CITY OF CLAYTON

Founded 1857 . . Incorporated 1964

AGENDA

REGULAR MEETING

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CLAYTON CITY COUNCIL

* * *

TUESDAY, May 16, 2017

7:00 P.M.

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

Mayor: Jim Diaz
Vice Mayor: Keith Haydon

Council Members
Julie K. Pierce
David T. Shuey
Tuija Catalano

- 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 least 72 hours prior to the Council meeting.
- 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.ci.clayton.ca.us**
- 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.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

* CITY COUNCIL *

May 16, 2017

1. **CALL TO ORDER AND ROLL CALL** – Mayor Diaz.

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

3. **CONSENT CALENDAR**

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

(a) Approve the minutes of the City Council's regular meeting of May 2, 2017. (View Here)

(b) Approve the Financial Demands and Obligations of the City. (View Here)

(c) Adopt a Resolution approving the Engineer's Report and declaring intent to levy and collect real property tax assessments for the Diablo Estates at Clayton Benefit Assessment District (BAD) in FY 2017-18, and setting July 18, 2017 at or about 7:00 p.m. as the date and time for a noticed Public Hearing on the proposed fiscal year tax assessment levies. (View Here)

(d) Adopt a Resolution demonstrating City compliance with the State of California's Surplus Land Act – Government Code Section 54220, et. seq. (CDD-06-17) (View Here)

4. **RECOGNITIONS AND PRESENTATIONS**

(a) Recognition to Merle Hufford in grateful appreciation for dedicated civic service as Clayton City Treasurer from October 1997 through March 2017.

(b) Proclamation declaring May 21-27, 2017 as "Emergency Medical Services Week".

5. **REPORTS**

(a) Planning Commission – No meeting held.
(b) Trails and Landscaping Committee – No meeting held.
(c) City Manager/Staff
(d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.
(e) Other

6. PUBLIC COMMENT ON NON - AGENDA ITEMS

Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. 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 Public Hearing, Action Items and other Agenda Items will be allowed as each item is considered by the City Council.

7. PUBLIC HEARINGS

(a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 475 updating the Clayton Municipal Code, Title 15 Building & Construction, Section 15.08 – Sign Provisions, to comply with the United States Supreme Court's recent decision in *Reed vs. Town of Gilbert, AZ*, to prohibit mobile billboards, and to incorporate other best practices. (View Here)
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following Council discussion of or subject to any amendments to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 475 by title and number only and waive further reading; and **5)** Following the City Clerk's reading, by motion approve Ordinance No. 475 for Introduction with the finding the action does not constitute a project under CEQA.

(b) Public Hearing to consider a proposed City-initiated General Plan Amendment to modify the determination of residential developable acreage and density calculations and to not require a minimum density on residentially designated property with sensitive land areas and the Introduction and First Reading of Ordinance No. 476 adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to Title 17 Zoning of the Clayton Municipal Code describing and determining how General Plan densities are calculated for proposed residential projects with sensitive land areas.
(View Here)
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following Council discussion of or any amendments to the proposed General Plan Amendment or Ordinance to take the following actions with the motions listed below:

Item 7(b) cont'd.

1. Approve a motion to adopt a Resolution amending the Land Use Element of the General Plan to modify the determination of residential developable acreage and density calculations and to not require a minimum density on residentially designated property with sensitive land areas, with the finding this General Plan Amendment will result in activities less intense than assumed in the previously-certified EIR for the City's General Plan adopted by the City Council on July 18, 1985;

2. Approve a motion to have the City Clerk read Ordinance No. 476 by title and number only and waive further reading;

3. Following the City Clerk's reading, by motion approve Ordinance No. 476 for Introduction, with the finding this Ordinance will result in activities less intense than assumed in the previously-certified EIR for the City's General Plan adopted by the City Council on July 18, 1985.

8. ACTION ITEMS

(a) Update report and continued discussion on whether the City of Clayton should participate in a Community Choice Energy (CCE) Program, plus a further presentation from MCE Clean Energy (MCE) with the offer to join its Joint Powers Authority (JPA). (View Here)
(Community Development Director)

Staff recommendation: Following the presentation by staff and representatives of MCE Clean Energy and an opportunity for public comment, that Council provide policy direction to staff regarding the offer of proposed membership in MCE.

9. COUNCIL ITEMS – limited to requests and directives for future meetings.

10. CLOSED SESSIONS

(a) *Government Code Section 54956.8,* Conference with Real Property Negotiator.
Instructions to the City's Negotiators concerning price and terms of payment.
Real Property: 222 Stranahan Circle (APN 119-620-012).
Real Property Owner: Dean Wilkinson.
City Negotiators: Gary Napper, City Manager; and
Mindy Gentry, Community Development Director

(b) *Government Code Section 54956.8*, Conference with Real Property Negotiator.
Real Properties: 6005 Main Street (APNs 119-011-002-1; 118-560-010-1; 118-370-041-6).
Instructions to City Negotiators: Council Members Pierce and Shuey and Ed Del Beccaro, Managing Director, Transwestern, concerning price and terms of payment.
Negotiating Parties:
1. Pacific Union Land Investors, LLC (Joshua Reed; Chris Garwood); and
2. Avesta Development Group (Mohammad Javanbakht, Managing Partner).

