencing technology will be uninterrupted, and technical difficulties may occur from time to time. Unless required by the Brown Act, the meeting will continue despite technical difficulties for participants using the teleconferencing option.

1. **Videoconference:** Click or visit the link on the front page of the meeting agenda. To access the webinar, you may download the Zoom client application or connect to the meeting in the web browser. You will be asked to enter your email address and name.

When the Mayor calls your item of interest, click the "raise hand" icon to be added to the speaker queue. The Clerk will identify you by name and you will hear "you have been unmuted" when it is your turn to provide public comment.

2. **Phone-in:** Dial the telephone number provided on the front page of the agenda. When prompted, enter the meeting ID. Once connected you will hear the meeting discussions but will remain muted. When your item of interest is called, please dial *9 to "raise hand" and be added to the speaker queue. The Clerk will identify you by the last 4-digits of your phone number and you will hear "you have been unmuted" when it is your turn to provide public comment. To toggle between mute/unmute on your device, please dial *6.

3. **E-mail Public Comments:** Public comment may also be sent to the City Clerk at cityclerk@claytonca.gov by 5:00 p.m. on the day of the meeting. All e-mailed public comments will be forwarded to the entire City Council and made part of the official meeting file.

Each person attending the meeting in-person, via videoconference, or call-in and who wishes to speak on an agenda item or non-agenda item (within the council's jurisdiction), shall have a set amount of time to speak as determined by the Mayor.

**MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL**

TUESDAY, March 5, 2024

1. **CALL TO ORDER AND ROLL CALL** – The meeting was called to order at 6:30 p.m. by Mayor Diaz held via a hybrid meeting format live in-person and Zoom videoconference and broadcast from Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, California. Councilmembers present: Mayor Diaz, Vice Mayor Trupiano, and Councilmembers Cloven, Tillman, and Wan. Staff present: City Manager, Bret Prebula; Asst. To City Manager/HR Manager, Amy Walcker; City Attorney, Mala Subramanian; and City Clerk, Stephanie Cabrera-Brown.

2. **PLEDGE OF ALLEGIANCE** – Led by Mayor Diaz.

Mayor Diaz announced that he would be re-ordering the agenda to move Item 5a City of Clayton's Incorporation 60th Anniversary proclamation, and Item 4b Certificate of Appreciation, ahead of Item 3, Public Comment.

3. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

Geneva Moss (Clayton Library) – Spoke regarding the Strategic Plan and Various Library programs.

Keith Haden - Spoke regarding staffing turnover and requested the Council

Tim Whitfield - Spoke regarding research on Senior Programs and support for the senior community.

Anita Stranick - Spoke regarding the importance of Senior Programs and supporting the whole community.

Rebecca Knowland - Spoke regarding the departure of the City Manager and the need for the Council to investigate the turnover rate.

Jim K. - Thanked Council for recognizing the Police Department and spoke regarding fire safety/Firewise community.

Ben Grover - Spoke regarding reducing car lanes in Dana Hills and road safety.

Gary Hood - Spoke regarding the 2/20/24 meeting and thanked the Council for forming the ad hoc committee to discuss Parking at the Olivia Project. Mr. Hood also requested information on what outreach will be done to engage residents.

Jeff Wilson (Rotary Club) - Spoke regarding upcoming Clayton Valley/Concord Sunrise Rotary Club events and projects planned for 2024.

Terri D. – Expressed gratitude to the City Manager and spoke in support of Councilmember Tillman’s request for an investigation.

Frank Gavidia – Spoke regarding the City Manager’s departure and spoke regarding previous City Managers.

4. CONSENT CALENDAR

It was moved by Councilmember Cloven, seconded by Councilmember Tillman, to approve the Consent Calendar items 4(a) – 4(d) as submitted. (Passed; 5- 0).

Mayor Diaz presented item 4d during Item 5a. Item 4d was voted on as part of the Consent Calendar.

- a. Approval of the February 6, 2024, meeting Minutes. (City Clerk)
- b. Direct the Clerk to prepare a Certificate of Appreciation for the Contra Costa Water District crew for restoring water service after the February 2024 outage.
- c. Accept the City Investment Portfolio Report for the second quarter of Fiscal Year 2023-2024 ending December 31, 2023. (Finance Director)
- d. Adopt Juneteenth as a City of Clayton holiday, recognizing the federal holiday adopted in 2021. (Executive Assistant to the City Manager/HR Manager)

5. RECOGNITIONS AND PRESENTATIONS

Mayor Diaz called Item 5a before Item 3.

- a. City of Clayton's Incorporation 60th Anniversary proclamation

Supervisor Ken Carlson presented a Certificate of Recognition to the City of Clayton and shared memories of the city.

Keith Hayden; Dan Richardson; C.W. Wolfe - Shared memories, spoke regarding what it means to live in Clayton, and shared ideas to foster growth and volunteerism in the community.

6. REPORTS

- a. City Manager / Staff

- Link to ClearGov Transparency Portal:
<https://cleargov.com/california/contra-costa/city/clayton/checkbook>

7. PUBLIC HEARINGS

(There were no Public Hearings scheduled for this meeting.)

8. ACTION ITEMS

- a. Review the Five-Year Financial Forecast for FY 2024-2028; Approve the Revised Reserve Policy; Approve a Resolution outlining the adjustment to Reserve Fund assignments and amounts; and Provide staff direction on moving forward with a 2024 revenue measure to be placed on the November 2024 ballot or move to austerity measures to balance the budget. (City Manager) **Resolution 7-2024**

City Manager Bret Prebula and Dan Matusiewicz (GovInvest) provided an overview of The Five-Year Financial Forecast, Resolution outlining adjustments to the Reserve Fund assignments, and requested direction.

Following discussion by the City Council, Mayor Diaz opened the item to public comment:

Erin Bennet - Spoke in support of the revenue measure.

Steve - spoke in support of the revenue measure.

Doug Rogers - Spoke against supporting a sales tax initiative and requested additional information on what was used to confirm we are not spending money elsewhere.

Ed Miller - Spoke in support of the initiative to support a sales tax measure.

Jim K - Spoke regarding pension costs and concerns with future projections.

Ben Grover - Spoke in support of the revenue measure and spoke regarding vacancies in the downtown area.

Christine - Spoke in support of the revenue measure.

Lauren Kindorf - Spoke in support of the revenue measure.

Mike Wells - Spoke in Support of the revenue measure.

Kevin McFarland - Spoke in support of the revenue measure.

Pete Laurence - Spoke regarding various matters.

The Mayor Divided the question.

Update on Forecast was heard.

It was moved by Councilmember Cloven, seconded by Councilmember Tillman, to Approve the Revised Reserve Policy. (Passed; 5- 0)

It was moved by Councilmember Tillman, seconded by Councilmember Cloven, to Adopt a Resolution outlining the adjustment to Reserve Fund assignments and amounts. (Passed; 5- 0)

It was moved by Councilmember Wan, seconded by Vice Mayor Trupiano, to Direct Staff to plan accordingly for a Fiscal Year 24-25 budget to provide appropriate resources needed to fund and successfully achieve a 2026 General Parcel Tax campaign, and move forward with a general parcel tax on the 2026 ballot.

(Passed; 4- 1; Ayes: Councilmembers: Wan and Cloven; Vice Mayor Trupiano; Mayor Diaz; No: Councilmember Tillman)

Motion to continue meeting beyond 11:00 p.m.

It was moved by Mayor Diaz, seconded by Councilmember Wan, to continue the meeting beyond 11:00 p.m. (Passed; 5- 0)

- b. Discussion on possible revisions to the Purchasing Policy as requested at the February 6, 2024 meeting. (City Manager)

City Manager Bret Prebula provided an overview of the February 6, 2024, meeting discussion and requested direction.

Following discussion by the City Council, Mayor Diaz opened the item to public comment; No one spoke during public comment.

It was moved by Councilmember Wan, seconded by Councilmember Cloven, to direct staff to return to the Council with a revised Purchasing Policy (Passed; 5- 0).

- 12. ADJOURNMENT** - on a call by Mayor Diaz, the City Council adjourned its meeting at 11:42 p.m.

Please note the Minutes of this meeting set forth all actions taken by the City Council on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.

Respectfully submitted,

Stephanie Cabrera-Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Jim Diaz, Mayor

**MINUTES
OF THE
SPECIAL MEETING
CLAYTON CITY COUNCIL**

FRIDAY, March 8, 2024

1. **CALL TO ORDER AND ROLL CALL** – The meeting was called to order at 4:00 p.m. by Mayor Diaz held via a hybrid meeting format live in-person and Zoom videoconference and broadcast from Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, California. Councilmembers present: Mayor Diaz, Vice Mayor Trupiano, and Councilmembers Cloven, and Tillman; Councilmembers absent: Councilmember Wan. Staff present: City Manager, Bret Prebula; Asst. To City Manager/HR Manager, Amy Walcker; and City Clerk, Stephanie Cabrera-Brown.

2. **PLEDGE OF ALLEGIANCE** – Led by Mayor Diaz.

3. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

Dan Miller – Spoke regarding the meeting time and departure of the City Manager

Doug Rogers- Spoke in support of the staff and shared disagreement with the Reserve Fund assignments.

Bill Jordan – Thanked the City Manager for his service.

Scott Denslow – Spoke regarding previous City Managers and concerns with the City Council.

Frank Gavidia – Spoke regarding various City Managers, staff and other matters.

Teri Denslow – Spoke in support of the staff and thanked the City Manager.

Lauren Kindorf – Spoke in support of the staff.

Roy Correa – spoke regarding various matters.

4. **ACTION ITEMS**

a. Discuss plan for interim and permanent recruitment of a City Manager (City Manager)

Asst. to the City Manager/HR Manager, Amy Walcker provided an overview of the Interim and Permanent recruitment of a City Manager and requested

direction.

Following discussion by the City Council, Mayor Diaz opened the item to public comment:

Ed Hartley - Spoke regarding the cost of the recruitments and would like community engagement in the hiring of a new City Manager.

Doug Rogers - Spoke regarding concerns with the roles of the City Council and City Manager.

Ed Miller - Spoke regarding various concerns with the turnover of City Managers.

Teri Denslow - Spoke regarding the importance of bringing on another City Manager.

Scott Denslow - Spoke regarding various matters regarding the City Manager turnover.

The Council provided staff with direction to engage with Bob Murray and Associates for the complimentary City Manager recruitment agreement, and to return to the Council with the estimated cost for an Interim City Manager recruitment.

It was moved by Councilmember Cloven, seconded by Vice Mayor Trupiano, to engage Bob Murray and Associates for the recruitment of a permanent City Manager. (Passed; 4-0-1; Absent: Councilmember Wan)

- 12. ADJOURNMENT** - on a call by Mayor Diaz, the City Council adjourned its meeting at 4:56 p.m.

Please note the Minutes of this meeting set forth all actions taken by the City Council on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.

Respectfully submitted,

Stephanie Cabrera-Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Jim Diaz, Mayor



City Council Agenda Item 5b

STAFF REPORT

TO: Honorable Mayor and Councilmembers

FROM: Bret Prebula, City Manager

DATE: March 19, 2024

SUBJECT: Consider proclaiming the month of April as Autism Awareness Month and accepting the donation of an Autism Awareness flag to be flown during the month of

RECOMMENDATION

Consider proclaiming the month of April as Autism Awareness Month and accepting the donation of an Autism Awareness flag to be flown during the month of April in accordance with City and U.S. flag regulations; and provide staff with direction on how to proceed with this and future request.

BACKGROUND

At the February 20, 2024, Meeting, Autism Awareness Advocate and parent, Allison Snow approached the council to request the City Council consider proclaiming the month of April Autism Awareness Month and offered to donate the autism awareness flag to be flown. Currently the city does not have a practice of making such proclamations and staff is seeking direction on how to proceed with such requests.

Autism Awareness Month is an important time to raise awareness about autism spectrum disorder and promote acceptance and inclusion of individuals with autism in our community. By proclaiming this month and flying the autism awareness flag, we can show our support for individuals and families affected by autism and educate the public about the importance of understanding and embracing neurodiversity.

DISCUSSION

This initiative aligns with our city's commitment to diversity, equity, and inclusion. By recognizing Autism Awareness Month and displaying the autism awareness flag, we can create a more inclusive and supportive environment for individuals with autism. It is a small yet meaningful gesture that can have a significant impact on promoting understanding and acceptance within our community.

Proclaiming Autism Awareness Month and flying the autism awareness flag are simple yet powerful ways to show our solidarity with the community. We urge the City Council to consider this proposal.

FISCAL IMPACT

There is no fiscal impact as the work hours needed to complete this project are already accounted for in the council budget.

CEQA IMPACT

None.

ATTACHMENTS

None.



City Council Agenda Item 5c

STAFF REPORT

TO: Honorable Mayor and Councilmembers
FROM: Bret Prebula, City Manager
DATE: March 19, 2024
SUBJECT: Approve Changes to the Purchasing Policy

RECOMMENDATION

Approve amendments to the Purchasing Policy to require an informational agenda item listing agreements signed under the City Manager's signing authority.

BACKGROUND

Staff has made the changes requested by City Council at the March 5, 2024, City Council meeting.

DISCUSSION

Staff has made the changes requested by City Council at the March 5, 2024, City Council meeting. In summary, the policy now requires the City Manager to bring an informational agenda item at the next reasonable City Council meeting when he/she approves a contract under their signing authority.

FISCAL IMPACT

There is no fiscal impact for the City Council to change the Purchasing Policy.

CEQA IMPACT

None.

ATTACHMENTS

1. Purchasing Policy Tracked
2. Purchasing Policy Clean

PURCHASING GUIDELINES POLICY
PURSUANT TO CLAYTON MUNICIPAL CODE CHAPTER 3.10.020

PURPOSE

The purpose of this Purchasing Guidelines Policy is to establish internal controls, responsibilities and authorization levels and other requirements related to purchasing goods and services for the City. This policy:

- establishes controls that identify clear authority and responsibility for purchasing activities;
- secures goods and services at the lowest cost commensurate with quality and other qualitative factors;
- ensures appropriate levels of competition and provides equal opportunity for all qualified vendors; and
- outlines the guidelines and principles that the City will follow to make environmentally preferable purchasing decisions.

This policy is adopted in accordance with Section 3.10.020 of the Clayton Municipal Code, as it may be amended from time to time.

PURCHASING OFFICER

The City Manager, or the City Manager's designee, is the City's purchasing officer, with the authority and the responsibility to:

1. Carry out the purchasing policies of the City,
2. Prepare or revise, in cooperation with each department, written standard specifications for purchases of goods, supplies, equipment, and services,
3. Purchase or contract for goods, supplies, equipment, and services required by City departments according to these purchasing procedures and such administrative regulations as the City Manager shall prescribe,
4. Obtain full and open a competition where required herein when purchasing or contracting for goods, supplies, equipment, and services,
5. Keep informed of current developments in the field of purchasing, prices, contracting for goods, supplies, equipment, and services,
6. Ensure the inspection of all supplies and equipment purchases to guarantee quality and conformance with City specifications,

7. Recommend the transfer of unused supplies and equipment between departments as needed,
8. Sell supplies and equipment that cannot be used by any department or that have become unsuitable for City use,
9. Maintain a contractor list in accordance with the procedures specified for Public Projects,
10. Maintain any and all necessary records for the efficient operation of the purchasing function.

PURCHASING AUTHORITY

There are three (3) levels of authority applicable for the purchase of goods, supplies, equipment, materials, professional and non-professional services, and public projects, which shall be delegated as follows:

- The City Manager is authorized to award or reject professional services agreements in an amount not to exceed thirty thousand dollars (\$30,000.00). The City Manager may approve amendments or change orders to existing professional services agreements so long as the cumulative total of the agreement does not exceed thirty thousand dollars (\$30,000.00).
- When the City Manager utilizes his/her signing authority for service contracts under \$30,000, he/she shall bring an informational agenda item to City Council at the earliest possible City Council meeting, outlining the vendor chosen and the purpose of the contract.
- Other than for Professional Services, the City Manager is authorized to award or reject purchases, agreements, contracts, bids, proposals, statements of qualifications, purchase orders, and public projects, in an amount not to exceed sixty thousand dollars (\$60,000.00). The City Manager may approve amendments or change orders to existing purchases, agreements, contracts, purchase orders, other than for professional services agreements and public projects, so long as the cumulative total of the contract (change order(s)/amendment(s) plus original contract amount) does not exceed sixty thousand dollars (\$60,000.00). The City Manager is authorized to award or reject change orders to contracts for public projects in an amount up to ten (10) percent of the original contract amount subject to City Council appropriation of funds.
- The City Council must award or reject purchases, agreements, contracts, bids, proposals, statements of qualifications, purchase orders, and public projects, in any amount that exceeds the City Manager's approval authority specified above.

MAINTENANCE AND GENERAL SERVICES

Maintenance services are routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes. Maintenance services also includes the types of work set forth in Public Contract Code section 22002(d), as it may be amended from time to time.

General services are any services that are typically physical or manual in nature and do not ordinarily require specialized higher education or equivalent credentials to perform.

Contracts for maintenance services and general services shall be procured pursuant to the following processes.

- Price checking is encouraged and should be documented: \$10,000.00 or less.
- Informal quote: \$10,000.01—\$60,000.00.
- Formal RFP/RFQ or Formal Bid: Over \$60,000.00.

GOODS, MATERIALS, SUPPLIES AND EQUIPMENT

Contracts for goods, materials, supplies and equipment shall be procured pursuant to the following processes:

- Price checking is encouraged and should be documented: \$10,000.00 or less.
- Informal quote: \$10,000.01—\$60,000.00.
- Formal RFP/RFQ or Formal Bid: Over \$60,000.00.