Report out of Closed Session: Mayor Diaz.

11. ADJOURNMENT

The next regularly scheduled meeting of the City Council will be June 6, 2017.

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Agenda Date: 5-16-2017

Agenda Item: 3a

MINUTES
OF THE REGULAR MEETING CLAYTON CITY COUNCIL

TUESDAY, May 2, 2017

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:00 p.m. by Mayor Diaz in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Diaz, Vice Mayor Haydon and Councilmembers Pierce and Shuey. Councilmembers absent: Councilmember Catalano. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, and City Clerk/HR Manager Janet Brown.

2. **PRESENTATION OF THE COLORS AND PLEDGE OF ALLEGIANCE**
Led by Scouts from Troop 262, Mt. Diablo Silverado Council, Boy Scouts of America.

3. **CONSENT CALENDAR**

It was moved by Vice Mayor Haydon, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).

(a) Information Only – No action taken.
1. Notification to Clayton real property owners of a City of Concord annual sewer service charge increase effective July 1, 2017 (8.96% increase to $547/year for a single-family dwelling) for real property sewer services and maintenance, repair and operation of Clayton's municipal sewer system.

(b) Approved the minutes of the City Council's regular meeting of April 18, 2017.

(c) Approved the Financial Demands and Obligations of the City.

(d) Adopted Resolution No. 11-2017 directing the preparation of an Engineer's Report for calculation of the annual real property tax assessments in FY 2017-18 for the Diablo Estates at Clayton Benefit Assessment District (BAD).

(e) Approved a one-year low-bid award of contract to Waraner Brothers Tree Service in the amount of $49,000 for performance of the 2017 Annual Weed Abatement Program for fire hazards on City-owned real properties (funded by the Citywide Landscape Maintenance District, CFD 2007-1), and allocated $4,000 from the District's reserve to underwrite the service contract.

(f) Approved a Second Amendment to a Tolling Agreement extending the limitations period to November 8, 2017 for the filing of a legal challenge by West Coast Homebuilders, Inc., regarding a final map for the Oak Creek Canyon residential subdivision project (SUBD.6826).

(g) Accepted the City's Investment Portfolio Report for the Third Quarter of FY 2016-17 ending March 31, 2017.

4. RECOGNITIONS AND PRESENTATIONS

(a) Oath of Office by newly-appointed Clayton City Treasurer, Ross "Hank" Stratford.

The Oath of Office by appointed City Treasurer, Ross E. "Hank" Stratford, was administered by City Clerk Janet Brown.

Mayor Diaz presented Mr. Stratford with a Certificate of Appointment. Mr. Stratford thanked the City Council for its confidence in appointing him as City Treasurer and looks forward to serving the Clayton community in this new capacity.

(b) Presentation by the Mt. Diablo Silverado Council, Boy Scouts of America, regarding the status of Scouting in Clayton (Arnel Jaime, District Executive).

Several Boy Scouts from Troop 262, Mt. Diablo Silverado Council, provided verbal reports on the amount and extent of scouting within the city of Clayton. Various Scouts offered brief presentations about the history, ranks, activities and volunteer service hours provided by Scouts to the Clayton community. The City Council was presented with a plaque denoting 5,187 community hours expended on Eagle Scout and Service Projects for this community during 2014 - 2016.

(c) Certificates of Recognition to public school students selected for exemplifying the "Do the Right Thing" character trait of "Integrity" during March - April 2017.

Mayor Diaz and Mt. Diablo Elementary School fourth grade teacher Kristen Burkhardt presented a certificate to student Grady Rose.

Mayor Diaz and Diablo View Middle School Principal Patti Bannister presented certificates to students Lilian Ryan and Alyson Spitzer.

(d) Report by Peggie Howell, President of the Board of Trustees of the Contra Costa Mosquito Vector Control District and the City of Clayton's representative.

Peggie Howell, President of the Board of Trustees of the Contra Costa Mosquito Vector Control District, is Clayton's representative on the Board for 9 years and is a 25 year resident of Clayton. Ms. Howell's background includes academic training with Master in Science and a degree in medical microbiology, she spent various aspects of her career in clinical laboratory science and public health is a passion. Ms. Howell offered a basic report of the services provided by the Contra Costa Mosquito Vector Control District noting its funding comes through property tax revenues and benefit assessment charges. Ms. Howell advised the District is on track for 2016-2017 to end the year over budget on revenue and under budget on expenses. Prior to the economic downturn in 2008, the District set aside a healthy reserve and has been able to continue vital services without increasing the benefit assessments paid by taxpayers; excess funds are invested in the Local Agency Investment Fund.