PROFESSIONAL SERVICES

Professional services include services provided to the City by specially trained and experienced individuals related to economic, financial, engineering, planning, architectural, environmental, legal, administrative, or other similar services. Contracts for professional services shall be procured pursuant to the following processes:

- Assess best value/qualifications: \$10,000.00 or less.
- Informal quote: \$10,000.01—\$60,000.00.
- Formal RFP/RFQ: Over \$60,000.00.

PUBLIC PROJECTS

Public Projects shall be procured in accordance with Section 3.10.060 of the Clayton Municipal Code, as it may be amended from time to time. For ease of reference, those procedures are restated herein, but will be superseded by any future update of the Clayton Municipal Code that creates a conflict with the provisions specified hereunder.

- A. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:
1. "Act" means the Uniform Public Construction Cost Accounting Act (California Public Contracts Code Section 22000 *et seq.*).
 2. "City" means the City of Clayton.
 3. "Commission" means the California Uniform Construction Cost Accounting Commission. "Public project" has the meaning assigned to it under Public Contract Code Section 22002, as it may be amended from time to time.
- B. Public Project Contracting Procedures. The City shall follow the contracting procedures set forth in Article 3 of the Act (Public Contract Code Section 22030 *et seq.*).
- C. Contractors List. The City Manager, or his or her designee, shall compile and maintain a list of qualified contractors identified according to categories of work. This list shall comply with the requirements of the Act and the criteria promulgated, from time to time, by the Commission.
- D. Informal Bidding.
1. When a public project is to be performed which qualifies for informal bidding, notice of such project shall be given as follows except where the product or service is proprietary:
 - a. Notice shall be sent to all contractors on the contractors list for the category of work being bid or notice shall be given to all construction trade journals specified by the Commission for the receipt of such notice for Contra Costa County; and
 - b. Additional notice to other contractors and/or trade journals may, in the discretion of the City, be given.
 2. If the product or service to be acquired is proprietary in nature such that it can only be obtained from a certain contractor or contractors, notice inviting bids may be sent only to such contractor or contractors in accordance with Public Contract Code section 3400 *et seq.*
 3. All mailing of notices to contractors and/or construction trade journals shall be completed not less than ten days before bids are due.
 4. The notice shall describe the project in general terms, how to obtain more detailed information about the project and shall state the time and place for submission of bids.

E. Formal Bidding.

1. When a public project is to be performed which qualifies for formal bidding, notice of such project shall be given as follows except where the product or service is proprietary:
 - a. Notice shall be given to all construction trade journals specified by the Commission for the receipt of such notice for Contra Costa County and notice shall be published in a newspaper of general circulation printed and published or circulated in the City; and
 - b. Additional notice to other contractors and/or trade journals may, in the discretion of the City, be given.
2. If the product or service to be acquired is proprietary in nature such that it can only be obtained from a certain contractor or contractors, notice inviting bids may be sent only to such contractor or contractors in accordance with Public Contract Code section 3400 *et seq.*
3. All notices to construction trade journals shall be completed not less than fifteen days before bids are due. All notices shall be published in a newspaper of general circulation not less than fourteen days before bids are due.
4. The notice shall describe the project in general terms, how to obtain more detailed information about the project and shall state the time and place for submission of bids.

F. Award of Contracts. The City Manager is authorized to award contracts for public projects up to the amount specified in this policy. The City Council shall award all contracts in excess of the foregoing amount.

G. Rejection of Bids. The City Manager or the City Council, as the case may be, may, in the City Manager's or City Council's discretion, reject all bids and proceed as authorized by the Act.

H. Emergencies. Emergency work shall be contracted for in accordance with Public Contract Code Sections 22035 and 22050.

INFORMAL QUOTE PROCESS

The informal quote process shall follow, at a minimum, the following guidelines.

- A. Minimum Number of Quotes. Selection of a vendor based on the informal quote process shall, whenever possible, be based on at least three (3) quotes.

- B. **Soliciting Quotes.** The originating department shall solicit quotes from prospective vendors by written or verbal requests.
- C. **Award of Contract.** Informal quote-based purchases shall be awarded to the vendor presenting a quote that is in the City's best interests as determined by the purchasing officer. Contracts for professional services shall be awarded on the basis of demonstrated competence and professional qualifications. The purchasing officer may reject all quotes received in its discretion.
- D. **Additional Procurement Requirements.** In circumstances where more restrictive requirements apply (e.g., grant funding requirements), the City will follow the more restrictive requirements to the extent required by the external source of procurement requirements.

FORMAL REQUEST FOR PROPOSAL OR REQUEST FOR QUALIFICATIONS PROCESS

The formal RFP or RFQ process shall follow, at a minimum, the following guidelines.

- A. **Preparing RFP or RFQ.** The originating department shall prepare the RFP or RFQ, which shall contain, among other details, scope of the problem or objective, a general description of the goods or services to be purchased, anticipated schedule, proposal or SOQ evaluation factors, City expectations, limitations, contractual requirements, types of experience and qualifications considered in the evaluation, and other requirements specific to the procurement scope.
- B. **Solicitation Requirements.** In issuing the RFP or RFQ, the originating department shall prepare a list of at least three (3) potential vendors to receive the RFP or RFQ, and where deemed appropriate by the purchasing officer, advertise the RFP or RFQ in a local newspaper of general circulation or other forums. The City shall allow a reasonable length of time, based on the complexity and size of the project, between solicitation and closing dates to provide potential respondents time to respond.
- C. **Distribution of Responses.** All proposals or SOQs received by the City in response to an RFP or RFQ shall be time stamped either manually or electronically and submitted to the originating department for review.
- D. **Evaluation.** Proposals or SOQs shall be evaluated by a selection committee, appointed by the department head of the originating department, subject to the approval of the purchasing officer, based upon the evaluation criteria specified in the RFP or RFQ.
- E. **Award of Contract.** Contract award, if made, shall be made based upon the terms of the RFP or RFQ. The City Council, or its designee, may award a contract and reject all or any proposals or SOQs in its discretion.

- F. Specified Professional Services. If the RFP or RFQ is for the procurement of professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature, the evaluation factors must address the demonstrated competence and professional qualifications of the respondents and ensure the cost is reasonable.
- G. Additional Procurement Requirements. In circumstances where more restrictive requirements apply (e.g., grant funding requirements), the City will follow the more restrictive requirements to the extent required by the external source of procurement requirements.

FORMAL BIDDING PROCESS

The formal bidding process shall follow, at a minimum, the following guidelines.

- A. Notice Inviting Bids. Notice inviting bids shall include: (i) a general description of the goods or services to be procured; (ii) where bid forms and specifications may be obtained; and (iii) the date, time, and place for opening of the bids. The publication or posting of the notice inviting bids either electronically or in hard copy shall be conducted at least ten (10) days before the date of opening bids unless the purchasing officer deems a shorter or longer period of solicitation is necessary based on applicable circumstances.
- B. Bid Security. When deemed necessary by the purchasing officer, bid security may be prescribed in the notice inviting bids. Bidders shall be entitled to the return of bid security; provided, however, a successful bidder shall forfeit his or her bid security upon his refusal or failure to execute the contract within the time specified in the bid documents following award of the contract, unless the City is solely responsible for the delay in executing the contract. The Purchasing Officer or originating department, on the refusal or failure of the successful bidder to execute the contract, may award it to the next lowest responsible bidder submitting a responsive bid.
- C. Bid Opening. Sealed bids shall be submitted in accordance with the requirements of the notice inviting bids and shall be clearly identified as a response to a particular bid solicitation. Upon receipt, the City shall date and time stamp the bid package either electronically or manually. Bids shall be opened in public either in a physical or electronic setting at the time and place stated in the notice inviting bids.
- D. Rejection of Bids. In its discretion, the City Council, or its designee, may reject any and all bids, accept or reject any one or more items of a bid, or waive any irregularities or informalities in the bids or the bidding process if to do so is deemed to best serve the interests of the City. If, after the first invitation of bids, all bids are rejected, the City may elect to re-advertise for bids pursuant to the procedure prescribed in this section or have the project done by any alternative means.
- E. Award of Contract. Contract award, if made, shall be made by the City Council to the lowest responsible bidder submitting a responsive bid.

- F. Tie Bids. If two (2) or more bids received are for the same total amount, with quality being equal, the City Council may accept the bid it chooses or accept the lowest bid made after negotiation with the tied bidders.
- G. Additional Procurement Requirements. In circumstances where more restrictive requirements apply (e.g., grant funding requirements), the City will follow the more restrictive requirements to the extent required by the external source of procurement requirements.

EXCEPTIONS TO COMPETITIVE PROCUREMENT REQUIREMENTS

As an exception to the procurement procedures in these guidelines, purchases may be made without engaging in the competitive procurement procedures set forth herein, except for Public Projects, when the City Manager or City Council (subject to the dollar limits in these guidelines) approve of such non-competitive procurement under any of the following circumstances:

- A. Where the procurement of goods, supplies, equipment, materials, or services is necessitated by reason of emergency circumstances where the procurement is required to prevent the immediate interruption or cessation of necessary City services or to safeguard life, property, or the public health and welfare.
- B. Where (1) it is in the City's best interests to rely upon a contract procured by another public agency; (2) a competitive procurement procedure has been conducted for that contract by the public agency (i.e., another local agency, the State through the California Multiple Award Schedule (CMAS), the federal government through the General Services Administration (GSA), or a joint powers agency, authority or alliance that procures competitive contracts); and (3) the price and terms to the City are equal to or better than the price and terms to that public agency.
- C. When only one known source of the goods, supplies, equipment, materials, or services is available. For example, where a particular piece of equipment is of a specialized nature and may only be obtained from one known vendor.
- D. When the procurement is for (1) utility services; (2) services necessary to conduct City meetings or events; (3) IT related services; (4) banking services; (5) the acquisition, lease or rental of real property; (6) services and equipment necessary to maintain standardization with existing services or equipment utilized by the City or 7) services that are paid through a developer deposit on private development projects or other pass-through services.
- E. If competitive procurement would not produce an advantage, or it is impracticable to obtain what is required because of the unique nature of the procurement.
- F. Where it is in the best interests of the City to do so as otherwise permitted by applicable law.

Prior to award of a contract under any of the foregoing exceptions, the City Manager shall certify that the contract is exempt from competitive procurement and shall set forth in the certification reasons for that determination.

ENVIRONMENTALLY PREFERRED PURCHASING (EPP) POLICY

- A. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:
1. "Agricultural Bio-Based Products" means commercial or industrial products (other than food or feed) that utilize agricultural crops or residues but does not include products made from forestry materials.
 2. "Annual Recovered Organic Waste Product Procurement Target" means the amount of Organic Waste in the form of a Recovered Organic Waste Product that the City is required to procure annually, based on population.
 3. "Buyer" means anyone authorized to purchase or contract for purchases on behalf of this jurisdiction or its subdivisions.
 4. "Chlorine free" means products processed without chlorine or chlorine derivatives.
 5. "Compost (SB 1383 Eligible)" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility or as otherwise defined in 14 CCR Section 17896.2(a)(4).
 6. "Compostable" means material that is biodegradable during composting to yield carbon dioxide, water and inorganic compounds, and biomass at a rate consistent with other known compostable materials and leaves no visually distinguishable or toxic residues.
 7. "Contractor" means any person, group of persons, business, consultant, designing architect, association, partnership, corporation, supplier, vendor, or other entity that has a contract with the City or serves in a subcontracting capacity with an entity having a contract with the City for the provision of goods or services.
 8. "Direct Service Provider" means a person, company, agency, contractor, or other entity that provides a service or services to the City through a contractual or other written agreement or as otherwise defined in 14 CCR Section 18982(a)(17).
 9. "Dioxins and furans" are a group of chemical compounds that are classified as persistent, bioaccumulative, and toxic by the Environmental Protection Agency.

10. "Electricity Procured from Biomass Conversion" means electricity generated from biomass facilities that convert recovered Organic Waste, such as landscaping waste from the municipal stream, into electricity, and is therefore eligible to meet the City's Annual Recovered Organic Waste Product Procurement Target.
11. "Energy Star" means the U.S. EPA's energy efficiency product labeling program.
12. "Energy Efficient Product" means a product that is in the upper 25% of energy efficiency for all similar products, or that is at least 10% more efficient than the minimum level that meets Federal standards.
13. "Federal Energy Management Program" is a program of the Department of Energy that issues a series of Product Energy Efficiency Recommendations that identify recommended efficiency levels for energy-using products.
14. The "Forest Stewardship Council" is a global organization that certifies responsible, on- the-ground forest management according to rigorous standards developed by a broad variety of stakeholder groups.
15. "Integrated Pest Management (IPM)" is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.
16. "LEED™ Rating System" means the most recent version of the Leadership in Energy and Environmental Design (LEED) Rating System, approved by the U.S. Green Building Council, and designed for rating new and existing commercial, institutional, and residential buildings.
17. "Organic Pest Management" prohibits the use and application of toxic chemical pesticides and strives to prevent pest problems through the application of natural, organic horticultural and maintenance practices. All pest control products shall be in keeping with, but not limited to, those products on the approved list of California Certified Organic Foods (CCOF).
18. "Organic Waste" means solid waste containing material originated from living organisms and their metabolic waste products including, but not limited to, food, yard trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as

- otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.
19. "Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).
 20. "Postconsumer Material" means a finished material which would normally be disposed of as a solid waste, having reached its intended end-use and completed its life cycle as a consumer item, and does not include manufacturing or converting wastes.
 21. "Practical" and "Practicable" mean whenever possible and compatible with local, state, and federal law, without reducing safety, quality, or effectiveness and where the product or service is available at a reasonable cost in a reasonable period of time.
 22. "Preconsumer Material" means material or by-products generated after manufacture of a product is completed but before the product reaches the end-use consumer. Preconsumer material does not include mill and manufacturing trim, scrap, or broke which is generated at a manufacturing site and commonly reused on-site in the same or another manufacturing process.
 23. "Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).
 24. "Procurement of Recovered Organic Waste Products" shall mean purchase or acquisition of (e.g., free delivery or free distribution from a hauler or other entity via a written agreement or contract) Organic Waste Products and end use by the City. The City's Annual Recovered Organic Waste Product Procurement Target can be fulfilled directly by the City or by Direct Service Providers through written contracts or agreements for Procurement of Recovered Organic Waste Products at the City's behest.
 25. "Proposition 65" means a list of chemicals that are known to the State of California to cause cancer, birth defects or other reproductive harm.
 26. "Recordkeeping" means the system established by this policy and the General Services and Administrative Services departments used to track procurement and maintain records that includes Recovered Organic Waste Product procurement efforts by the City.

27. "Recovered Material" means fragments of products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value and includes preconsumer and postconsumer material but does not include excess resources of the manufacturing process.
28. "Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper" means such products that consist of at least thirty percent (30%) recycled materials, by fiber weight, post-consumer fiber, or as-much as one hundred percent (100%) post-consumer fiber by fiber weight, consistent with the requirements of Sections 22150 to 22154 and Sections 12200 and 12209 of the Public Contract Code, as they may be amended from time to time; and:
- a. Printing and writing paper shall consist of at least 30 percent, by fiber weight, postconsumer fiber
 - b. Other paper products shall consist of at least 30 percent, by fiber weight, of postconsumer recycled content fiber, except as specified below:
 - c. Toilet paper shall consist of at least 45 percent, by fiber weight, postconsumer recycled content fiber
 - d. Paper towels shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
 - e. Facial tissue shall consist of at least 10 percent, by fiber weight, postconsumer recycled content fiber
 - f. Toilet seat covers shall consist of at least 20 percent, by fiber weight, postconsumer recycled content fiber
 - g. General purpose paper wipers shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
 - h. Food serviceware, including but not limited to, napkins, plates, bowls, food trays, takeout boxes, placemats, etc. shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber.
29. "Recycled Content" means the percentage of recovered material, including preconsumer and postconsumer materials, in a product.
30. "Recycled Content Standard" means the minimum level of recovered material and/or postconsumer material necessary for products to qualify as "recycled products."
31. "Recycled Material" means material and byproducts that have been recovered or diverted from solid waste and have been utilized in place of raw or virgin material in manufacturing a product. It is derived from post-consumer recycled material, manufacturing waste, industrial scrap, agricultural waste, and other waste material, but does not include material or byproducts generated from, and commonly reused within, an original manufacturing process.
32. "Recycled Product" means a product that meets the City's recycled content policy objectives for postconsumer and recovered material.

33. "Remanufactured Product" means any product diverted from the supply of discarded materials by refurbishing and marketing said product without substantial change to its original form.
34. "Renewable Gas" means gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by the State, or as otherwise defined in 14 CCR Section 18982(a)(62).
35. "Reused Product" means any product designed to be used many times for the same or other purposes without additional processing except for specific requirements such as cleaning, painting or minor repairs.
36. "SB 1383" means Senate Bill 1383 approved by the Governor on September 19, 2016, which establishes methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced.
37. "SB 1383 Eligible Compost" means the product resulting from the controlled biological decomposition of organic solid wastes that is produced at an approved facility and in such a way that makes it eligible to meet the Annual Recovered Organic Waste Product Procurement Target, as defined by CalRecycle.
38. "SB 1383 Eligible Mulch" means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4): Must meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR 17852(a)(24.5)(A) 1 through 3 and must be produced at one of the following facilities:
- a. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR 17852(a)(10);
 - b. A transfer/processing facility or transfer/processing operation as defined in 14 CCR 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,
 - c. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
39. "SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations

developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

40. "Source Reduction" refers to products that result in a net reduction in the generation of waste compared to their previous or alternate version and includes durable, reusable, and remanufactured products; products with no, or reduced, toxic constituents; and products marketed with no, or reduced, packaging.
41. The "Toxics Release Inventory" (TRI) is a publicly available U.S. EPA database that contains information on toxic chemical releases and other waste management activities reported annually by certain covered industry groups as well as federal facilities.
42. "U.S. EPA Guidelines" means the Comprehensive Procurement Guidelines established by the U.S. Environmental Protection Agency for federal agency purchases as of May 2002 and any subsequent versions adopted.
43. "Vendor" means a person or company who provides goods or services. A vendor can also be referred to as a supplier or direct service provider.
44. "Water-Saving Products" are those that are in the upper 25% of water conservation for all similar products, or at least 10% more water-conserving than the minimum level that meets the Federal standards.