Ms. Howell provided a current status on vector control noting two (2) species of mosquito are found in Contra Costa County which carry the West Nile virus. The District has traps placed around the county collecting the mosquitos weekly, and then identifies the species and tests for viruses. The trap located in Clayton is at Ms. Howell's residence. The District also maintains sentry chickens and tracks and collects dead bird (ravens and blue jays) for testing. In 2016, there were 442 human West Nile virus cases in California and 4 of those cases in Contra Costa County; none occurred in Clayton.

Ms. Howell concluded her report noting its current General Manager is retiring in August after 16 years of service; recruitment underway through the executive search firm Ralph Andersen and Associates. The Search Committee expects to interview screened applicants in June with a recommendation to the full board in July.

Councilmember Shuey inquired if the recent rainfalls could potentially cause a problematic year for West Nile virus? Ms. Howell advised there will be more mosquitos; however, they are not sure if the West Nile virus will be an issue as the infection rates actually went up during the drought due to little water sources so animals and mosquitos were hovering around the fewer and fewer water spots, closely packed together where infection could spread better. It is unknown what impact if any there will be this year with infections.

Councilmember Pierce suggested an article in the *Clayton Pioneer* to advise the community of the dangers of mosquitos, and with Ms. Howell being Clayton's representative and President of the Board our public might be more interested.

City Manager Napper advised a hotlink to the Contra Costa Mosquito Vector Control District website can be found on the City's website home page. Mr. Napper also thanked Ms. Howell and her staff for its responsiveness when the City has been presented with neglected swimming pools needing quick attention; the Contra Costa Vector Control District has responded in a timely fashion to assist with these types of neighborhood problem. Mr. Napper then inquired if the Mosquito District's tax rate assessment is based on a home's assessed valuation? Ms. Howell responded that is correct. She clarified the District receives funding from a Benefit Assessment District as well as assessed property taxes. The District Board is allowed to increase the Benefit Assessment District tax rate yet noted it has not done so even during the tough budget times; it is being responsible and worked to accomplish their tasks without further burdening the taxpayers. Ms. Howell added the District also handles other areas of concerns such as roof rats; technicians will come out to assess the situation, show the homeowner where the rats are getting in, and figure out why their yard is attracting them. The District controls rats in only sewers however. Ms. Howell added the Zika virus is not a problem here in that we do not have the mosquito species that carries Zika; however, the District still conducts surveillance monitoring for it.

(e) Kickoff of Clayton's Certified Farmers' Market for 2017
"Opening Day" is Saturday, May 13th (9:00 am – 1:00 pm, each Saturday in the Main Street public and KinderCare's parking lots)
(Lynnette Miscione, Clayton Market Manager, PCFMA
Shawn Lipetzky, Regional Manager, Pacific Coast Farmers' Market Association)

Ms. Miscione summarized a PowerPoint presentation on its 2016 Pacific Coast Farmers' Market Annual Report for Clayton's farmers' market and highlighted the upcoming attractions for the 2017 season. Ms. Miscione advised the relocation of the market from Diablo Street to the KinderCare parking lot was very beneficial for patrons and vendors, along with expanded advertising. She also acknowledged some of the feedback from the patrons as this season the market will be open from 9:00 a.m. to 1:00 p.m. and the vendors have doubled in size based on the demand for more of a variety of items.

Vice Mayor Haydon commented the new location is much more visible attracting more patrons. City Manager Napper wished to publicly acknowledge the cooperation of KinderCare by being very generous in allowing various community groups, including this Farmers' Market, to utilize its private parking lot creating a better venue.

5. REPORTS

(a) Planning Commission – Vice Chairman Carl Wolfe indicated the Commission's agenda at its meeting of April 25, 2017 included a proposed General Plan Amendment and Municipal Code amendment to the Land Use Element regarding determination of residential density calculations for residential parcels with sensitive land areas. Mr. Wolfe advised there were several speakers that misunderstood the purpose of the item, and once staff explained its objective the motion passed unanimously. The Commission also reviewed and has recommended to the City Council a City-initiated Ordinance amending Title 15 "Building and Construction" Chapter 15.08 – Sign Provisions, to comply with a recent U.S. Supreme Court decision and to recommend the local prohibition of mobile billboards and to incorporate other best signage practices. That item was also approved unanimously. Mr. Wolfe noted the Planning Commission's next regular meeting is to take place on Tuesday, May 23, 2017.

(b) Trails and Landscaping Committee – No meeting held.

(c) City Manager/Staff – No Report.

(d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Councilmember Shuey attended several meetings but indicated "no report."

Vice Mayor Haydon attended the Clayton Community Library Foundation's Board meeting, the Clayton Cleans Up! Event, the East Contra Costa Habitat Conservancy Board meeting, the Clayton Business and Community Association's General Membership meeting, the Clayton Business and Community Association's Annual Art and Wine Festival, and the Clayton Valley Village's Launch Party.

Councilmember Pierce attended the Contra Costa Transportation Authority Executive Board meeting, the Association of Bay Area Governments' Executive Board meeting, the Bay Area Regional Collaborative meeting, the Clayton Cleans Up! Event, the Clayton Business and Community Association's Annual Art and Wine Festival, and she announced the 4th of July Committee is seeking volunteers for its upcoming parade and the Clayton Historical Society's Annual Garden Tour will take place on May 6th and 7th.

Mayor Diaz attended the County Connection Board meeting, the Clayton Cleans Up! Event, the Clayton Business and Community Association's General Membership meeting, the Clayton Business and Community Association's Annual Art and Wine Festival, and the Clayton Valley Village's Launch Party at Endeavor Hall.

Vice Mayor Haydon added the Clayton Business and Community Association's Annual Art and Wine festival is its largest Spring Fundraising event. Monies raised go back into the Clayton community to support schools, sports and charities.

(e) Other – None.

6. PUBLIC COMMENT ON NON - AGENDA ITEMS – None.

7. PUBLIC HEARINGS – None.

8. ACTION ITEMS – None.

9. **COUNCIL ITEMS** – limited to requests and directives for future meetings.
None.

10. **CLOSED SESSION** – None.

11. **ADJOURNMENT**– on call by Mayor Diaz, the City Council adjourned its meeting at 8:15 p.m.

The next regularly scheduled meeting of the City Council will be May 16, 2017.

# # # # #

Respectfully submitted,

_____
Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

_____
Jim Diaz, Mayor

# # # # #

CITY OF CLAYTON
Founded 1857 . . Incorporated 1964

Agenda Date 5/16/2017

Agenda Item: 3b

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Kevin Mizuno, FINANCE MANAGER

DATE: 05/16/2017

SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following Invoices:

05/12/2017	Cash Requirements	$ 212,478.67
04/25/2017	ADP Payroll week 19, PPE 05/07/17	$ 88,051.61

Total $ 300,530.28

Attachments:
Cash Requirements Report dated 5/12/2017 (2 pages)
ADP payroll report for week 19 (1 page)

Obligations for City of Clayton 5/16/17

5 Star Pool Plaster	$	2,000.00	Cancelled project refund
Ace Sierra Tow	$	127.50	Tow for PD Vehicle
ADP	$	149.55	Payroll fees PPE 4/23/17
[illegible]ity Management	$	509.10	School crossing guard services 4/9/17-4/22/17
Alpine Awards	$	599.76	Replace Memorial bench plaques
AT&T	$	1,630.39	Phone bill 3/22/17-4/21/17
Authnet Gateway	$	15.00	Monthly service fee for online bankcard service
Bay Area Barricade	$	2,876.75	Barricades & Cones
Bay Area News Group	$	1,303.76	Legal Ads, Including El Portal Dr Restoration
Blue Rock Pools	$	1,880.68	Deposit refund for 415 Diablo Creek Place
BMI	$	342.00	Licensing for Concerts in The Grove
CalPERS	$	31,062.09	UAL for May
CalPERS	$	13,693.54	Retirement PPE 5/7/17
Caltronics	$	311.81	Copier contract for April
CCCounty Forensics	$	200.00	Alcohol tests for March
CCCounty Public Works	$	1,760.26	Traffic Signal Maintenance for March
CCTransportation Authority	$	1,311.00	Congestion Management Costs for Clayton
City of Concord	$	1,675.83	PD Vehicle Maintenance for April
City of Concord	$	1,303.67	PD Vehicle Maintenance for March
City of Concord	$	20,089.50	Dispatch services for April
City of Concord	$	199.00	Live Scan services
Cole Supply	$	112.02	T-shirt rags
Cole Supply	$	487.02	Trash can liners
Comcast Business	$	386.08	High Speed Internet for May
Concord Garden Equipment	$	1,724.80	New Mower and parts
Contra Costa Topsoil	$	866.00	Cedar (20 Yards)
C[illegible]tra Costa Tractor	$	573.91	Service call for Ford 260C
[illegible]e Scene Cleaners	$	70.00	Cleaning of Car 1732, arrestee
Dept of Conservation & Developmer	$	3,026.00	Community Choice Energy Technical Study Fees
Diablo Lawnscape	$	44,571.43	Trees for Keller Ridge replanting
Diablo View Cleaning	$	145.00	Carpet Cleaning at PD
Dillon Electric	$	1,650.00	Replace Pole #578, property damage
Environtech	$	12,400.00	Mustard & yellow star thistle abatement for April
Eric Pishny	$	250.00	Appraisal for 222 Stranahan Cir
Geoconsultants	$	1,546.50	Well monitoring for April
Globalstar	$	69.47	Sat Phone for 3/16/17-4/14/17
Hammons Supply	$	140.24	EH Janitorial Supplies
Hammons Supply	$	282.06	Library Janitorial Supplies
Hammons Supply	$	53.57	The Grove Janitorial Supplies
Hammons Supply	$	160.72	CCP Janitorial Supplies
Health Care Employees Trust	$	2,539.08	June Dental
HUB	$	107.40	Event Insurance for April
iPayment	$	113.14	April Bankcard fees
Ken Joiret	$	700.00	Sound for Concert in The Grove 5/27/17
Larry Logic	$	300.00	City Council Meeting Production 5/2/17
Marken Mechanical	$	350.00	CH HVAC Maint for March
Marken Mechanical	$	527.17	Library HVAC Maint for March
Matrix Association Management	$	4,532.50	Diablo Estates Management services for May
Mike Redlick	$	500.00	Deposit refund for 320 Chardonnay Cir
Neopost	$	157.93	Postage Machine contract pmt
[illegible]ost	$	600.00	Postage added
Pacific Telemanagement	$	73.00	Courtyard phone for May
Parcel Quest	$	1,200.00	ParcelQuest Group Navigator online Service 6/1/17-5/31/18
Permco	$	3,767.00	City Engineering services 4/22/17-5/5/17
Permco	$	375.00	St John's plan checks
Permco	$	6,213.50	Construction inspection, contract admnin for Arterial Rehab
Permco	$	600.00	Prep plans and bid pkg for Main street planter restoration