EPP POLICY ELEMENTS

The City of Clayton is committed to responsible and sustainable procurement practices. This provision of the Purchasing Guidelines Policy is established to ensure that all procurement activities undertaken by the City are conducted in accordance with the guidelines provided by CalRecycle and the California Department of General Services (DGS) Environmental Purchasing Program (EPP) and comply with State requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383 procurement regulations (14 CCR § 18992 et seq.)) to procure a specified amount of Recovered Organic Waste Products, to purchase Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper.

The City's goal is to create a model for successfully purchasing environmentally preferable products that encourages other purchasers in our community to adopt similar goals. This policy aims to promote environmentally preferable purchasing (EPP) of goods and services while maintaining cost-effectiveness, transparency, and compliance with all applicable laws and regulations.

SCOPE

This policy applies to all City of Clayton departments, employees, and contractors involved in procurement activities, including the acquisition of goods and services.

EPP PRINCIPLES

The City of Clayton shall adhere to the following EPP principles as outlined by the DGS:

- A. **Sustainable Sourcing:** The city shall prioritize the procurement of goods and services that are produced, manufactured, and sourced in a sustainable and environmentally responsible manner.
- B. **Energy Efficiency:** The city shall give preference to products and services that are energy-efficient and contribute to the reduction of greenhouse gas emissions.
- C. **Resource Conservation:** The city shall seek products and services that promote resource conservation, including the use of recycled, reused, or remanufactured materials whenever possible.
- D. **Pollution Prevention:** The city shall prioritize goods and services that minimize or eliminate the release of hazardous substances and pollutants into the environment.
- E. **Local Sourcing:** Whenever feasible and cost-effective, the City shall support local businesses and communities by procuring goods and services from local suppliers.

PROCUREMENT PROCESS

- A. **Needs Assessment:** Prior to initiating any procurement, departments shall assess their needs and consider if environmentally preferable options are available.
- B. **Vendor Selection:** Departments shall evaluate potential vendors based on their commitment to EPP principles and their ability to provide environmentally preferable products and services.
- C. **Cost-Effectiveness:** While promoting EPP, departments must ensure that the selected goods and services remain cost-effective and meet the City's budgetary constraints.
- D. **Documentation:** All procurement decisions and justifications for selecting vendors and products based on EPP principles shall be documented and maintained for auditing purposes and will follow the Record Keeping practices as outlined in this Policy.

COMPLIANCE AND MONITORING

- A. Reporting and Record Keeping: Departments shall report their EPP efforts regularly to the City Manager's Office.
- B. Auditing: The City shall periodically conduct audits to ensure compliance with this policy and make improvements where necessary.

EDUCATION AND TRAINING

The City of Clayton shall provide education and training opportunities to employees involved in the procurement process to ensure a comprehensive understanding of EPP principles and their application.

EXCEPTIONS

Exceptions to this policy may be granted on a case-by-case basis by the City Manager, or his or her designee, when compliance is not feasible due to specific circumstances.

REVIEW AND REVISION

This Purchasing Policy shall be reviewed periodically to assess its effectiveness and relevance. The policy shall be revised as necessary to align with evolving EPP guidelines and best practices.

IMPLEMENTATION

This policy shall take effect immediately upon approval and shall be communicated to all staff of the City of Clayton.

SPECIFICATIONS

A. Source Reduction

1. The City of Clayton shall institute practices that reduce waste and result in the purchase of fewer products whenever practicable and cost-effective, but without reducing safety or workplace quality.
2. The City of Clayton shall purchase remanufactured products such as laser toner cartridges, tires, furniture, equipment and automotive parts whenever practicable, but without reducing safety, quality or effectiveness.
3. The City of Clayton shall require all equipment bought after the adoption of this policy to be compatible with source reduction goals as referred to in this section, when practicable.

4. All purchasers shall consider short-term and long-term costs in comparing product alternatives, when feasible. This includes evaluation of total costs expected during the time a product is owned, including, but not limited to, acquisition, extended warranties, operation, supplies, maintenance, disposal costs and expected lifetime compared to other alternatives.
5. Products that are durable, long lasting, reusable or refillable are preferred whenever feasible.
6. The City requests vendors to eliminate packaging or use the minimum amount necessary for product protection, to the greatest extent practicable.
7. Packaging that is reusable, recyclable or compostable is preferred, when suitable uses and programs exist.
8. Vendors shall be encouraged to take back and reuse pallets and packaging materials.
9. Suppliers of electronic equipment, including but not limited to computers, monitors, printers, and copiers, shall be required to take back equipment for reuse or environmentally safe recycling when the City discards or replaces such equipment, whenever possible.

B. Recycled Content Products

1. All products for which the United States Environmental Protection Agency (U.S. EPA) has established minimum recycled content standard guidelines, such as those for printing paper, office paper, janitorial paper, construction, landscaping, parks and recreation, transportation, vehicles, miscellaneous, and non-paper office products, shall contain the highest postconsumer content practicable, but no less than the minimum recycled content standards established by the U.S. EPA Guidelines.
2. Consistent with Public Contracting Code 22150, if fitness, quality, and price of Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper are equal to that of non-recycled items, all departments and divisions of the City shall purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper, as defined in the Definitions section of this Policy, whenever available at the same or a lesser total cost than non-recycled items, consistent with the requirements of the Public Contracts Code, Sections 22150 through 22154 and Sections 12200 and 12209, as they may be amended from time to time.

3. All Paper Products and Printing and Writing Paper shall be eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
4. Records must be maintained by the City of all Paper Products and Printing and Writing Paper purchases on a schedule to be determined by the City Manager, or his or her designee, and not less than annually (both recycled-content and non-recycled content, if any is purchased) for all purchases made by a division or department or employee of the City.
5. All vendors that provide Paper Products (including janitorial Paper Products) and Printing and Writing Paper to the City shall:
 - a. Provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper, as defined in the Definitions section of this Policy, if fitness and quality are equal to that of non-recycled item, and the product is available at equal or lesser price.
 - b. Certify in writing the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products and/or Printing and Writing Paper can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
 - c. Only provide Paper Products and Printing and Writing Papers that meet Federal Trade Commission Recyclability standard as defined in Title 16 Code of Federal Regulations Section 260.12 (2013) (relating to correct labeling and marketing of products).
 - d. Provide records to the Purchaser for all Paper Products and Printing and Writing Paper on a schedule to be determined by the City Manager, or his or her designee.
 - e. All vendors providing printing services to the City via a printing contract or written agreement, shall use Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, if fitness and quality are equal to that of non-recycled item, and the product is available at equal or lesser price, or as amended by Public Contract Code Section 12209.
6. Copiers and printers bought shall be compatible with the use of recycled content products.

7. When specifying asphalt concrete, aggregate base or portland cement concrete for road construction projects, the City shall use recycled, reusable, or reground materials when practicable.
8. The City shall specify and purchase recycled content transportation products, including signs, cones, parking stops, delineators, and barricades when practicable.

C. Gas and Oil Procurement

1. For Renewable Gas procurement (used for fuel for transportation, electricity, or heating applications), the City shall:
 - a. Procure Renewable Gas made from recovered Organic Waste for transportation fuel, electricity, and heating applications to the degree that it is appropriate and available for the City.
 - b. Keep records in the same manner indicated in the Record Keeping section of this Policy for the amount of Renewable Gas procured and used by the City, including the general procurement record information specified in the Record Keeping section of this Policy, and ensure documentation is on file in the central filing location and on a schedule as determined by the City Manager, or his or her designee, and not less than annually.
2. Per California Public Contract Code, Section. 10409, the City shall purchase re-refined lubricating and industrial oil for use in its vehicles and other equipment, as long as it is certified by the American Petroleum Institute (API) as appropriate for use in such equipment.

D. Energy and Water Savings

1. Where applicable and practicable, energy-efficient equipment shall be purchased with the most up-to-date energy efficiency functions. This includes, but is not limited to, high efficiency space heating systems and high efficiency space cooling equipment.
2. When practicable, the City shall replace inefficient lighting with energy- efficient equipment.
3. All products purchased by the City and for which the U. S. EPA Energy Star certification is available shall meet Energy Star certification, when practicable. When Energy Star labels are not available, purchasing agents shall choose energy-efficient products that are in the upper 25% of energy efficiency as designated by the Federal Energy Management Program (FEMA).

4. The City shall purchase water-saving products whenever practicable.

E. Green Building - Construction and Renovations

1. All building and renovations undertaken by the City shall follow Green Building Practices for design, construction, and operation, where appropriate, as described in the LEED™ Rating System, meet California Green Building Standards Code, Part 11, Title 24, California Code of Regulations (CalGreen) and California's Model Water Efficient Landscape Ordinance (MWELO) requirements. Building and landscaping products, purchases, and use by the City shall be consistent with CalGreen and MWELO requirements.

F. Landscaping

1. All landscape renovations, construction and maintenance by the City, including workers and contractors providing landscaping services for the City, shall employ sustainable landscape management techniques for design, construction, and maintenance whenever possible, including, but not limited to, integrated pest management, grasscycling, drip irrigation, composting, and procurement and use of mulch and compost.

2. The City, including through its Direct Service Providers, will make every effort to meet its annual procurement target for Recovered Organic Waste Products as determined by the State. Periodically, the City shall distribute information to City Staff on the Procurement target and specific products that meet SB 1383 procurement requirements. Divisions and departments responsible for landscaping maintenance, compost giveaways or other types of compost distribution shall:

a. Use SB 1383 Eligible Compost and SB 1383 Eligible Mulch produced from recovered Organic Waste, as defined in the Definitions section of this Policy, for landscaping maintenance as practicable, whenever available, and capable of meeting quality standards and criteria specified.

b. Ensure that SB 1383 Eligible Mulch producers annually certify that the mulch meets the definition contained in the Definitions section of this Policy through the following:

- i. Copy of operation or facility permit or authorization; and
- ii. Copy of laboratory results confirming the mulch meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Section 17852(a)(24.5)(A) 1 through 3.

Failure to provide the applicable certification documents on an annual basis or at the request of the City will result in the mulch no longer being eligible as a recovered organic waste product under this procurement policy.

3. Keep records, including invoices or proof of Recovered Organic Waste Product procurement (either through purchase or acquisition), and submit records to the City Manager, or his or her designee, either directly or via a centralized file location on a schedule to be determined by City Manager, or his or her designee, and not less than annually. General Procurement Records shall include:
 - a. General description of how and where the product was used and applied, if applicable;
 - b. Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;
 - c. Type of product;
 - d. Quantity of each product; and,
 - e. Invoice or other record demonstrating purchase or procurement.
4. For Compost and SB 1383 Eligible Mulch provided to residents through giveaway events or other types of distribution methods, keep records of the Compost and SB 1383 Eligible Mulch provided to residents. Records shall be maintained and submitted to the City Manager, or his or her designee, either directly or via a centralized file location in accordance with the requirements specified in the Record Keeping section of this Policy.
5. When a Direct Service Provider for the City procures compost or mulch, the City will enter into a written contract or agreement, or execute a purchase order between the City and Direct Service Provider with enforceable provisions that include:
 - a. Definitions and specifications for SB 1383 Eligible Mulch, Compost, Renewable Gas, and/or Electricity Procured from Biomass Conversion; and,
 - b. An enforcement mechanism (e.g., termination, liquidated damages) in the event the Direct Service Provider is not compliant with the requirements.
6. Ensure that projects subject to California's MWELO that will be used to meet the annual recovered organic waste product procurement target comply with CCR Title 23, Division 2, Chapter 2.7, Sections 492.6 (a)(3)(B), (C), (D), and (G).
7. Plants should be selected to minimize waste by choosing species for purchase that are appropriate to the microclimate, species that can grow to their natural

size in the space allotted them, and perennials rather than annuals for color when practicable. Native and drought-tolerant plants that require no or minimal watering once established are preferred.

8. Hardscapes and landscape structures constructed of recycled content materials are encouraged. The City shall limit the amount of impervious surfaces in the landscape, wherever practicable. Permeable substitutes, such as permeable asphalt or pavers, are encouraged for walkways, patios, and driveways.

G. Toxics and Pollution

1. To the extent practicable, no cleaning or disinfecting products (i.e., for janitorial or automotive use) shall contain ingredients that are carcinogens, mutagens, or teratogens. These include chemicals listed by the U.S. E.P.A. or the National Institute for Occupational Safety and Health on the Toxics Release Inventory and those listed under Proposition 65 by the California Office of Environmental Health Hazard Assessment.
2. The use of chlorofluorocarbon-containing refrigerants, solvents and other products shall be phased out and new purchases shall not contain them.
3. All surfactants and detergents shall be readily biodegradable and, where practicable, shall not contain phosphates.
4. When maintaining buildings and landscapes, the City shall manage pest problems through prevention and physical, mechanical and biological controls where practicable. The City may implement pest management practices using the least toxic pest control as a last resort.
5. When maintaining buildings, the City shall use products with the lowest amount of volatile organic compounds (VOCs), highest recycled content, and low or no formaldehyde when purchasing materials such as paint, carpeting, adhesives, furniture and casework as practicable.
6. The City shall reduce or eliminate its use of products that contribute to the formation of dioxins and furans. This includes, but is not limited to:
 - a. Purchasing paper, paper products, and janitorial paper products that are unbleached or that are processed without chlorine or chlorine derivatives, whenever possible.
 - b. Prohibiting purchase of products that use polyvinyl chloride (PVC) such as, but not limited to, office binders, furniture, flooring, and medical supplies whenever practicable.
7. The City shall purchase products and equipment with no lead or mercury whenever possible. For products that contain lead or mercury, the City shall

give preference to those products with lower quantities of these metals and to vendors with established lead and mercury recovery programs.

8. When replacing vehicles, the City shall consider less-polluting alternatives to diesel such as compressed natural gas, renewable natural gas (RNG), biobased fuels, hybrids, electric batteries, and fuel cells, as available.

H. Forest Conservation

1. To the greatest extent practicable, the City shall not procure wood products such as lumber and paper that originate from forests harvested in an environmentally unsustainable manner. When possible, the City shall give preference to wood products that are certified to be sustainably harvested by a comprehensive, performance-based certification system.

I. Agricultural Bio-Based Products

1. Vehicle fuels made from non-wood, plant-based contents such as vegetable oils are encouraged whenever practicable.
2. Paper, paper products and construction products made from non-wood, plant-based contents such as agricultural crops and residues are encouraged whenever practicable.

J. Record Keeping

1. Each purchasing agent is responsible to provide documentation required by SB 1383 directly to the City Manager, or his or her designee, or to file required documentation of purchases subject to SB 1383 in the centralized file location as designated by the City Manager, or his or her designee. The City Manager, or his or her designee, will be responsible for monitoring and reporting functions related to record-keeping pertaining to Procurement of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper. The City Manager, or his or her designee, will do the following to track Procurement of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper:
 - a. Ensure the centralized file location designated by the City Manager, or his or her designee, includes electronic copies of invoices or receipts (paper copies shall be scanned to the designated file location) or other proof of purchase that describe the procurement of Printing and Writing Paper and Paper Products, including the volume and type of all paper purchases; and, copies of certifications and other required verifications from all departments and/or divisions procuring Paper Products and Printing and Writing Paper (whether or not they contain recycled content)

and/or from the vendors providing Printing and Writing Paper and Paper Products. These records must be kept as part of the City's documentation of its compliance with 14 CCR Section 18993.3.

- i. If non-Recycled-Content Paper Products and/or non-Recycled-Content Printing and Writing Paper are provided, include a description of why Recycled-Content Paper Products and/or Recycled-Content Printing and Writing Paper were not purchased.
- b. Collect and collate copies of invoices or receipts or documentation evidencing procurement from all departments and divisions procuring Recovered Organic Waste Products and invoices or similar records from vendors/contractors/others procuring Recovered Organic Waste Products on behalf of the City to develop evidence of the City meeting its Annual Recovered Organic Waste Product Procurement Target. These records must be kept as part of the City's documentation of its compliance with 14 CCR Section 18993.1.
- c. Collect, collate, and maintain documentation submitted by the City's Direct Service Providers, and/or vendors.
- d. As required, compile data and report on the City's direct procurement, and vendor/other procurement on behalf of the City, of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper, consistent with the requirements for Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper procurement.

PURCHASING GUIDELINES POLICY
PURSUANT TO CLAYTON MUNICIPAL CODE CHAPTER 3.10.020

PURPOSE

The purpose of this Purchasing Guidelines Policy is to establish internal controls, responsibilities and authorization levels and other requirements related to purchasing goods and services for the City. This policy:

- establishes controls that identify clear authority and responsibility for purchasing activities;
- secures goods and services at the lowest cost commensurate with quality and other qualitative factors;
- ensures appropriate levels of competition and provides equal opportunity for all qualified vendors; and
- outlines the guidelines and principles that the City will follow to make environmentally preferable purchasing decisions.

This policy is adopted in accordance with Section 3.10.020 of the Clayton Municipal Code, as it may be amended from time to time.