Obligations for City of Clayton 5/16/17

Permco	$	83.00	Field inspections for PG&E Veteran Power Work
Permco	$	1,318.75	Prepare bid addendum #1 for El Portal Dr Restoration
Permco	$	488.00	Obtain bids for ADA modifications on entry doors at CH
Permco	$	207.50	CAP Inspections 4/22/17-5/5/17
Permco	$	1,014.13	Obtain bids for building demo and hazardous material survey, Oak St
Permco	$	375.00	Review plans for 925 Douglas Court
Permco	$	375.00	Review plans for 925 Douglas Court
Pure Roofing	$	2,000.00	C&D Deposit refund for 26 Weatherly Dr
Quality Roofing	$	500.00	Deposit refund for 26 Weatherly Dr
Quality Roofing	$	2,000.00	C&D Deposit refund
Riso Products	$	106.09	PD Copier Contract pmt 2 of 60
Roto Rooter	$	209.75	Service call for the Library women's toilet
Site One Landscape Supply	$	312.10	Shovels, fertilizer
Sprint	$	271.36	PD Cell phones 3/06/17-4/25/17
Staples	$	250.76	Office supplies for April
Stericycle	$	101.44	Medical Waste Disposal
The Cheeseballs	$	2,000.00	Concert in The Grove 5/27/17
Turf Star	$	273.54	Turf tools
US Bank Cal Card	$	12,381.68	Cal Card charges for period ending 4/24/17
Western Exterminator	$	385.50	April Pest Control
Workers.com	$	3,280.82	Seasonal workers week end 4/9/17
Workers.com	$	3,135.24	Seasonal workers week end 4/16/17
Workers.com	$	3,506.37	Seasonal workers week end 4/23/17
Workers.com	$	3,690.91	Seasonal workers week end 4/30/17
Total Obligations			**$212,478.67**

WEEK 19 BATCH 7224 39 PAYS
0 Employees With Overflow Statement
0 Overflow Statement 1 Total Statement
Tot Cks/Vchrs:00000000039 Tot Docs in all:00000000042

	First No.	Last No.	Total
Checks:	ADPCHECK	ADPCHECK	00000000006
/ouchers:	00000190001	00000190033	00000000033

Earnings Statement

Z7L TOTAL DOCUMENT
CITY OF CLAYTON
LOCATION 0001

COPY

CHECK STUFFING, RECONCILIATION

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88051.61	GROSS
63217.97	NET PAY (INCLUDING ALL DEPOSITS)
10799.80	FEDERAL TAX
170.00	SOCIAL SECURITY
1216.37	MEDICARE
.00	MEDICARE SURTAX
.00	SUI TAX
3394.09	STATE TAX
.00	LOCAL TAX
70622.51	DEDUCTIONS
1848.84	NET CHECK

COMPANY CODE Z7L
CITY OF CLAYTON
TOTAL DOCUMENT
LOCATION 0001

COPY COPY

TEAR HERE

VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM

VOID VOID VOID

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Agenda Date: 5-16-2017

Agenda Item: 3C

ENGINEER'S REPORT

DATE: MAY 16, 2017

TO: CITY COUNCIL

FROM: CITY ENGINEER

RE: DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT FISCAL YEAR 2017-18

This Engineer's Report has been prepared in accordance with the requirements of the Landscaping & Lighting Act of 1972 (Section 22500 et seq. of the Government Code).

HISTORICAL REVIEW

In 2012, at the request of Toll Brothers, the developer of the Diablo Estates at Clayton project (Subd. 8719), the City Council formed the Diablo Estates at Clayton Benefit Assessment District ("District" per Resolution No. 04-2012). The purpose of the District is to generate funds for the maintenance of various improvements constructed as part of the development which solely benefit the real property owner(s). The duties specified in the original Engineer's Report (prepared by SCI Consulting Group, dated March 2012) included maintenance of landscaping and irrigation, weed abatement, storm drainage facilities, and private street lighting. In addition to maintenance, the District is responsible for the repair or replacement of any facilities due vandalism, accidents, or age.