PURCHASING OFFICER

The City Manager, or the City Manager's designee, is the City's purchasing officer, with the authority and the responsibility to:

1. Carry out the purchasing policies of the City,
2. Prepare or revise, in cooperation with each department, written standard specifications for purchases of goods, supplies, equipment, and services,
3. Purchase or contract for goods, supplies, equipment, and services required by City departments according to these purchasing procedures and such administrative regulations as the City Manager shall prescribe,
4. Obtain full and open a competition where required herein when purchasing or contracting for goods, supplies, equipment, and services,
5. Keep informed of current developments in the field of purchasing, prices, contracting for goods, supplies, equipment, and services,
6. Ensure the inspection of all supplies and equipment purchases to guarantee quality and conformance with City specifications,

7. Recommend the transfer of unused supplies and equipment between departments as needed,
8. Sell supplies and equipment that cannot be used by any department or that have become unsuitable for City use,
9. Maintain a contractor list in accordance with the procedures specified for Public Projects,
10. Maintain any and all necessary records for the efficient operation of the purchasing function.

PURCHASING AUTHORITY

There are three (3) levels of authority applicable for the purchase of goods, supplies, equipment, materials, professional and non-professional services, and public projects, which shall be delegated as follows:

- The City Manager is authorized to award or reject professional services agreements in an amount not to exceed thirty thousand dollars (\$30,000.00). The City Manager may approve amendments or change orders to existing professional services agreements so long as the cumulative total of the agreement does not exceed thirty thousand dollars (\$30,000.00).
- When the City Manager utilizes his/her signing authority for service contracts under \$30,000, he/she shall bring an informational agenda item to City Council at the earliest possible City Council meeting, outlining the vendor chosen and the purpose of the contract.
- Other than for Professional Services, the City Manager is authorized to award or reject purchases, agreements, contracts, bids, proposals, statements of qualifications, purchase orders, and public projects, in an amount not to exceed sixty thousand dollars (\$60,000.00). The City Manager may approve amendments or change orders to existing purchases, agreements, contracts, purchase orders, other than for professional services agreements and public projects, so long as the cumulative total of the contract (change order(s)/amendment(s) plus original contract amount) does not exceed sixty thousand dollars (\$60,000.00). The City Manager is authorized to award or reject change orders to contracts for public projects in an amount up to ten (10) percent of the original contract amount subject to City Council appropriation of funds.
- The City Council must award or reject purchases, agreements, contracts, bids, proposals, statements of qualifications, purchase orders, and public projects, in any amount that exceeds the City Manager's approval authority specified above.

MAINTENANCE AND GENERAL SERVICES

Maintenance services are routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes. Maintenance services also includes the types of work set forth in Public Contract Code section 22002(d), as it may be amended from time to time.

General services are any services that are typically physical or manual in nature and do not ordinarily require specialized higher education or equivalent credentials to perform.

Contracts for maintenance services and general services shall be procured pursuant to the following processes.

- Price checking is encouraged and should be documented: \$10,000.00 or less.
- Informal quote: \$10,000.01—\$60,000.00.
- Formal RFP/RFQ or Formal Bid: Over \$60,000.00.

GOODS, MATERIALS, SUPPLIES AND EQUIPMENT

Contracts for goods, materials, supplies and equipment shall be procured pursuant to the following processes:

- Price checking is encouraged and should be documented: \$10,000.00 or less.
- Informal quote: \$10,000.01—\$60,000.00.
- Formal RFP/RFQ or Formal Bid: Over \$60,000.00.

PROFESSIONAL SERVICES

Professional services include services provided to the City by specially trained and experienced individuals related to economic, financial, engineering, planning, architectural, environmental, legal, administrative, or other similar services. Contracts for professional services shall be procured pursuant to the following processes:

- Assess best value/qualifications: \$10,000.00 or less.
- Informal quote: \$10,000.01—\$60,000.00.
- Formal RFP/RFQ: Over \$60,000.00.

PUBLIC PROJECTS

Public Projects shall be procured in accordance with Section 3.10.060 of the Clayton Municipal Code, as it may be amended from time to time. For ease of reference, those procedures are restated herein, but will be superseded by any future update of the Clayton Municipal Code that creates a conflict with the provisions specified hereunder.

- A. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:
1. "Act" means the Uniform Public Construction Cost Accounting Act (California Public Contracts Code Section 22000 *et seq.*).
 2. "City" means the City of Clayton.
 3. "Commission" means the California Uniform Construction Cost Accounting Commission. "Public project" has the meaning assigned to it under Public Contract Code Section 22002, as it may be amended from time to time.
- B. Public Project Contracting Procedures. The City shall follow the contracting procedures set forth in Article 3 of the Act (Public Contract Code Section 22030 *et seq.*).
- C. Contractors List. The City Manager, or his or her designee, shall compile and maintain a list of qualified contractors identified according to categories of work. This list shall comply with the requirements of the Act and the criteria promulgated, from time to time, by the Commission.
- D. Informal Bidding.
1. When a public project is to be performed which qualifies for informal bidding, notice of such project shall be given as follows except where the product or service is proprietary:
 - a. Notice shall be sent to all contractors on the contractors list for the category of work being bid or notice shall be given to all construction trade journals specified by the Commission for the receipt of such notice for Contra Costa County; and
 - b. Additional notice to other contractors and/or trade journals may, in the discretion of the City, be given.
 2. If the product or service to be acquired is proprietary in nature such that it can only be obtained from a certain contractor or contractors, notice inviting bids may be sent only to such contractor or contractors in accordance with Public Contract Code section 3400 *et seq.*
 3. All mailing of notices to contractors and/or construction trade journals shall be completed not less than ten days before bids are due.
 4. The notice shall describe the project in general terms, how to obtain more detailed information about the project and shall state the time and place for submission of bids.

E. Formal Bidding.

1. When a public project is to be performed which qualifies for formal bidding, notice of such project shall be given as follows except where the product or service is proprietary:
 - a. Notice shall be given to all construction trade journals specified by the Commission for the receipt of such notice for Contra Costa County and notice shall be published in a newspaper of general circulation printed and published or circulated in the City; and
 - b. Additional notice to other contractors and/or trade journals may, in the discretion of the City, be given.
2. If the product or service to be acquired is proprietary in nature such that it can only be obtained from a certain contractor or contractors, notice inviting bids may be sent only to such contractor or contractors in accordance with Public Contract Code section 3400 *et seq.*
3. All notices to construction trade journals shall be completed not less than fifteen days before bids are due. All notices shall be published in a newspaper of general circulation not less than fourteen days before bids are due.
4. The notice shall describe the project in general terms, how to obtain more detailed information about the project and shall state the time and place for submission of bids.

F. Award of Contracts. The City Manager is authorized to award contracts for public projects up to the amount specified in this policy. The City Council shall award all contracts in excess of the foregoing amount.

G. Rejection of Bids. The City Manager or the City Council, as the case may be, may, in the City Manager's or City Council's discretion, reject all bids and proceed as authorized by the Act.

H. Emergencies. Emergency work shall be contracted for in accordance with Public Contract Code Sections 22035 and 22050.

INFORMAL QUOTE PROCESS

The informal quote process shall follow, at a minimum, the following guidelines.

- A. Minimum Number of Quotes. Selection of a vendor based on the informal quote process shall, whenever possible, be based on at least three (3) quotes.

- B. **Soliciting Quotes.** The originating department shall solicit quotes from prospective vendors by written or verbal requests.
- C. **Award of Contract.** Informal quote-based purchases shall be awarded to the vendor presenting a quote that is in the City's best interests as determined by the purchasing officer. Contracts for professional services shall be awarded on the basis of demonstrated competence and professional qualifications. The purchasing officer may reject all quotes received in its discretion.
- D. **Additional Procurement Requirements.** In circumstances where more restrictive requirements apply (e.g., grant funding requirements), the City will follow the more restrictive requirements to the extent required by the external source of procurement requirements.

FORMAL REQUEST FOR PROPOSAL OR REQUEST FOR QUALIFICATIONS PROCESS

The formal RFP or RFQ process shall follow, at a minimum, the following guidelines.

- A. **Preparing RFP or RFQ.** The originating department shall prepare the RFP or RFQ, which shall contain, among other details, scope of the problem or objective, a general description of the goods or services to be purchased, anticipated schedule, proposal or SOQ evaluation factors, City expectations, limitations, contractual requirements, types of experience and qualifications considered in the evaluation, and other requirements specific to the procurement scope.
- B. **Solicitation Requirements.** In issuing the RFP or RFQ, the originating department shall prepare a list of at least three (3) potential vendors to receive the RFP or RFQ, and where deemed appropriate by the purchasing officer, advertise the RFP or RFQ in a local newspaper of general circulation or other forums. The City shall allow a reasonable length of time, based on the complexity and size of the project, between solicitation and closing dates to provide potential respondents time to respond.
- C. **Distribution of Responses.** All proposals or SOQs received by the City in response to an RFP or RFQ shall be time stamped either manually or electronically and submitted to the originating department for review.
- D. **Evaluation.** Proposals or SOQs shall be evaluated by a selection committee, appointed by the department head of the originating department, subject to the approval of the purchasing officer, based upon the evaluation criteria specified in the RFP or RFQ.
- E. **Award of Contract.** Contract award, if made, shall be made based upon the terms of the RFP or RFQ. The City Council, or its designee, may award a contract and reject all or any proposals or SOQs in its discretion.

- F. Specified Professional Services. If the RFP or RFQ is for the procurement of professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature, the evaluation factors must address the demonstrated competence and professional qualifications of the respondents and ensure the cost is reasonable.
- G. Additional Procurement Requirements. In circumstances where more restrictive requirements apply (e.g., grant funding requirements), the City will follow the more restrictive requirements to the extent required by the external source of procurement requirements.

FORMAL BIDDING PROCESS

The formal bidding process shall follow, at a minimum, the following guidelines.

- A. Notice Inviting Bids. Notice inviting bids shall include: (i) a general description of the goods or services to be procured; (ii) where bid forms and specifications may be obtained; and (iii) the date, time, and place for opening of the bids. The publication or posting of the notice inviting bids either electronically or in hard copy shall be conducted at least ten (10) days before the date of opening bids unless the purchasing officer deems a shorter or longer period of solicitation is necessary based on applicable circumstances.
- B. Bid Security. When deemed necessary by the purchasing officer, bid security may be prescribed in the notice inviting bids. Bidders shall be entitled to the return of bid security; provided, however, a successful bidder shall forfeit his or her bid security upon his refusal or failure to execute the contract within the time specified in the bid documents following award of the contract, unless the City is solely responsible for the delay in executing the contract. The Purchasing Officer or originating department, on the refusal or failure of the successful bidder to execute the contract, may award it to the next lowest responsible bidder submitting a responsive bid.
- C. Bid Opening. Sealed bids shall be submitted in accordance with the requirements of the notice inviting bids and shall be clearly identified as a response to a particular bid solicitation. Upon receipt, the City shall date and time stamp the bid package either electronically or manually. Bids shall be opened in public either in a physical or electronic setting at the time and place stated in the notice inviting bids.
- D. Rejection of Bids. In its discretion, the City Council, or its designee, may reject any and all bids, accept or reject any one or more items of a bid, or waive any irregularities or informalities in the bids or the bidding process if to do so is deemed to best serve the interests of the City. If, after the first invitation of bids, all bids are rejected, the City may elect to re-advertise for bids pursuant to the procedure prescribed in this section or have the project done by any alternative means.
- E. Award of Contract. Contract award, if made, shall be made by the City Council to the lowest responsible bidder submitting a responsive bid.

- F. Tie Bids. If two (2) or more bids received are for the same total amount, with quality being equal, the City Council may accept the bid it chooses or accept the lowest bid made after negotiation with the tied bidders.
- G. Additional Procurement Requirements. In circumstances where more restrictive requirements apply (e.g., grant funding requirements), the City will follow the more restrictive requirements to the extent required by the external source of procurement requirements.

EXCEPTIONS TO COMPETITIVE PROCUREMENT REQUIREMENTS

As an exception to the procurement procedures in these guidelines, purchases may be made without engaging in the competitive procurement procedures set forth herein, except for Public Projects, when the City Manager or City Council (subject to the dollar limits in these guidelines) approve of such non-competitive procurement under any of the following circumstances:

- A. Where the procurement of goods, supplies, equipment, materials, or services is necessitated by reason of emergency circumstances where the procurement is required to prevent the immediate interruption or cessation of necessary City services or to safeguard life, property, or the public health and welfare.
- B. Where (1) it is in the City's best interests to rely upon a contract procured by another public agency; (2) a competitive procurement procedure has been conducted for that contract by the public agency (i.e., another local agency, the State through the California Multiple Award Schedule (CMAS), the federal government through the General Services Administration (GSA), or a joint powers agency, authority or alliance that procures competitive contracts); and (3) the price and terms to the City are equal to or better than the price and terms to that public agency.
- C. When only one known source of the goods, supplies, equipment, materials, or services is available. For example, where a particular piece of equipment is of a specialized nature and may only be obtained from one known vendor.
- D. When the procurement is for (1) utility services; (2) services necessary to conduct City meetings or events; (3) IT related services; (4) banking services; (5) the acquisition, lease or rental of real property; (6) services and equipment necessary to maintain standardization with existing services or equipment utilized by the City or 7) services that are paid through a developer deposit on private development projects or other pass-through services.
- E. If competitive procurement would not produce an advantage, or it is impracticable to obtain what is required because of the unique nature of the procurement.
- F. Where it is in the best interests of the City to do so as otherwise permitted by applicable law.

Prior to award of a contract under any of the foregoing exceptions, the City Manager shall certify that the contract is exempt from competitive procurement and shall set forth in the certification reasons for that determination.

ENVIRONMENTALLY PREFERRED PURCHASING (EPP) POLICY

- A. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:
1. "Agricultural Bio-Based Products" means commercial or industrial products (other than food or feed) that utilize agricultural crops or residues but does not include products made from forestry materials.
 2. "Annual Recovered Organic Waste Product Procurement Target" means the amount of Organic Waste in the form of a Recovered Organic Waste Product that the City is required to procure annually, based on population.
 3. "Buyer" means anyone authorized to purchase or contract for purchases on behalf of this jurisdiction or its subdivisions.
 4. "Chlorine free" means products processed without chlorine or chlorine derivatives.
 5. "Compost (SB 1383 Eligible)" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility or as otherwise defined in 14 CCR Section 17896.2(a)(4).
 6. "Compostable" means material that is biodegradable during composting to yield carbon dioxide, water and inorganic compounds, and biomass at a rate consistent with other known compostable materials and leaves no visually distinguishable or toxic residues.
 7. "Contractor" means any person, group of persons, business, consultant, designing architect, association, partnership, corporation, supplier, vendor, or other entity that has a contract with the City or serves in a subcontracting capacity with an entity having a contract with the City for the provision of goods or services.
 8. "Direct Service Provider" means a person, company, agency, contractor, or other entity that provides a service or services to the City through a contractual or other written agreement or as otherwise defined in 14 CCR Section 18982(a)(17).
 9. "Dioxins and furans" are a group of chemical compounds that are classified as persistent, bioaccumulative, and toxic by the Environmental Protection Agency.

10. "Electricity Procured from Biomass Conversion" means electricity generated from biomass facilities that convert recovered Organic Waste, such as landscaping waste from the municipal stream, into electricity, and is therefore eligible to meet the City's Annual Recovered Organic Waste Product Procurement Target.
11. "Energy Star" means the U.S. EPA's energy efficiency product labeling program.
12. "Energy Efficient Product" means a product that is in the upper 25% of energy efficiency for all similar products, or that is at least 10% more efficient than the minimum level that meets Federal standards.
13. "Federal Energy Management Program" is a program of the Department of Energy that issues a series of Product Energy Efficiency Recommendations that identify recommended efficiency levels for energy-using products.
14. The "Forest Stewardship Council" is a global organization that certifies responsible, on- the-ground forest management according to rigorous standards developed by a broad variety of stakeholder groups.
15. "Integrated Pest Management (IPM)" is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.
16. "LEED™ Rating System" means the most recent version of the Leadership in Energy and Environmental Design (LEED) Rating System, approved by the U.S. Green Building Council, and designed for rating new and existing commercial, institutional, and residential buildings.
17. "Organic Pest Management" prohibits the use and application of toxic chemical pesticides and strives to prevent pest problems through the application of natural, organic horticultural and maintenance practices. All pest control products shall be in keeping with, but not limited to, those products on the approved list of California Certified Organic Foods (CCOF).
18. "Organic Waste" means solid waste containing material originated from living organisms and their metabolic waste products including, but not limited to, food, yard trimmings, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges, or as

- otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.
19. "Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).
 20. "Postconsumer Material" means a finished material which would normally be disposed of as a solid waste, having reached its intended end-use and completed its life cycle as a consumer item, and does not include manufacturing or converting wastes.
 21. "Practical" and "Practicable" mean whenever possible and compatible with local, state, and federal law, without reducing safety, quality, or effectiveness and where the product or service is available at a reasonable cost in a reasonable period of time.
 22. "Preconsumer Material" means material or by-products generated after manufacture of a product is completed but before the product reaches the end-use consumer. Preconsumer material does not include mill and manufacturing trim, scrap, or broke which is generated at a manufacturing site and commonly reused on-site in the same or another manufacturing process.
 23. "Printing and Writing Papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, reports, magazines, and publications; or as otherwise defined in 14 CCR Section 18982(a)(54).
 24. "Procurement of Recovered Organic Waste Products" shall mean purchase or acquisition of (e.g., free delivery or free distribution from a hauler or other entity via a written agreement or contract) Organic Waste Products and end use by the City. The City's Annual Recovered Organic Waste Product Procurement Target can be fulfilled directly by the City or by Direct Service Providers through written contracts or agreements for Procurement of Recovered Organic Waste Products at the City's behest.
 25. "Proposition 65" means a list of chemicals that are known to the State of California to cause cancer, birth defects or other reproductive harm.
 26. "Recordkeeping" means the system established by this policy and the General Services and Administrative Services departments used to track procurement and maintain records that includes Recovered Organic Waste Product procurement efforts by the City.