The District was formed under the auspices of the Landscaping and Lighting Act of 1972 (Section 22500 et seq. of the Government Code) and the Benefit Assessment Act of 1982 (Section 54703 et seq. of the Government Code). The initial per lot annual assessment, approved by the property owner (Toll Bros.), was $3,027.62. The approval also allowed for an annual increase in the assessment amount equal to the annual increase in the Consumer Price Index ("CPI"; San Francisco-Oakland-San Jose CA MSA, All Urban Consumers), not to exceed 4% in any one year.

While the Benefit Assessment Act of 1982 does not require further action prior to the levy of annual assessments, the Landscaping and Lighting Act of 1972 requires the preparation of an Engineer's Report and notice to property owners of a public hearing each year. Since no increase, other than the already authorized and approved CPI increase, is proposed, the provisions of Proposition 218 do not apply.

DETERMINATION OF SPECIAL BENEFIT, METHOD OF ASSESSMENT AND DESCRIPTION OF DISTRICT IMPROVEMENTS

See original Engineer's Report attached hereto and made a part hereof.

ESTIMATED COSTS

The original budget included maintenance and District administrative costs, as well as reserve funds for future replacement of the maintained items. See Attachment 2 for the District's expenditures for FY 2016-17.

The relevant CPI increase for this past year (April 2016 – April 2017) is 3.78%. Following is a breakdown of the District's FY 2017-18 budgeted costs incorporating the allowable CPI increase:

Item	FY 2016-17 Budget	CPI Increase (3.78%)	FY 2017-18 Budget
District Maintenance:			
Common Area Landscape	$19,572.17	$739.83	$20311.99
Weed Abatement	$13,095.02	$494.99	$13,590.01
Storm Drain System	$6,047.24	$228.59	$6,275.82
Private Street Lighting	$1,330.40	$50.29	$1,380.68
Sub-Total Maintenance:	$40,044.83	$1,513.69	$41,558.31
District Administration*	$18,581.51	$702.38	$19,283.90
District Reserves	$21,265.39	$803.83	$22,069.22
Total Annual Budget	**$79,891.73**	**$3,019.91**	**$82,911.63**

* Includes Pinnacle Construction fees (monthly site inspections, maintenance oversight and contract management), City Engineer services, legal notices and mailing costs, County collection charges.

RESERVE FUNDS

The reserve fund balance at the end of FY 2016/17 will be approximately $82,351. This balance will increase to approximately $95,259 at the end of FY 2017/18. The purpose of the Reserve is for both scheduled and unexpected replacement of the capital investments, per the original Engineer's Report.

See Attachment 1 for a more detailed discussion of the reserve funds and balances.

PER UNIT ALLOCATION

Based upon the proposed budget, the per-unit assessment will be $3,454.64 ($82,911.36/24 units).

ASSESSMENT HISTORY

Proposed FY 17-18	$3,454.64
FY 16-17	$3,328.82
FY 15-16	$3,241.00
FY 14-15	$3,162.00
FY 13-14	$3,100.26
FY 12-13	$3,027.62

ATTACHMENT 1

RESERVE FUND ACCOUNTS

DIABLO ESTATES AT CLAYTON
BENEFIT ASSESSMENT DISTRICT ("District")
RESERVE FUNDS

The purpose of the various reserve accounts is to insure that the District will have funds available to repair or reconstruct the facilities that are the responsibility of the District.

The fund amounts were established using the initial cost of construction and amortizing them over the anticipated life of the facilities. In addition, there is a general reserve fund set aside to act as a contingency reserve for any of the District's responsibilities.

The funds as initially established are as follows:

ITEM	QUANTITY	UNIT	UNIT COST	TOTAL COST	SERVICE LIFE (YRS)	ANNUAL DEPOSIT
Tree Replacement	33	EA	$285	$9,405	40	$235
Entry Monument Replacement	1	EA	$4,000	$4,000	25	$160
V-ditch Repair/Replacement	2038	LF	$50	$101,900	25	$4,076
Vortsentry Replacement	1	EA	$100,000	$100,000	100	$1,000
Stormwater Basin Replacement*	48	EA	$2,000	$96,000	10	$9,600
CB/MH/SD Pipe Replacement	1	LS	$79,000	$79,000	100	$790
General						$2,000
				Total**		$17,861

* Removal and replacement of plants and filter material only
** First year assessment (increased each following year by the CPI increase)

Following are reserve analysis sheets showing each year's contribution to the various funds and the current balance of each fund.