27. "Recovered Material" means fragments of products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value and includes preconsumer and postconsumer material but does not include excess resources of the manufacturing process.
28. "Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper" means such products that consist of at least thirty percent (30%) recycled materials, by fiber weight, post-consumer fiber, or as-much as one hundred percent (100%) post-consumer fiber by fiber weight, consistent with the requirements of Sections 22150 to 22154 and Sections 12200 and 12209 of the Public Contract Code, as they may be amended from time to time; and:
- a. Printing and writing paper shall consist of at least 30 percent, by fiber weight, postconsumer fiber
 - b. Other paper products shall consist of at least 30 percent, by fiber weight, of postconsumer recycled content fiber, except as specified below:
 - c. Toilet paper shall consist of at least 45 percent, by fiber weight, postconsumer recycled content fiber
 - d. Paper towels shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
 - e. Facial tissue shall consist of at least 10 percent, by fiber weight, postconsumer recycled content fiber
 - f. Toilet seat covers shall consist of at least 20 percent, by fiber weight, postconsumer recycled content fiber
 - g. General purpose paper wipers shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
 - h. Food serviceware, including but not limited to, napkins, plates, bowls, food trays, takeout boxes, placemats, etc. shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber.
29. "Recycled Content" means the percentage of recovered material, including preconsumer and postconsumer materials, in a product.
30. "Recycled Content Standard" means the minimum level of recovered material and/or postconsumer material necessary for products to qualify as "recycled products."
31. "Recycled Material" means material and byproducts that have been recovered or diverted from solid waste and have been utilized in place of raw or virgin material in manufacturing a product. It is derived from post-consumer recycled material, manufacturing waste, industrial scrap, agricultural waste, and other waste material, but does not include material or byproducts generated from, and commonly reused within, an original manufacturing process.
32. "Recycled Product" means a product that meets the City's recycled content policy objectives for postconsumer and recovered material.

33. "Remanufactured Product" means any product diverted from the supply of discarded materials by refurbishing and marketing said product without substantial change to its original form.
34. "Renewable Gas" means gas derived from Organic Waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by the State, or as otherwise defined in 14 CCR Section 18982(a)(62).
35. "Reused Product" means any product designed to be used many times for the same or other purposes without additional processing except for specific requirements such as cleaning, painting or minor repairs.
36. "SB 1383" means Senate Bill 1383 approved by the Governor on September 19, 2016, which establishes methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced.
37. "SB 1383 Eligible Compost" means the product resulting from the controlled biological decomposition of organic solid wastes that is produced at an approved facility and in such a way that makes it eligible to meet the Annual Recovered Organic Waste Product Procurement Target, as defined by CalRecycle.
38. "SB 1383 Eligible Mulch" means mulch eligible to meet the Annual Recovered Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the duration of the applicable procurement compliance year, as specified by 14 CCR Section 18993.1(f)(4): Must meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR 17852(a)(24.5)(A) 1 through 3 and must be produced at one of the following facilities:
- a. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR Division 7, other than a chipping and grinding operation or facility as defined in 14 CCR 17852(a)(10);
 - b. A transfer/processing facility or transfer/processing operation as defined in 14 CCR 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR Division 7; or,
 - c. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR Division 2.
39. "SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations

developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

40. "Source Reduction" refers to products that result in a net reduction in the generation of waste compared to their previous or alternate version and includes durable, reusable, and remanufactured products; products with no, or reduced, toxic constituents; and products marketed with no, or reduced, packaging.
41. The "Toxics Release Inventory" (TRI) is a publicly available U.S. EPA database that contains information on toxic chemical releases and other waste management activities reported annually by certain covered industry groups as well as federal facilities.
42. "U.S. EPA Guidelines" means the Comprehensive Procurement Guidelines established by the U.S. Environmental Protection Agency for federal agency purchases as of May 2002 and any subsequent versions adopted.
43. "Vendor" means a person or company who provides goods or services. A vendor can also be referred to as a supplier or direct service provider.
44. "Water-Saving Products" are those that are in the upper 25% of water conservation for all similar products, or at least 10% more water-conserving than the minimum level that meets the Federal standards.

EPP POLICY ELEMENTS

The City of Clayton is committed to responsible and sustainable procurement practices. This provision of the Purchasing Guidelines Policy is established to ensure that all procurement activities undertaken by the City are conducted in accordance with the guidelines provided by CalRecycle and the California Department of General Services (DGS) Environmental Purchasing Program (EPP) and comply with State requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383 procurement regulations (14 CCR § 18992 et seq.)) to procure a specified amount of Recovered Organic Waste Products, to purchase Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper.

The City's goal is to create a model for successfully purchasing environmentally preferable products that encourages other purchasers in our community to adopt similar goals. This policy aims to promote environmentally preferable purchasing (EPP) of goods and services while maintaining cost-effectiveness, transparency, and compliance with all applicable laws and regulations.

SCOPE

This policy applies to all City of Clayton departments, employees, and contractors involved in procurement activities, including the acquisition of goods and services.

EPP PRINCIPLES

The City of Clayton shall adhere to the following EPP principles as outlined by the DGS:

- A. **Sustainable Sourcing:** The city shall prioritize the procurement of goods and services that are produced, manufactured, and sourced in a sustainable and environmentally responsible manner.
- B. **Energy Efficiency:** The city shall give preference to products and services that are energy-efficient and contribute to the reduction of greenhouse gas emissions.
- C. **Resource Conservation:** The city shall seek products and services that promote resource conservation, including the use of recycled, reused, or remanufactured materials whenever possible.
- D. **Pollution Prevention:** The city shall prioritize goods and services that minimize or eliminate the release of hazardous substances and pollutants into the environment.
- E. **Local Sourcing:** Whenever feasible and cost-effective, the City shall support local businesses and communities by procuring goods and services from local suppliers.

PROCUREMENT PROCESS

- A. **Needs Assessment:** Prior to initiating any procurement, departments shall assess their needs and consider if environmentally preferable options are available.
- B. **Vendor Selection:** Departments shall evaluate potential vendors based on their commitment to EPP principles and their ability to provide environmentally preferable products and services.
- C. **Cost-Effectiveness:** While promoting EPP, departments must ensure that the selected goods and services remain cost-effective and meet the City's budgetary constraints.
- D. **Documentation:** All procurement decisions and justifications for selecting vendors and products based on EPP principles shall be documented and maintained for auditing purposes and will follow the Record Keeping practices as outlined in this Policy.

COMPLIANCE AND MONITORING

- A. Reporting and Record Keeping: Departments shall report their EPP efforts regularly to the City Manager's Office.
- B. Auditing: The City shall periodically conduct audits to ensure compliance with this policy and make improvements where necessary.

EDUCATION AND TRAINING

The City of Clayton shall provide education and training opportunities to employees involved in the procurement process to ensure a comprehensive understanding of EPP principles and their application.

EXCEPTIONS

Exceptions to this policy may be granted on a case-by-case basis by the City Manager, or his or her designee, when compliance is not feasible due to specific circumstances.

REVIEW AND REVISION

This Purchasing Policy shall be reviewed periodically to assess its effectiveness and relevance. The policy shall be revised as necessary to align with evolving EPP guidelines and best practices.

IMPLEMENTATION

This policy shall take effect immediately upon approval and shall be communicated to all staff of the City of Clayton.

SPECIFICATIONS

A. Source Reduction

1. The City of Clayton shall institute practices that reduce waste and result in the purchase of fewer products whenever practicable and cost-effective, but without reducing safety or workplace quality.
2. The City of Clayton shall purchase remanufactured products such as laser toner cartridges, tires, furniture, equipment and automotive parts whenever practicable, but without reducing safety, quality or effectiveness.
3. The City of Clayton shall require all equipment bought after the adoption of this policy to be compatible with source reduction goals as referred to in this section, when practicable.

4. All purchasers shall consider short-term and long-term costs in comparing product alternatives, when feasible. This includes evaluation of total costs expected during the time a product is owned, including, but not limited to, acquisition, extended warranties, operation, supplies, maintenance, disposal costs and expected lifetime compared to other alternatives.
5. Products that are durable, long lasting, reusable or refillable are preferred whenever feasible.
6. The City requests vendors to eliminate packaging or use the minimum amount necessary for product protection, to the greatest extent practicable.
7. Packaging that is reusable, recyclable or compostable is preferred, when suitable uses and programs exist.
8. Vendors shall be encouraged to take back and reuse pallets and packaging materials.
9. Suppliers of electronic equipment, including but not limited to computers, monitors, printers, and copiers, shall be required to take back equipment for reuse or environmentally safe recycling when the City discards or replaces such equipment, whenever possible.

B. Recycled Content Products

1. All products for which the United States Environmental Protection Agency (U.S. EPA) has established minimum recycled content standard guidelines, such as those for printing paper, office paper, janitorial paper, construction, landscaping, parks and recreation, transportation, vehicles, miscellaneous, and non-paper office products, shall contain the highest postconsumer content practicable, but no less than the minimum recycled content standards established by the U.S. EPA Guidelines.
2. Consistent with Public Contracting Code 22150, if fitness, quality, and price of Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper are equal to that of non-recycled items, all departments and divisions of the City shall purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper, as defined in the Definitions section of this Policy, whenever available at the same or a lesser total cost than non-recycled items, consistent with the requirements of the Public Contracts Code, Sections 22150 through 22154 and Sections 12200 and 12209, as they may be amended from time to time.

3. All Paper Products and Printing and Writing Paper shall be eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
4. Records must be maintained by the City of all Paper Products and Printing and Writing Paper purchases on a schedule to be determined by the City Manager, or his or her designee, and not less than annually (both recycled-content and non-recycled content, if any is purchased) for all purchases made by a division or department or employee of the City.
5. All vendors that provide Paper Products (including janitorial Paper Products) and Printing and Writing Paper to the City shall:
 - a. Provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper, as defined in the Definitions section of this Policy, if fitness and quality are equal to that of non-recycled item, and the product is available at equal or lesser price.
 - b. Certify in writing the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products and/or Printing and Writing Paper can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
 - c. Only provide Paper Products and Printing and Writing Papers that meet Federal Trade Commission Recyclability standard as defined in Title 16 Code of Federal Regulations Section 260.12 (2013) (relating to correct labeling and marketing of products).
 - d. Provide records to the Purchaser for all Paper Products and Printing and Writing Paper on a schedule to be determined by the City Manager, or his or her designee.
 - e. All vendors providing printing services to the City via a printing contract or written agreement, shall use Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, if fitness and quality are equal to that of non-recycled item, and the product is available at equal or lesser price, or as amended by Public Contract Code Section 12209.
6. Copiers and printers bought shall be compatible with the use of recycled content products.

7. When specifying asphalt concrete, aggregate base or portland cement concrete for road construction projects, the City shall use recycled, reusable, or reground materials when practicable.
8. The City shall specify and purchase recycled content transportation products, including signs, cones, parking stops, delineators, and barricades when practicable.

C. Gas and Oil Procurement

1. For Renewable Gas procurement (used for fuel for transportation, electricity, or heating applications), the City shall:
 - a. Procure Renewable Gas made from recovered Organic Waste for transportation fuel, electricity, and heating applications to the degree that it is appropriate and available for the City.
 - b. Keep records in the same manner indicated in the Record Keeping section of this Policy for the amount of Renewable Gas procured and used by the City, including the general procurement record information specified in the Record Keeping section of this Policy, and ensure documentation is on file in the central filing location and on a schedule as determined by the City Manager, or his or her designee, and not less than annually.
2. Per California Public Contract Code, Section. 10409, the City shall purchase re-refined lubricating and industrial oil for use in its vehicles and other equipment, as long as it is certified by the American Petroleum Institute (API) as appropriate for use in such equipment.

D. Energy and Water Savings

1. Where applicable and practicable, energy-efficient equipment shall be purchased with the most up-to-date energy efficiency functions. This includes, but is not limited to, high efficiency space heating systems and high efficiency space cooling equipment.
2. When practicable, the City shall replace inefficient lighting with energy- efficient equipment.
3. All products purchased by the City and for which the U. S. EPA Energy Star certification is available shall meet Energy Star certification, when practicable. When Energy Star labels are not available, purchasing agents shall choose energy-efficient products that are in the upper 25% of energy efficiency as designated by the Federal Energy Management Program (FEMA).

4. The City shall purchase water-saving products whenever practicable.

E. Green Building - Construction and Renovations

1. All building and renovations undertaken by the City shall follow Green Building Practices for design, construction, and operation, where appropriate, as described in the LEED™ Rating System, meet California Green Building Standards Code, Part 11, Title 24, California Code of Regulations (CalGreen) and California's Model Water Efficient Landscape Ordinance (MWELO) requirements. Building and landscaping products, purchases, and use by the City shall be consistent with CalGreen and MWELO requirements.

F. Landscaping

1. All landscape renovations, construction and maintenance by the City, including workers and contractors providing landscaping services for the City, shall employ sustainable landscape management techniques for design, construction, and maintenance whenever possible, including, but not limited to, integrated pest management, grasscycling, drip irrigation, composting, and procurement and use of mulch and compost.

2. The City, including through its Direct Service Providers, will make every effort to meet its annual procurement target for Recovered Organic Waste Products as determined by the State. Periodically, the City shall distribute information to City Staff on the Procurement target and specific products that meet SB 1383 procurement requirements. Divisions and departments responsible for landscaping maintenance, compost giveaways or other types of compost distribution shall:

a. Use SB 1383 Eligible Compost and SB 1383 Eligible Mulch produced from recovered Organic Waste, as defined in the Definitions section of this Policy, for landscaping maintenance as practicable, whenever available, and capable of meeting quality standards and criteria specified.

b. Ensure that SB 1383 Eligible Mulch producers annually certify that the mulch meets the definition contained in the Definitions section of this Policy through the following:

- i. Copy of operation or facility permit or authorization; and
- ii. Copy of laboratory results confirming the mulch meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Section 17852(a)(24.5)(A) 1 through 3.

Failure to provide the applicable certification documents on an annual basis or at the request of the City will result in the mulch no longer being eligible as a recovered organic waste product under this procurement policy.

3. Keep records, including invoices or proof of Recovered Organic Waste Product procurement (either through purchase or acquisition), and submit records to the City Manager, or his or her designee, either directly or via a centralized file location on a schedule to be determined by City Manager, or his or her designee, and not less than annually. General Procurement Records shall include:
 - a. General description of how and where the product was used and applied, if applicable;
 - b. Source of product, including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured;
 - c. Type of product;
 - d. Quantity of each product; and,
 - e. Invoice or other record demonstrating purchase or procurement.
4. For Compost and SB 1383 Eligible Mulch provided to residents through giveaway events or other types of distribution methods, keep records of the Compost and SB 1383 Eligible Mulch provided to residents. Records shall be maintained and submitted to the City Manager, or his or her designee, either directly or via a centralized file location in accordance with the requirements specified in the Record Keeping section of this Policy.
5. When a Direct Service Provider for the City procures compost or mulch, the City will enter into a written contract or agreement, or execute a purchase order between the City and Direct Service Provider with enforceable provisions that include:
 - a. Definitions and specifications for SB 1383 Eligible Mulch, Compost, Renewable Gas, and/or Electricity Procured from Biomass Conversion; and,
 - b. An enforcement mechanism (e.g., termination, liquidated damages) in the event the Direct Service Provider is not compliant with the requirements.
6. Ensure that projects subject to California's MWELO that will be used to meet the annual recovered organic waste product procurement target comply with CCR Title 23, Division 2, Chapter 2.7, Sections 492.6 (a)(3)(B), (C), (D), and (G).
7. Plants should be selected to minimize waste by choosing species for purchase that are appropriate to the microclimate, species that can grow to their natural

size in the space allotted them, and perennials rather than annuals for color when practicable. Native and drought-tolerant plants that require no or minimal watering once established are preferred.

8. Hardscapes and landscape structures constructed of recycled content materials are encouraged. The City shall limit the amount of impervious surfaces in the landscape, wherever practicable. Permeable substitutes, such as permeable asphalt or pavers, are encouraged for walkways, patios, and driveways.

G. Toxics and Pollution

1. To the extent practicable, no cleaning or disinfecting products (i.e., for janitorial or automotive use) shall contain ingredients that are carcinogens, mutagens, or teratogens. These include chemicals listed by the U.S. E.P.A. or the National Institute for Occupational Safety and Health on the Toxics Release Inventory and those listed under Proposition 65 by the California Office of Environmental Health Hazard Assessment.
2. The use of chlorofluorocarbon-containing refrigerants, solvents and other products shall be phased out and new purchases shall not contain them.
3. All surfactants and detergents shall be readily biodegradable and, where practicable, shall not contain phosphates.
4. When maintaining buildings and landscapes, the City shall manage pest problems through prevention and physical, mechanical and biological controls where practicable. The City may implement pest management practices using the least toxic pest control as a last resort.
5. When maintaining buildings, the City shall use products with the lowest amount of volatile organic compounds (VOCs), highest recycled content, and low or no formaldehyde when purchasing materials such as paint, carpeting, adhesives, furniture and casework as practicable.
6. The City shall reduce or eliminate its use of products that contribute to the formation of dioxins and furans. This includes, but is not limited to:
 - a. Purchasing paper, paper products, and janitorial paper products that are unbleached or that are processed without chlorine or chlorine derivatives, whenever possible.
 - b. Prohibiting purchase of products that use polyvinyl chloride (PVC) such as, but not limited to, office binders, furniture, flooring, and medical supplies whenever practicable.
7. The City shall purchase products and equipment with no lead or mercury whenever possible. For products that contain lead or mercury, the City shall

give preference to those products with lower quantities of these metals and to vendors with established lead and mercury recovery programs.

8. When replacing vehicles, the City shall consider less-polluting alternatives to diesel such as compressed natural gas, renewable natural gas (RNG), biobased fuels, hybrids, electric batteries, and fuel cells, as available.

H. Forest Conservation

1. To the greatest extent practicable, the City shall not procure wood products such as lumber and paper that originate from forests harvested in an environmentally unsustainable manner. When possible, the City shall give preference to wood products that are certified to be sustainably harvested by a comprehensive, performance-based certification system.

I. Agricultural Bio-Based Products

1. Vehicle fuels made from non-wood, plant-based contents such as vegetable oils are encouraged whenever practicable.
2. Paper, paper products and construction products made from non-wood, plant-based contents such as agricultural crops and residues are encouraged whenever practicable.

J. Record Keeping

1. Each purchasing agent is responsible to provide documentation required by SB 1383 directly to the City Manager, or his or her designee, or to file required documentation of purchases subject to SB 1383 in the centralized file location as designated by the City Manager, or his or her designee. The City Manager, or his or her designee, will be responsible for monitoring and reporting functions related to record-keeping pertaining to Procurement of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper. The City Manager, or his or her designee, will do the following to track Procurement of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper:
 - a. Ensure the centralized file location designated by the City Manager, or his or her designee, includes electronic copies of invoices or receipts (paper copies shall be scanned to the designated file location) or other proof of purchase that describe the procurement of Printing and Writing Paper and Paper Products, including the volume and type of all paper purchases; and, copies of certifications and other required verifications from all departments and/or divisions procuring Paper Products and Printing and Writing Paper (whether or not they contain recycled content)

and/or from the vendors providing Printing and Writing Paper and Paper Products. These records must be kept as part of the City's documentation of its compliance with 14 CCR Section 18993.3.

- i. If non-Recycled-Content Paper Products and/or non-Recycled-Content Printing and Writing Paper are provided, include a description of why Recycled-Content Paper Products and/or Recycled-Content Printing and Writing Paper were not purchased.
- b. Collect and collate copies of invoices or receipts or documentation evidencing procurement from all departments and divisions procuring Recovered Organic Waste Products and invoices or similar records from vendors/contractors/others procuring Recovered Organic Waste Products on behalf of the City to develop evidence of the City meeting its Annual Recovered Organic Waste Product Procurement Target. These records must be kept as part of the City's documentation of its compliance with 14 CCR Section 18993.1.
- c. Collect, collate, and maintain documentation submitted by the City's Direct Service Providers, and/or vendors.
- d. As required, compile data and report on the City's direct procurement, and vendor/other procurement on behalf of the City, of Recovered Organic Waste Products, Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper, consistent with the requirements for Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper procurement.



City Council Agenda Item 5d

STAFF REPORT

TO: Honorable Mayor and Councilmembers

FROM: Bret Prebula, City Manager

DATE: March 19, 2024

SUBJECT: Approve a Resolution Making Changes to Various General Fund Reserve Assignment Amounts.

RECOMMENDATION

Adopt a Resolution changing the amounts within various General Fund Reserve Assignments to support bridging operations to the November 2026 election, when the City Council plans to place a revenue measure on the ballot.

BACKGROUND

On March 5, 2024, City Council gave direction to staff to make changes to the assignment amounts within the General Fund Reserves to support bridging operations to the November 2026 election, at which time the City Council plans to place a revenue measure on the ballot.

DISCUSSION

The Resolution makes the necessary changes to increase the amount within the Budget Stabilization Assignment to allow for possible use in bridging city operations for FY 2025 and FY 2026, allowing City Council to place a revenue measure on the November 2026 ballot. Amounts were reduced from the Capital /Maintenance/Special Projects Assignment, Technology Assignment, Vehicle Replacement Assignment, and Pension Stabilization Assignment.

FISCAL IMPACT

The changes to the amounts within the General Fund Reserve assignments will allow the City Council to bridge operations for FY 2025 and FY 2026 in anticipation of a revenue measure on the FY 2026 ballot.

CEQA IMPACT

None

ATTACHMENTS

1. Resolution Approving Changes to the Amounts within the General Fund Reserves

RESOLUTION NO. XX-2024

A RESOLUTION APPROVING CHANGES TO THE AMOUNTS WITHIN THE GENERAL FUND RESERVES

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, the City has General Fund Reserves which are one-time funds that can be used for any government purpose; and

WHEREAS, currently the city has no funding plan that puts the reserve funds into assignments for specific purposes; and

WHEREAS, the city desires to create assignments within the General Fund Reserve to more accurately reflect the planning of the reserve funds;

WHEREAS, the City Council has voted to attempt a revenue measure in 2026 and would like to be able to bridge annual operations to this point; and

WHEREAS, the breakdown of the reserves shall be adjusted to the following:

General Reserve Commitment	2,720,000	Per revised recommended policy= 40% of General Fund operating expenses. Pre-fund at estimated FY 2028 level
Assignment for Budget Stabilization	1,500,000	
Assignment for Capital Projects/Maintenance/Special Projects	2,680,000	
Assignment for Technology/Equipment	200,000	
Assignment for Vehicle Replacement	400,000	
Assignment for Pension Stabilization	200,000	

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby approve the abovementioned reserve fund adjustments.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 19th day of March 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, Mayor

ATTEST:

Stephanie Cabrera-Brown, City Clerk



City Council Agenda Item 5e

STAFF REPORT

TO: Honorable Mayor and Councilmembers

FROM: Dana Ayers, AICP, Community Development Director

DATE: March 19, 2024

SUBJECT: Acceptance of the 2023 General Plan Implementation and Housing Element Annual Progress Report

RECOMMENDATION

Adopt a Resolution accepting the City's 2023 Housing Element Annual Progress Report (APR) and summary of actions related to implementation of other General Plan policies.

BACKGROUND

Government Code Section 65400 requires the planning agency of each jurisdiction to prepare an annual report on the progress in implementation of the jurisdiction's general plan and general plan housing element. The report from the jurisdiction's planning director or staff must be submitted by April 1 of each year to the jurisdiction's legislative body (city council or board of supervisors), to the State Department of Housing and Community Development (HCD) and to the State Office of Planning and Research (OPR).

HCD uses the APR as a tool to facilitate implementation of a community's housing element as well as for the tracking and monitoring of progress in addressing statewide housing needs and goals. Jurisdictions must report the number of residential units in all pending development applications, the number of housing units approved or entitled, and the number of housing units with building permits issued or final inspections / certificates of occupancy granted for the reporting calendar year.

The APR includes information on a jurisdiction's progress toward addressing its Regional Housing Needs Allocation (RHNA), including the number of housing units permitted by income level (number of building permits issued), the status of programs in the housing element as adopted on January 17, 2023, and efforts to remove government constraints.

HCD also uses the submittal of the report as one of its threshold requirements for local public agencies to qualify for certain State grants or program funds.

This Agenda report and the attached Resolution also summarize actions taken by the City during the calendar year 2023 with respect to other policies in the Clayton General Plan.

DISCUSSION

This report for the City of Clayton covers the calendar year of January 1 to December 31, 2023. In that timeframe, the Council considered various actions that relate to adopted policies of the Clayton General Plan and Housing Element as adopted on January 17, 2023, for the current 6th housing cycle.

The City's Capital Improvement Program (CIP), adopted on June 20, 2023, included a list of and appropriations for various infrastructure projects. Projects listed in the CIP would implement multi-modal transportation policies in the General Plan, by enhancing pedestrian or bicycle mobility through new pedestrian or bicycle facilities (Downtown Pedestrian Improvement [CIP No. 10450]), or by providing enhancements to existing pedestrian curb ramps to ensure accessibility for persons with various physical abilities (ADA Transition Compliance Program [CIP 10394A]). Street maintenance, paving and rehabilitation programs are again included in this fiscal year's CIP. These pedestrian, accessibility and roadway improvements would continue the City's ongoing efforts to implement General Plan Circulation Element Policy 9c and Implementation Measure 4 calling for ongoing evaluation of transportation facilities, as well as Community Design Element Goal 2 supporting a vibrant, pedestrian-friendly Town Center. New programs in the CIP are proposed to support ongoing infrastructure planning and improvement through enhancements to the City's infrastructure records using a map-based GIS, systematic identification of transportation safety problems and recommended improvements, and equipment installations to improve efficiency of existing roadways in and proximate to Clayton (Geographic Information System Program/Database [CIP No. T2303], Local Roadway Safety Plan [CIP No. T2304], CCTA SMART Signal Upgrades [CIP No. T2305]). These new programs are also consistent with Community Facilities Element Objective 1 and Circulation Element Implementation Measure 12 supporting efficient and safe infrastructure systems, in addition to the above-referenced Circulation Element goals, policies and implementation measures.

The 2023 calendar year was the first full year of the updated Housing Element for the 6th housing cycle covering years 2023 through 2031. While the 6th cycle Housing Element is fairly new, and many of its programs are scheduled to be implemented in later years of the housing cycle, the City has made progress toward implementation of several updated housing programs.

The City continued its efforts to work with County Building Department plan checkers to finalize the suite of 6 pre-reviewed plans for accessory dwelling units to aid property owners in streamlining the design and permitting process for construction of ADUs on existing developed residential properties, and the City has updated its ADU Ordinance codified in Clayton Municipal Code chapter 17.47 to align with current California ADU legislation (Housing Element Program B1: Accessory Dwelling Units). This past year, three ADUs

received zoning clearance, and building permits are undergoing review with County Building Department plan checkers. In 2023, the City also held public hearings on rezoning of certain properties to allow residential development where none was previously permitted, and in other instances to increase allowable residential densities from maximum 20 units per acre to as many as 30 or 40 units per acre. The rezoning effort also relaxed certain setback, height, lot area and off-street parking standards that might serve to constrain housing production, and updated its Density Bonus Ordinance (CMC chapter 17.92) to align with current State statute, as may be amended from time to time (Housing Element Program D1: General Plan Amendments and Program D2: Zoning Code Amendments). (These amendments were subsequently adopted on January 16, 2024, ahead of the January 31, 2024, statutory deadline for rezonings.) City staff has also updated fair housing information and resources on the City website, and will continue to do so throughout the housing cycle as information is updated and additional resources are identified (Housing Element Program J3: Fair Housing – Proactive Actions). The City also continued its ongoing efforts in code enforcement, responding to and closing 31 of 37 cases opened during calendar year 2023 (Housing Element Program A1).

This year's APR also acknowledges affordable and market-rate housing units permitted in the City in calendar year 2023. On November 1, 2023, the Planning Commission approved a Site Plan Review Permit allowing conversion of vacant second-story office space to six rental apartments at a density of 27 units per acre in the existing building at 1026 Oak Street ("Flora Square Building"). Zoning clearance was also issued for three new ADUs, in line with annual ADU construction assumptions in the updated Housing Element. During the calendar year, City staff-initiated preparation of environmental analysis for 65 additional residences (32 single-family residences, 30 townhouses and three ADUs) and anticipates presenting the entitlement requests for those 65 units to the Planning Commission for the Commission's consideration later this year.

FISCAL IMPACT

There are nominal costs related to staff time and printing costs associated with the filing of this report.

CEQA IMPACT

Acceptance of and authorization to submit the General Plan Annual Progress Report is not a "project" as that term is defined in section 15378 of the state Guidelines for Implementation of the California Quality Act (CEQA Guidelines, California Code of Regulations section 15000 *et seq*), and therefore, CEQA does not apply to this action.

ATTACHMENTS

1. Resolution Accepting the 2023 General Plan Implementation Summary and Housing Element Annual Progress Report (APR)
2. Exhibit A to Resolution: Clayton Housing Element APR, 2023

RESOLUTION NO. XX-2024**A RESOLUTION APPROVING THE CITY OF CLAYTON
2022 GENERAL PLAN IMPLEMENTATION SUMMARY AND HOUSING ELEMENT
ANNUAL PROGRESS REPORT****THE CITY COUNCIL
City of Clayton, California**

WHEREAS, Government Code Section 65400 requires the Planning Agency of the City of Clayton, California, to prepare an annual report on the City's progress in implementing the its General Plan and Housing Element using forms and definitions adopted by the California Department of Housing and Community Development (HCD); and

WHEREAS, during the reporting period of January 1 through December 31, 2023, the City Council considered various actions that relate to adopted General Plan policies. The City's Capital Improvement Program (CIP), adopted on June 20, 2023, included a list of and appropriations for various infrastructure projects. Projects listed in the CIP implement multi-modal transportation policies in the General Plan, by enhancing pedestrian or bicycle mobility through new pedestrian or bicycle facilities (Downtown Pedestrian Improvement [CIP No. 10450]), or by providing enhancements to existing pedestrian curb ramps to ensure accessibility for persons with various physical abilities (ADA Transition Compliance Program [CIP 10394A]). Street maintenance, paving and rehabilitation programs are again included in this fiscal year's CIP. These pedestrian, accessibility and roadway improvements continue the City's ongoing efforts to implement General Plan Circulation Element Policy 9c and Implementation Measure 4 calling for ongoing evaluation of transportation facilities, as well as Community Design Element Goal 2 supporting a vibrant, pedestrian-friendly Town Center. New programs in the CIP support ongoing infrastructure planning and improvement through enhancements to the City's infrastructure records using a map-based information system (GIS), systematic identification of transportation safety problems and recommended improvements, and equipment installations to improve efficiency of existing roadways in and proximate to Clayton (Geographic Information System Program/Database [CIP No. T2303], Local Roadway Safety Plan [CIP No. T2304], CCTA SMART Signal Upgrades [CIP No. T2305]). These new programs are consistent with and implement Community Facilities Element Objective 1 and Circulation Element Implementation Measure 12 supporting efficient and safe infrastructure systems, in addition to the above-referenced Circulation Element goals, policies and implementation measures; and

WHEREAS, the 2022 Housing Element Annual Progress Report (APR) includes information on the City of Clayton's progress in addressing its assigned Regional Housing Needs Allocation, including the total number of housing units submitted as part of a development application, the number of housing units entitled, the number of housing units by income level for which a building permit was issued or finalized, the status of programs in the Housing Element, and efforts to remove governmental constraints for the reporting period; and

WHEREAS, the 2023 calendar year was the first full year of the updated Housing Element for the 6th housing cycle covering years 2023 through 2031. While the 6th cycle Housing Element was adopted January 16, 2023, and is fairly new, and many of its programs are scheduled to be implemented in later years of the housing cycle, the City has made progress toward implementation of several updated housing programs. More specifically, the City continued its efforts to work with County Building Department plan checkers to finalize the suite of 6 pre-reviewed plans for accessory dwelling units to aid property owners in streamlining the design and permitting process for construction of ADUs on existing developed residential properties, and the City has updated its ADU Ordinance codified in Clayton Municipal Code chapter 17.47 to align with current California ADU legislation (Housing Element Program B1: Accessory Dwelling Units). This past year, three ADUs received zoning clearance, and building permits are undergoing review with County Building Department plan checkers. In 2023, the City also held public hearings on rezoning of certain properties to allow residential development where none was previously permitted, and in other instances to increase allowable residential densities from maximum 20 units per acre to as many as 30 or 40 units per acre. The rezoning effort also relaxed certain setback, height, lot area and off-street parking standards that might serve to constrain housing production, and updated the Density Bonus Ordinance (CMC chapter 17.92) to align with current State statute, as may be amended from time to time (Housing Element Program D1: General Plan Amendments and Program D2: Zoning Code Amendments). (These amendments were subsequently adopted on January 16, 2024, ahead of the January 31, 2024, statutory deadline for rezonings.) City staff has also updated fair housing information and resources on the City website, and will continue to do so throughout the housing cycle as information is updated and additional resources are identified (Housing Element Program J3: Fair Housing – Proactive Actions). The City also continued its ongoing efforts in code enforcement, responding to and closing 31 of 37 cases opened during calendar year 2023 (Housing Element Program A1); and

WHEREAS, this year's APR also acknowledges affordable and market-rate housing units permitted in the City in calendar year 2023. On November 1, 2023, the Planning Commission approved a Site Plan Review Permit allowing conversion of vacant second-story office space to six rental apartments at a density of 27 units per acre in the existing building at 1026 Oak Street ("Flora Square Building"). Zoning clearance was also issued for three new ADUs, in line with annual ADU construction assumptions in the updated Housing Element. During the calendar year, City staff-initiated preparation of environmental analysis for 65 new residences (32 single-family residences, 30 townhouses and three ADUs) and anticipates presenting the entitlement requests for those 65 units to the Planning Commission for the Commission's consideration later this year; and

WHEREAS, at a public meeting held on March 19, 2024, the Clayton City Council considered the City's proposed on the General Plan implementation and Housing Element Annual Progress Report for 2023, including the Agenda Report and all other public comments and discussion thereon, and determined the Reports to be satisfactory and acceptable for submittal to HCD and to the State Office of Planning and Research.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Clayton, California, does hereby accept the 2023 report on General Plan implementation and the 2023 Housing Element Annual Progress Report, a copy of which is attached hereto labeled as Exhibit A and incorporated herein as if fully set forth.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California, at a regular public meeting thereof held on the 19th day of March 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, Mayor

ATTEST:

Stephanie Cabrera-Brown, City Clerk

Please Start Here

General Information	
Jurisdiction Name	Clayton
Reporting Calendar Year	2023
Contact Information	
First Name	Dana
Last Name	Ayers
Title	Community Development Director
Email	danaa@claytonca.gov
Phone	9256737300
Mailing Address	
Street Address	6000 Heritage Trail
City	Clayton
Zipcode	94517

Optional: Click here to import last year's data. This is best used when the workbook is new and empty. You will be prompted to pick an old workbook to import from. Project and program data will be copied exactly how it was entered in last year's form and must be updated. If a project is no longer has any reportable activity, you may delete the project by selecting a cell in the row and typing ctrl + d.