DIABLO ESTATES @ CLAYTON
BENEFIT ASSESSMENT DISTRICT
RESERVE FUNDS ANALYSIS

FY 2012/13 (INITIAL YEAR)

RESERVE FUNDS - FACILITIES

ITEM	QUANTITY	UNIT	UNIT COST	TOTAL COST	SERVICE LIFE (yrs)	ANNUAL DEPOSIT
Tree Replacement	33	EA	$ 285.00	$ 9,405.00	40	$ 235.13
Entry Monument Replacement	1	EA	$ 4,000.00	$ 4,000.00	25	$ 160.00
V-ditch Repairs	2038	LF	$ 50.00	$101,900.00	25	$ 4,076.00
Vortsentry Replacement	1	EA	$100,000.00	$100,000.00	100	$ 1,000.00
Stormwater Basin Replacement/Repair	48	EA	$ 2,000.00	$ 96,000.00	10	$ 9,600.00
CB/MH/SD Pipe replacement	1	LS	$ 79,000.00	$ 79,000.00	100	$ 790.00
				$390,305.00		$ 15,861.13

RESERVE FUNDS - GENERAL

Annual	$ 2,000.00

BAD RESERVE FUNDS - TOTAL **$ 17,861.13**

FY 2013/14 (2.4% INCREASE)

RESERVE FUNDS - FACILITIES

ITEM	FY 2012/13 ASSESS.	INC.	FY 2013/14 ASSESS.	AMT.PRIOR TO FY 2013/14	AMT. @ END FY 2013/14
Tree Replacement	$ 235.13	2.40%	$ 240.77	$ 235.13	$ 475.90
Entry Monument Replacement	$ 160.00	2.40%	$ 163.84	$ 160.00	$ 323.84
V-ditch Repairs	$ 4,076.00	2.40%	$ 4,173.82	$ 4,076.00	$ 8,249.82
Vortsentry Replacement	$ 1,000.00	2.40%	$ 1,024.00	$ 1,000.00	$ 2,024.00
Stormwater Basin Replacement/Repair	$ 9,600.00	2.40%	$ 9,830.40	$ 9,600.00	$ 19,430.40
CB/MH/SD Pipe replacement	$ 790.00	2.40%	$ 808.96	$ 790.00	$ 1,598.96
Totals			$ 16,241.80	Total at 6/30/14	$ 32,102.93

RESERVE FUNDS - GENERAL

Annual	$ 2,000.00	2.40%	$ 2,048.00	$ 2,000.00	$ 4,048.00

BAD RESERVE FUNDS - TOTAL **$ 36,150.93**

FY 2014/15 (2.0% INCREASE)

RESERVE FUNDS - FACILITIES

ITEM	FY 2013/14 ASSESS.	INC.	FY 2014/15 ASSESS.	AMT.PRIOR TO FY 2014/15	AMT. @ END FY 2014/15
Tree Replacement	$ 240.77	2.00%	$ 245.59	$ 475.90	$ 721.49
Entry Monument Replacement	$ 163.84	2.00%	$ 167.12	$ 323.84	$ 490.96
V-ditch Repairs	$ 4,173.82	2.00%	$ 4,257.30	$ 8,249.82	$ 12,507.12
Vortsentry Replacement	$ 1,024.00	2.00%	$ 1,044.48	$ 2,024.00	$ 3,068.48
Stormwater Basin Replacement/Repair	$ 9,830.40	2.00%	$ 10,027.01	$ 19,430.40	$ 29,457.41
CB/MH/SD Pipe replacement	$ 808.96	2.00%	$ 825.14	$ 1,598.96	$ 2,424.10
Totals			$ 16,566.63	Total at 6/30/15	$ 48,669.55

RESERVE FUNDS - GENERAL

Annual	$ 2,048.00	2.00%	$ 2,088.96	$ 4,048.00	$ 6,136.96

BAD RESERVE FUNDS - TOTAL **$ 54,806.51**

FY 2015/16 (2.5% INCREASE)

RESERVE FUNDS - FACILITIES

ITEM	FY 2014/15 ASSESS.	INC.	FY 2015/16 ASSESS.	AMT.PRIOR TO FY 2015/16	AMT. @ END FY 2015/16
Tree Replacement	$ 245.59	2.50%	$ 251.73	$ 721.49	$ 973.22
Entry Monument Replacement	$ 167.12	2.50%	$ 171.30	$ 490.96	$ 662.26
V-ditch Repairs	$ 4,257.30	2.50%	$ 4,363.73	$ 12,507.12	$ 16,870.85
Vortsentry Replacement	$ 1,044.48	2.50%	$ 1,070.59	$ 3,068.48	$ 4,139.07
Stormwater Basin Replacement/Repair	$10,027.01	2.50%	$ 10,277.69	$ 29,457.41	$ 39,735.10
CB/MH/SD Pipe replacement	$ 825.14	2.50%	$ 845.77	$ 2,424.10	$ 3,269.87
Totals			$ 16,980.81	Total at 6/30/16	$ 65,650.37

RESERVE FUNDS - GENERAL

Annual	$ 2,088.96	2.50%	$ 2,141.18	$ 6,136.96	$ 8,278.14

BAD RESERVE FUNDS - TOTAL **$ 73,928.51**

FY 2016/17 (2.7% INCREASE)