[Click here to download APR Instructions](#)

Click here to add rows to a table. If you add too many rows, you may select a cell in the row you wish to remove and type ctrl + d.

v_2_15_24

Jurisdiction	Clayton	
Reporting Year	2023	(Jan. 1 - Dec. 31)
Housing Element Planning Period	6th Cycle	01/31/2023 - 01/31/2031

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		0
Total Units		0

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Units by Structure Type	Entitled	Permitted	Completed
Single-family Attached	0	0	0
Single-family Detached	0	0	17
2 to 4 units per structure	0	0	0
5+ units per structure	6	0	0
Accessory Dwelling Unit	2	0	3
Mobile/Manufactured Home	0	0	0
Total	8	0	20

Infill Housing Developments and Infill Units Permitted	# of Projects	Units
Indicated as Infill	0	0
Not Indicated as Infill	0	0

Housing Applications Summary	
Total Housing Applications Submitted:	5
Number of Proposed Units in All Applications Received:	73
Total Housing Units Approved:	8
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions - Applications	
Number of SB 35 Streamlining Applications	0
Number of SB 35 Streamlining Applications Approved	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Streamlining Provisions Used - Permitted Units	# of Projects	Units
SB 9 (2021) - Duplex in SF Zone	0	0
SB 9 (2021) - Residential Lot Split	0	0
AB 2011 (2022)	0	0
SB 6 (2022)	0	0
SB 35 (2017)	0	0

Ministerial and Discretionary Applications	# of Applications	Units
Ministerial	2	2
Discretionary	3	71

Density Bonus Applications and Units Permitted	
Number of Applications Submitted Requesting a Density Bonus	0
Number of Units in Applications Submitted Requesting a Density Bonus	0
Number of Projects Permitted with a Density Bonus	0
Number of Units in Projects Permitted with a Density Bonus	0

Housing Element Programs Implemented and Sites Rezoned	Count
Programs Implemented	23
Sites Rezoned to Accommodate the RHNA	0

Jurisdiction	Clayton	
Reporting Year	2023	(Jan. 1 - Dec. 31)
Planning Period	6th Cycle	01/31/2023 - 01/31/2031

ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
Please contact HCD if your data is different than the material supplied here

Table B Regional Housing Needs Allocation Progress Permitted Units Issued by Affordability														
		1	2									3	4	
Income Level		RHNA Allocation by Income Level	Projection Period - 06/30/2022-01/30/2023	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	170	-	-	-	-	-	-	-	-	-	-	-	170
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-	-	-	
Low	Deed Restricted	97	-	-	-	-	-	-	-	-	-	-	-	97
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-	-	-	
Moderate	Deed Restricted	84	-	-	-	-	-	-	-	-	-	-	2	82
	Non-Deed Restricted		2	-	-	-	-	-	-	-	-	-	-	
Above Moderate		219	-	-	-	-	-	-	-	-	-	-	-	219
Total RHNA		570												
Total Units			2	-	-	-	-	-	-	-	-	-	2	568
Progress toward extremely low-income housing need, as determined pursuant to Government Code 65583(a)(1).														
		5										6	7	
Extremely low-Income Need			2023	2024	2025	2026	2027	2028	2029	2030	2031	Total Units to Date	Total Units Remaining	
Extremely Low-Income Units*		85	-	-	-	-	-	-	-	-	-	-	85	

*Extremely low-income housing need determined pursuant to Government Code 65583(a)(1). Value in Section 5 is default value, assumed to be half of the very low-income RHNA. May be overwritten.

Please Note: Table B does not currently contain data from Table F or Table F2 for prior years. You may login to the APR system to see Table B that contains this data.

Note: units serving extremely low-income households are included in the very low-income RHNA progress and must be reported as very low-income units in section 7 of Table A2. They must also be reported in the extremely low-income category (section 13) in Table A2 to be counted as progress toward meeting the extremely low-income housing need determined pursuant to Government Code 65583(a)(1).

Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will only include units that were permitted since the start of the planning period. Projection Period units are in a separate column.

Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at apr@hcd.ca.gov.

- VLI Deed Restricted
- VLI Non Deed Restricted

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

Jurisdiction	Clayton		
Reporting Year	2023	(Jan. 1 - Dec. 31)	
Table D			
Program Implementation Status pursuant to GC Section 65583			
Housing Programs Progress Report			
Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.			
1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Program A1: Code Enforcement	<i>[Abbreviated]</i> Preserve the existing housing stock in good condition through ongoing inspection services to review code violations on a complaint basis; working with neighborhood organizations and other groups to create programs that recognize homeowners for exemplary property maintenance; and creating an ADU amnesty program that allows owners of illegally converted garages, detached accessory structures, and attached accessory living quarters to convert those units to units that comply with the building code and ADU ordinance.	Code Enforcement annually; Amnesty program by 2026; Other efforts ongoing	Code Enforcement is an ongoing program of the City. During calendar year 2023, City staff opened 37 cases based on complaints of maintenance at residential properties. Of those cases, 31 were closed within the year.

<p>Program B1: Accessory Dwelling Units</p>	<p><i>[Abbreviated]</i> Increase the number of accessory dwelling units (ADUs) by pursuing the following initiatives, with the goal of facilitating development of at least 10 ADUs annually.</p> <ul style="list-style-type: none"> •Publicize information in the general application packet and posting information on the City’s website. •Create a preapproved set of standard construction plans for several types of ADUs that property owners can use to reduce planning and building permit plan check costs. •Provide incentives for developers of new housing to use ADUs to meet the City’s inclusionary housing requirements. 	<p>Publicize on website by June 2023; Standard Plans by end of 2023; Other efforts annually through budget cycle</p>	<p>The City worked with a consultant to develop 6 pre-reviewed ADU plans ranging from studio to two-bedroom/two-bathroom units. As of December 31, 2023, the plans were undergoing a subsequent round of plan check by the Contra Costa County Building Department but are anticipated to be available to residents within the first quarter of 2024. A handout summarizing the City’s ADU regulations is available to the public at the Community Development Department at City Hall. A comprehensive update of the City website is anticipated to be completed by the first quarter of 2024 and will include a digital version of the handout. To date, two developers of approved/built residential projects and a third developer of a pending residential project have opted to include ADUs in their projects to meeting inclusionary requirements of the Zoning Code.</p>
<p>Program B2: Town Center Mixed Use</p>	<p>Amend the Town Center Specific Plan to allow for and encourage compact, creative types of housing, including live/work units, senior housing, efficiency apartments, and co-housing.</p>	<p>Amend the Specific Plan by 2024</p>	<p>Amendments to the Town Center Specific Plan are anticipated to be drafted in a third phase of Zoning Code amendments related to the Housing Element, scheduled for 2024. During the reporting period, under existing allowances of the Specific Plan, the Planning Commission approved a Site Plan Review Permit request to convert vacant second floor office space in an existing two-story building, to six rental apartments at a density of 27 units per acre.</p>

<p>Program B3: Affordable Housing Development</p>	<p><i>[Abbreviated]</i> Assist affordable housing development by expediting applications, reducing fees, and allowing additional building height and/or density bonuses beyond those allowed by State statutes—or as a matter of right rather than as a concession/waiver pursuant to density bonus law. To encourage such development, the City will create a database of suitable sites to affordable residential and mixed use developers; develop a process that prioritizes the processing of affordable housing applications; encourage use of the density bonus provisions through technical assistance and information dissemination; alert housing developers with known interest in developing within the City when opportunities are available (e.g. sites, partnerships, City-owned land, availability of funding); and adopt a policy to provide priority water and sewer service to new housing developments for lower-income households.</p>	<p>Database by end of 2024; Expedited process and priority policy by end of 2024; Annually for alerting developers</p>	<p>This program is scheduled for implementation in 2024. The sites database planned to be incorporated as a layer into the City's new geographic information system. During the reporting period, there were no development applications submitted to the City for affordable housing projects. City staff responds to inquiries from affordable housing developers interested in building housing in the City and will continue to meet with developers throughout the reporting period. City staff maintains a list of recent and potential developers of housing in Clayton and includes those entities in notifications about code or policy changes applicable to housing; in 2023, this notification included public hearing and public review notices pertinent to the Housing Element and related Zoning Code amendments.</p>
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<p>Program C: Adequate Sites</p>	<p><i>[Abbreviated]</i> Undertake efforts to ensure that land use policies and regulations can support the City's RHNA of 570 units distributed among very low, low, moderate and above moderate income levels, including the following:</p> <ul style="list-style-type: none"> •Comply with the Surplus Lands Act (SLA). •At such time that the City declares land surplus, the City will proactively seek out an affordable housing developer. •Continue to provide appropriate land use designations and maintain an inventory of suitable sites for residential development. •Establish a means to track all housing sites in the inventory to guard against no net loss of sites identified as suitable for lower-income housing development consistent with Government Code Section 65863. Maintain a priority list of sites for rezoning, if needed to guard against no net loss. •Provide technical assistance and information on available City-owned parcels for lower-income developments to private or non-profit housing providers. •Maintain a database of available housing sites and conduct targeted outreach to multifamily housing developers to promote private development and redevelopment efforts. 	<p>SLA compliance annually and ongoing; Implementation and annual reporting throughout the planning period; Establish no-net-loss tracking within one year of Housing Element adoption and continuously track upon adoption</p>	<p>The City complies with the SLA in disposition of City-owned properties. No disposition of any City-owned sites occurred in 2023. City staff provides technical assistance to developers interested in constructing affordable and market-rate units as part of its ongoing response to customer service requests and site inquiries.</p>
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<p>Program D1: General Plan Amendments</p>	<p><i>[Abbreviated]</i> The City will amend the General Plan Land Use Element to clarify the density ranges for multi-family housing. Parallel amendments will be made to the Zoning Code. These revisions will increase zoning capacity for multi-family housing and thereby encourage development of housing for people of all income levels and desired housing choices. The amendments will increase density ranges for Multifamily land use categories to up to 20 or 30 units per acre, up to 40 units per acre for 100 percent affordable development; amend the Institutional land use designation to allow for residential development within a density range of 10.1 to 30 units per acre, and at a minimum density of 20 units per acre on sites where religious assembly uses already exist; amend the allowed uses in the Town Center designation to accommodate ground-floor residential under prescribed circumstances, allow for densities of up to 25 units per acre, and revisit lot coverage standards to accommodate higher densities; amend ADU provisions to comply with current state law; and include a new policy in the Land Use Element requiring that development be built in accordance with minimum densities of the land use designation in which they are located.</p>	<p>Immediately following adoption of the Housing Element, the City will prepare General Plan and Zoning Code amendments. Amendments will be completed by the statutory deadline of January 31, 2024, with a goal of having them adopted before June 2023. ADU amendments by March 2023.</p>	<p>Amendments to the land use designations and policies of the General Plan Land Use Element increased allowable density ranges across multiple land use categories, and assigned residential land use designations that would support the development densities identified in the sites Inventory of the Housing Element. The City Council adopted the amendments to the General Plan Land Use Element on January 17, 2023, concurrently with the adoption of the Housing Element for the 6th housing cycle. Amendments to the ADU ordinance to align with state law were considered by the Planning Commission and City Council at public hearings in February and March 2023 and were adopted by the City Council in April 2023. The amendments were forwarded to HCD for review in April 2023. Other Zoning Code amendments in accordance with Program D2, below, were adopted on January 16, 2024.</p>
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<p>Program D2: Zoning Code Amendments</p>	<p><i>[Abbreviated]</i> The Constraints analysis for this sixth cycle Housing Element identifies several Zoning Code amendment needed to address new state laws and remove potential constraints to development. In response, the City will adopt various amendments to the Zoning Code, including amendments to revise maximum building height in multifamily zone; revise lot area per unit standards to align with increased densities of General Plan residential land use designations; reduce side yard setbacks and open space requirements for multifamily residential zones; amend zoning regulations for low barrier navigation centers, residential care facilities, transitional and supportive housing and employee housing to comply with state law; streamline residential entitlement processes and extend the term of approval for development plan permits; and reduce off-street parking requirements for residential units. The City will also create written procedures for the SB 35 Streamlined Ministerial Approval Process.</p>	<p>By January 31, 2024</p>	<p>Following the adoption of revised ADU regulations in April 2023 (see Program D1) , the City Council held a public hearing on December 19, 2023, on a second phase of amendments to the Zoning Code related to removal of constraints to housing development and site rezonings to increase allowable densities. (Those amendments were later adopted by the City Council on January 16, 2024.) The second phase of Zoning Code amendments rezoned certain properties to increase densities or allow residential development on housing opportunity sites in the City's Housing Element sites inventory; relaxed certain development standards for residential projects (building height, setbacks, distances between buildings, minimum lot area per unit for multifamily housing types); established standards for maximum lot area per unit to ensure construction of minimum residential densities in the General Plan; reduced off-street parking requirements for all residential land uses; removed City Council discretion from the Development Plan entitlement process; extended the term of approval for Development Plan permits; and amended the Density Bonus Ordinance to incorporate State law by reference to ensure ongoing compliance of local regulations with California statute, as may be amended from time to time. Future phases of Zoning Code amendments will update regulations for certain residential land uses to comply with State law.</p>
<p>Program E1: Mortgage Programs</p>	<p>Continue to refer interested persons to information regarding Contra Costa County's Mortgage Credit Certificate Program, Mortgage Revenue Bond Program, Owner-Occupied Housing Rehabilitation Program, and other programs the County may offer over time.</p>	<p>Add to City's Housing webpage by end of 2023; Update Resource Links Annually</p>	<p>City staff updates links to outside agency resources on an ongoing basis as resources are identified. During this reporting year, no funds were available via the County Mortgage Credit Certificate Program. According to the HCD website, funds in the HCD Owner-Occupied Housing Rehabilitation Program were held for eligible households in counties affected by 2020 federally-declared disaster wildfires, which did not include Contra Costa County.</p>

Program E2: Mortgage Assistance	Seek funding to develop and implement a sustainable downpayment assistance program for first-time homebuyers by working with the County or by developing the City's own program that can be used with the Mortgage Credit Certificate program, new inclusionary units, or alone.	Examine funding sources and program opportunities by 2025	This program will be implemented throughout the planning period as potential sources of funding are identified.
Program F1: Town Center Specific Plan Amendment	The City will amend the Specific Plan to identify housing opportunity sites at a density of up to 30 units per acre and that allow ground-floor residential uses under defined circumstances. The City will promote development opportunities in the Town Center, circulate a development handbook that describes the permitting process for mixed-use and residential projects, and offer incentives such as streamlined processing and additional density bonuses to incentivize such projects. The City will aim to facilitate the development of at least one mixed-use or 100 percent residential project within the planning period.	Amend the Specific Plan by 2024	This program is scheduled for implementation in 2024. During the reporting period, under existing allowances of the Specific Plan, the Planning Commission approved a Site Plan Review Permit request to convert vacant second floor office space in an existing two-story building, to six rental apartments at a density of 27 units per acre.
Program G1: Inclusionary Housing Monitoring	<i>[Abbreviated]</i> During the planning period, the City will consider revisiting the Affordable Housing Plan to lower the threshold for providing affordable units to fewer than 10 units. Recognizing the in-lieu fees often fall far short of the funds required to construct new unit, the City will also consider adjusting the in-lieu fees, as well as considering offering other options for construction of off-site housing, such as purchase of affordability covenants, rehabilitation of substandard existing units, and funding ADU production on other properties.	Investigate expanding requirements to rental housing and lowering the threshold(s) by 2026; implement by 2028 if deemed to be appropriate	This program is scheduled for implementation by 2026.

<p>Program H1: Funding Assistance</p>	<p>The City will seek funding under the federal Housing Opportunities for Persons with AIDS, California Child Care Facility Financing Program, and other state and federal programs designated specifically for special needs groups such as seniors, persons with disabilities, and persons at risk for homelessness. The City will aim to work with housing providers on at least one project serving a special needs group during the planning period. The City will continue to work with developers who cater to disabled and other special needs populations to develop a housing project in Clayton.</p>	<p>Seek funding annually; Proactively seek out developers by end of 2025</p>	<p>This program will be implemented on an ongoing basis throughout the planning period.</p>
<p>Program H2: Reasonable Accommodation</p>	<p>The City shall provide information on its website and continue to distribute public information brochures on reasonable accommodations for disabled persons and enforcement programs of the California Fair Employment and Housing Council. The City will establish a procedure for disabled persons or their representatives to request a reasonable accommodation from Zoning Code requirements, building codes, and land use regulations, policies, and procedures to provide disabled persons with an opportunity to use and enjoy housing equal to that of non-disabled persons.</p>	<p>Website and public information by end of 2023; Update public information annually; Reasonable accommodation procedure by end of 2024</p>	<p>The City's Reasonable Accommodations Ordinance was adopted in the 5th housing cycle and is codified in Clayton Municipal Code chapter 15.90 viewable online through the City website. Links to fair housing legislation and resources available through the Department of Rehabilitation and California Civil Rights Department have been added to the City website. City staff will include additional local resources on the City website and at public buildings in the City (Library, City Hall) as such resources are created or updated.</p>

<p>Program H3: Universal Design</p>	<p>The City will continue to implement its universal design ordinance and continue to distribute its brochure on universal design standards, resources for design, and compliance with City requirements. The City will explore creating preapproved ADU construction plans with universal design.</p>	<p>Implement universal design standards as development is proposed; Universal ADU plans by end of 2025</p>	<p>The City's Universal Design Ordinance was adopted in the 5th housing cycle and is codified in Clayton Municipal Code chapter 15.92 viewable online through the City website. The ordinance identifies mandatory and optional standards for visitability in new residential construction. Though developments of fewer than 5 units are exempt from the ordinance, the City's pre-reviewed ADU plans are all single-story models and incorporate optional universal design elements such as zero-threshold options at entries, no sunken or elevated rooms, and bathrooms on the level with adjacent living or sleeping areas. The City will continue efforts with its consultant to determine whether additional modifications to pre-reviewed ADU plans (underway during the reporting period) would be necessary to achieve visitability.</p>
<p>Program H4: Expedited Processing</p>	<p>Give priority to development projects that include a component for special needs groups (including the elderly, disabled, large families, the homeless, students, and transitional foster youth) in addition to other lower-income households. Priority will consist of advancing applications for review ahead of development applications not addressing special needs households. Implement priority based on community needs to ensure adequate housing for all residents within special needs groups.</p>	<p>As development is proposed</p>	<p>This program will be implemented on an ongoing basis throughout the planning period as development applications are submitted to the City for review.</p>

<p>Program I1: Affordable Housing Preservation - Monitor and Provide Options</p>	<p><i>[Abbreviated]</i> The Stranahan subdivision includes five units that have affordability covenants expiring during the planning cycle, in 2025 and 2026. The City has no financial resources available to preserve these units' affordability, and affordable housing organizations would have to compete to buy the units to maintain their affordability covenants and would have to subsidize housing costs if a unit were sold or rented or moderate- or lower-income households. To keep these units as affordable units, the City will: notify affordable housing providers of potential affordable units for sale before covenants expire to allow providers time to negotiate with homeowners; send letters to property owners of units at risk of expiring covenants, encouraging owners to allow affordable housing providers to purchase the units; amend Chapter 17.92 (Inclusionary Housing Requirements) to allow purchase of these units and extending the affordability covenants as a means of satisfying inclusionary housing goals.</p>	<p>Contact potential nonprofit purchasers in 2024; Send letters to property owners of at-risk units 3 years, 1 year, and 6 months prior to expiration; Consider amendments to CMC Chapter 17.92 by 2024 and if considered appropriate, amend by 2025</p>	<p>No affordable units had covenants that were scheduled to expire during the reporting period. This program will be implemented throughout the planning cycle as units with affordable covenants approach the end of their term of affordability.</p>
<p>Program J1: Fair Housing - Local Practices</p>	<p>Review the Zoning Ordinance, policies, and practices to ensure compliance with fair housing laws.</p>	<p>Review by end of 2023; remedies as needed to be completed by 2025</p>	<p>During calendar year 2023, City staff did not identify conflicts between existing zoning regulations or land use policies and fair housing laws. Continued review of regulations and amendments as needed will occur throughout the planning period.</p>
<p>Program J2: Transparency in Decision-making</p>	<p>The City will provide information on proposed affordable housing projects to the public through the City's public hearing process in the form of study sessions, public meetings, and when required, public hearings. Early notice and awareness will be provided via print and social media.</p>	<p>At the time applications are received.</p>	<p>This program will be implemented on an ongoing basis throughout the planning period as development applications are submitted to the City for review.</p>

<p>Program J3: Fair Housing - Proactive Actions</p>	<p><i>[Abbreviated]</i> Clayton is a high resource area; thus, any new housing built in the City will provide residents a quality living environment. To work toward improving housing access for all, the City will take the following actions: create a webpage as part of the City's website that provides links to housing resources, including how to address fair housing complaints; continue to refer cases and questions to County agencies and their contractors for enforcement of prohibitions on discriminatory lending practices and violations of fair housing laws; continue to provide information to help increase awareness of fair housing protections by referral of people to fair housing workshops sponsored by the County; educate the public and promote public awareness of equal access to housing legislation through flyers at public buildings and on the City website, advise City leaders about fair housing issues and progress, and inform landlords of their legal responsibilities regarding fair housing; continue to participate in and implement the Analysis of Impediments to Fair Housing Choice for Contra Costa County; implement an accessibility policy; and ensure that all development applications are evaluated without prejudice to the proposed residents.</p>	<p>Implementation annually throughout the planning period; Website and public counter posting of fair housing resources to occur within one year of Housing Element adoption; Accessibility policy by end of 2025</p>	<p>The Community Development / Housing / Housing Resources page of the City's website includes links to online resources of outside local and state agencies and nonprofit organizations that provide guidance to residents in understanding and identifying fair housing laws and protections, tenant/landlord rights and responsibilities, foreclosure assistance and social services. The City's website is updated regularly as additional resources are identified or existing resources are updated.</p>
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Program K: Replacement Policy	For any proposed housing development that involves the demolition or other removal of existing residential units, Government Code section 65915(c)(3) requires that the City have a replacement policy for any removed units that are subject to a recorded covenant, ordinance, or law that limits occupation of those units to lower- or very low-income households. The City will adopt such a policy to comply with state law.	By end of 2023	The City is in the process of drafting the policy for City Council adoption.
Program L1: Energy Conservation	Continue to provide energy conservation brochures at City Hall, at the Clayton Community Library, and on the City's website.	Ongoing	This program will be implemented on an ongoing basis throughout the planning period.
Program L2: Stretch Program	Review and consider possible amendments to the General Plan, Zoning Code, and related policy and regulatory documents to improve energy conservation beyond CalGreen standards. Consider establishing an incentivized residential green building program to encourage energy-efficient retrofitting, and the use of renewable energy in residential applications. Some of the incentives the City will consider when drafting this program will be: <ul style="list-style-type: none"> •Providing eligible projects with building and plan check fee rebates (when financially feasible) •Achieving third-party green building certification •Renewable energy systems •Green roofs 	Consider establishing a residential green building program by 2025	This program has not been implemented yet and is scheduled for implementation by 2025.
Program L3: Regional Programs	Continue to participate in home energy and water efficiency improvement financing opportunities available through PACE programs, such as HERO, Figtree, and CaliforniaFirst.	Ongoing	This program will be implemented on an ongoing basis throughout the planning period.

General Comments

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Jurisdiction	Clayton	
Reporting Period	2023	(Jan. 1 - Dec. 31)
Planning Period	6th Cycle	01/31/2023 - 01/31/2031

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Note: "+" indicates an optional field
Cells in grey contain auto-calculation formulas

Table F

Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)

Please note this table is optional: The jurisdiction can use this table to report units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved, including mobilehome park preservation, consistent with the standards set forth in Government Code section 65583.1, subdivision (c). Please note, motel, hotel, hostel rooms or other structures that are converted from non-residential to residential units pursuant to Government Code section 65583.1(c)(1)(D) are considered net-new housing units and must be reported in Table A2 and not reported in Table F.

Activity Type	Units that Do Not Count Towards RHNA ⁺ Listed for Informational Purposes Only				Units that Count Towards RHNA ⁺ Note - Because the statutory requirements severely limit what can be counted, please contact HCD at apr@hcd.ca.gov and we will unlock the form which enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c) of Government Code Section 65583.1 ⁺ . For detailed reporting requirements, see the checklist here: https://www.hcd.ca.gov/community-development/docs/adequate-sites-checklist.pdf
	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Units									
Mobilehome Park Preservation									
Total Units by Income									

ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

Jurisdiction	Clayton	
Reporting Period	2023	(Jan. 1 - Dec. 31)
Planning Period	6th Cycle	01/31/2023 - 01/31/2031

NOTE: STUDENT HOUSING WITH DENSITY BONUS ONLY. This table only needs to be completed if there were student housing projects WITH a density bonus approved pursuant to Government Code 65915(b)(1)(F)

Note: "+" indicates an optional field
Cells in grey contain auto-calculation formulas

Table J

Student housing development for lower income students for which was granted a density bonus pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 65915

Project Identifier			Project Type	Date	Units (Beds/Student Capacity) Approved								Units (Beds/Student Capacity) Granted Density Bonus	Notes
1			2	3	4								5	6
APN	Street Address	Project Name ⁺	Local Jurisdiction Tracking ID ⁺	Unit Category (SH - Student Housing)	Date	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Total Additional Beds Created Due to Density Bonus	Notes
Summary Row: Start Data Entry Below														

Jurisdiction	Clayton	
Reporting Period	2023	(Jan. 1 - Dec. 31)
Planning Period	6th Cycle	01/31/2023 - 01/31/2031

ANNUAL ELEMENT PROGRESS REPORT

**Table K
Tenent Preference Policy**

Local governments are required to inform HCD about any local tenant preference ordinance the local government maintains when the jurisdiction submits their annual progress report on housing approvals and production, per Government Code 7061 (SB 649, 2022, Cortese). Effective January 1, 2023, local governments adopting a tenant preference are required to create a webpage on their internet website containing authorizing local ordinance and supporting materials, no more than 90 days after the ordinance becomes operational.

Does the Jurisdiction have a local tenant preference policy?	No
If the jurisdiction has a local tenant preference policy, provide a link to the jurisdiction's webpage on their internet website containing authorizing local ordinance and supporting materials.	



Notes

Jurisdiction	Clayton	
Reporting Year	2023	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT
Local Early Action Planning (LEAP) Reporting
 (CCR Title 25 §6202)

Please update the status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Sector 50515.02 or 50515.03, as applicable.

Total Award Amount	\$ 65,000.00	<i>Total award amount is auto-populated based on amounts entered in rows 15-26.</i>
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Task	\$ Amount Awarded	\$ Cumulative Reimbursement Requested	Task Status	Other Funding	Notes
Task 1: Housing Element Preparation	\$65,000.00	\$65,000.00	Completed	REAP	Reimbursement request was submitted to HCD on October 4, 2022. Reimbursement was received July 2023.
Task 2: HCD Coordination, Revisions and Adoption of the Housing Element	\$0.00	\$0.00	In Progress	Local General Fund	Initial review of draft HE by HCD occurred between July and October 2022. City addressed HCD staff comments, and City Council adopted the HE on January 17, 2023. Adopted HE resubmitted to HCD on January 31, 2023. Subsequent resubmittals of multiple revised drafts on July 24, 2023, and October 24, 2023, and December 20, 2023. The City anticipates submitting a sixth draft revision for HCD review in response to December 22, 2023, HCD comment letter, in early March 2024.
Task 3: Adopted Housing Element Initial Implementation	\$0.00	\$0.00	In Progress	Local General Fund	Public hearings on zoning map and text amendments to implement adopted Housing Element policies occurred in March/April 2023 (ADU Ordinance Update) and November/December (Density Bonus Ordinance, various amendments removing housing constraints, other misc. changes). Clayton City Council adopted the amendments in January 2024. Future phases of amendments will implement additional policies. Pre-reviewed ADU plans are undergoing final rounds of plan check with Contra Costa County Building Department plan checkers.

Summary of entitlements, building permits, and certificates of occupancy (auto-populated from Table A2)

Completed Entitlement Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0

Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	8
Above Moderate		0
Total Units		8

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		0
Total Units		0

Certificate of Occupancy Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	1
	Non-Deed Restricted	2
Moderate	Deed Restricted	1
	Non-Deed Restricted	0
Above Moderate		16
Total Units		20

[\(Back to Agenda\)](#)

City Council Agenda Item 6a

Sammy Garvin

for

"Doing the Right Thing"

at

Mt. Diablo Elementary School

by exemplifying great "Self-Discipline"

January/February 2024

Amaya De La Cruz
for
"Doing the Right Thing"
at
Mt. Diablo Elementary School
by exemplifying great **"Self-Discipline"**

January/February 2024

Kazuma Nguyen
for
"Doing the Right Thing"
at
Mt. Diablo Elementary School
by exemplifying great **"Self-Discipline"**
January/February 2024

Sammy Venturino
for
"Doing the Right Thing"
at
Mt. Diablo Elementary School
by exemplifying great **"Self-Discipline"**

January/February 2024

Neylan Berke
for
"Doing the Right Thing"
at
Mt. Diablo Elementary School
by exemplifying great **"Self-Discipline"**

January/February 2024

Naira Thapa
for
"Doing the Right Thing"
at
Mt. Diablo Elementary School
by exemplifying great **"Self-Discipline"**

January/February 2024

Ruby Rainsberg
for
"Doing the Right Thing"
at
Diablo View Middle School
by exemplifying great **"Self-Discipline"**
January/February 2024

Aryanna Rivera
for
"Doing the Right Thing"
at
Diablo View Middle School
by exemplifying great **"Self-Discipline"**
January/February 2024

Camdyn Alton
for
"Doing the Right Thing"
at
Diablo View Middle School
by exemplifying great **"Self-Discipline"**
January/February 2024



City Council Agenda Item 9a

STAFF REPORT

TO: Honorable Mayor and Councilmembers

FROM: Amy Walcker, HR Manager

DATE: March 19, 2024

SUBJECT: Update on the Interim City Manager and City Manager recruitment process

RECOMMENDATION

Receive a Staff update on the Interim City Manager and City Manager recruitment process, appoint a City Council ad hoc subcommittee to assist in the City Manager Recruitment Process for an Interim and Permanent City Manager, consider and approve an amendment to the Bob Murray Agreement for City Manager recruitment, and provide Staff direction as necessary.

BACKGROUND

At the March 8, 2024 special meeting the City Council directed Staff may to being the Interim City Manager search and work with Bob Murray and Associates for the recruitment of a City Manager. The Council also expressed a desire to appoint an ad hoc subcommittee to assist in the City Manager Recruitment for both the interim and permanent openings.

DISCUSSION

Receive the updated on the City Manager recruitment, select two (2) members of the council to be appointed to the ad hoc subcommittee, and provide staff with direction based on information received during the discussion.

FISCAL IMPACT

The fiscal impact will ultimately be determined by the direction chosen by City Council

CEQA IMPACT

None.

ATTACHMENTS

None.



City Council Agenda Item 9b

STAFF REPORT

TO: Honorable Mayor and Councilmembers

FROM: Bret Prebula, City Manager

DATE: March 19, 2024

SUBJECT: Provide Direction to Staff on Initiating the Necessary Processes to Declare Portions of APN 118-370-077 and APN 118-520-001 as Surplus and Proceed with the Disposal of Said Property.

RECOMMENDATION

Provide direction on the desire to declare 1-acre of APN 118-370-077 and up to 4-acres of APN 118-520-001 as “surplus land” under the Surplus Land Act, so that the City can move forward toward disposal.

BACKGROUND

The city has recently received interest from a developer about city owned property located near the Oakhurst Country Club. The property in question is a portion of APN 118-370-077 and a portion of APN 118-520-001 (“Property”). Currently, this land is city owned open space and does not have any other designated use for city operations. The development potential of these APN’s is small relative to the total acreage of the properties (118-380-077 is 239.93-acres and 118-370-077 is 10.93-acres for a total of 250.86 acres). The current interest for disposal is approximately 1-acre of APN 118-370-077 and up to 4 acres of APN 118-520-001.

APN 118-520-001 was obtained by the city through a purchase from The Presley Companies in September 1990 through the Oakhurst Assessment District. The Presley Companies agreed to assist the city in the construction of a middle school as part of the purchase. APN 118-370-077 was transferred to the City in July 2003 from the William Lyon Homes (also known as The Presley Companies) because of a settlement agreement between the city and William Lyon Homes. Both APNs are currently within the Geological Hazard Abatement District (GHAD).

The open space requires some management by city staff through weed abatement to assist in fire prevention but other than that work this open space is left unmanaged.

DISCUSSION

The State of California has been faced with a housing crisis for many years. The number and affordability of homes throughout the State continues to be an ongoing issue. As the city continues to move through the approval of its Housing Element with the State Housing and Community Development (HCD) removing barriers to additional housing is one of the policies within the plan.

Staff believes the Property, a portion of these APN's (1 acre of APN 118-370-077 and up to 4 acres of APN 118-520-001), does not hold operational value to the city and would be better served for the city to declare as surplus, thus allowing the marketplace to provide a better long-term use for potential housing. Prior to disposing of any portion of city owned property, the city must comply with the Surplus Land Act (SLA).

The SLA (Government Code Section 54220 et seq.) requires all local agencies to prioritize affordable housing, as well as parks and open space, when disposing of surplus land. Legislation which took effect on January 1, 2020, requires that before a local agency may dispose of land that is no longer necessary for its use, the land must be declared either "surplus land" or "exempt surplus land," as supported by written findings.

Generally, the SLA applies to all sales and leases (leases over 15 years in length) of City property. Staff does not believe the sale of this land would qualify for an SLA exemption, thus the normal SLA process for "surplus land" would occur as outlined below.

- Declaring the land "surplus" by adoption of a resolution at a regular board meeting and halting any ongoing negotiations for the property (see Gov. Code sections 54221(c) & 54222).
- Immediately thereafter issuing a written notice of availability to various housing developers and governmental entities by certified mail and email for purposes of an affordable housing development or open space uses (see Gov. Code section 54222),
- Accepting written interest in the property for a mandatory 60-day period (Gov. Code section 54222(e)).
- if no written interest is received, submitting a final compliance package to the CA Department of Housing and Community Development ("HCD") and waiting 30 days before disposing of the land (Gov. Code section 54230.5(b)).
- However, if written interest *is* received during the 60-day interest period, then a subsequent mandatory 90-day good faith negotiation process takes place for the disposal of the property (Gov. Code section 54223).
- A final compliance package is submitted to HCD and the City must wait 30 days from submittal to HCD before disposing of the land to another entity in accordance with its usual disposal procedures. The City must also record an affordability covenant prior to disposal. (Gov. Code section 54230.5(b).).

Staff believes whether the property is utilized for affordable housing or purchased by a developer for market rate housing, the net benefit will be increasing housing stock within the City of Clayton.

FISCAL IMPACT

The fiscal impact to the city will ultimately be determined by the market price of the land and the interest received in the land. Expenses such as a certified appraisal and City Attorney staff time will be incurred if the property is declared surplus and moves forward with the SLA process.

CEQA IMPACT

The action is not a binding commitment to any particular course of action and is not subject to the California Environmental Quality Act (Pub. Resources Code, § 2100 et seq.) and State CEQA Guidelines (Cal. Code Regs. Tit. 14, §15312). Furthermore, the action is exempt from environmental review pursuant to the California Environmental Quality Act (Pub. Resources Code, § 2100 et seq.) and State CEQA Guidelines (Cal. Code Regs. Tit. 14, §15312) which applies to the declaration and sale of surplus government property.

ATTACHMENT(S)

1. Surplus Land Outline