RESERVE FUNDS - FACILITIES

ITEM	FY 2015/16 ASSESS.	INC.	FY 2016/17 ASSESS.	AMT.PRIOR TO FY 2016/17	AMT. @ END FY 2016/17
Tree Replacement	$ 251.73	2.70%	$ 258.53	$ 973.22	$ 1,231.75
Entry Monument Replacement	$ 171.30	2.70%	$ 175.93	$ 662.26	$ 838.19
V-ditch Repairs	$ 4,363.73	2.70%	$ 4,481.55	$ 16,870.85	$ 21,352.40
Vortsentry Replacement	$ 1,070.59	2.70%	$ 1,099.50	$ 4,139.07	$ 5,238.57
Stormwater Basin Replacement/Repair	$10,277.69	2.70%	$ 10,555.19	$ 39,735.10	$ 50,290.29
CB/MH/SD Pipe replacement	$ 845.77	2.70%	$ 868.61	$ 3,269.87	$ 4,138.48
Totals			$ 17,439.29	Total at 6/30/17	$ 83,089.66

RESERVE FUNDS - GENERAL

Annual	$ 2,141.18	2.70%	$ 2,198.99	$ 8,278.14	$ 10,477.13

BAD RESERVE FUNDS - TOTAL **$ 93,566.79**

FY 2017/18 (3.78% INCREASE)

RESERVE FUNDS - FACILITIES

ITEM	FY 2016/17 ASSESS.	INC.	FY 2017/18 ASSESS.	AMT.PRIOR TO FY 2017/18	AMT. @ END FY 2017/18
Tree Replacement	$ 251.73	3.78%	$ 261.25	$ 1,231.75	$ 1,493.00
Entry Monument Replacement	$ 171.30	3.78%	$ 177.78	$ 838.19	$ 1,015.97
V-ditch Repairs	$ 4,363.73	3.78%	$ 4,528.68	$ 21,352.40	$ 25,881.08
Vortsentry Replacement	$ 1,070.59	3.78%	$ 1,111.06	$ 5,238.57	$ 6,349.63
Stormwater Basin Replacement/Repair	$10,277.69	3.78%	$ 10,666.19	$ 50,290.29	$ 60,956.48
CB/MH/SD Pipe replacement	$ 845.77	3.78%	$ 877.74	$ 4,138.48	$ 5,016.22
Totals			$ 17,622.68	Total at 6/30/18	$ 100,712.36

RESERVE FUNDS - GENERAL

Annual	$ 2,141.18	3.78%	$ 2,222.12	$ 10,477.13	$ 12,699.25

BAD RESERVE FUNDS - TOTAL **$ 113,411.61**

ATTACHMENT 2

BAD EXPENDITURES FOR FY 2016-17

City of C..yton
General Ledger Report

Date	Trans.	Journal	Reference	Debit Amount	Credit Amount	Balance
231-7111-00						
Account:	**231-7111-00 (Regular Salaries)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7112-00						
Account:	**231-7112-00 (Temporary Salaries)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7218-00						
Account:	**231-7218-00 (Life and LTD Insurance)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7220-00						
Account:	**231-7220-00 (PERS Retirement)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7233-00						
Account:	**231-7233-00 (FICA and Medicare)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7246-00						
Account:	**231-7246-00 (Benefit Insurance)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7331-00						
Account:	**231-7331-00 (Rentals/Leases)**					

Date	Trans.	Journal	Reference		Debit Amount	Credit Amount	Balance
Account:	**231-7331-00 (Rentals/Leases)**						
7/1/2016				*Account Beginning Balance*			$0.00
6/30/2017				*Account Net Change*			$0.00
6/30/2017				*Account Ending Balance*			$0.00
231-7335-00							
Account:	**231-7335-00 (Gas & Electricity)**						
7/1/2016				*Account Beginning Balance*			$0.00
8/16/2016	3649-80	Accounts Payable	PG&E-Service 6/22/16-7/21/16		$10.95		
9/20/2016	3659-270	Accounts Payable	PG&E-Electricity 7/18/16-8/16/16		$11.79		
10/4/2016	3663-264	Accounts Payable	PG&E-Electricity 8/22/16-9/20/16		$11.11		
11/1/2016	3672-192	Accounts Payable	PG&E-Electricity 9/22/16-10/20/16		$10.91		
12/6/2016	3682-201	Accounts Payable	PG&E-Electricity 10/18/16-11/16/16		$11.23		
12/31/2016	3693-218	Accounts Payable	PG&E-Electricity 11/20/16-12/20/16		$11.67		
2/7/2017	3699-138	Accounts Payable	PG&E-Gas & electricity 12/21/16-1/20/17		$11.80		
3/7/2017	3705-98	Accounts Payable	PG&E-Electricity 1/20/17-2/20/17		$12.18		
4/4/2017	3710-117	Accounts Payable	PG&E-Electricity 1/20/17-2/20/17		$10.99		
5/2/2017	3718-697	Accounts Payable	PG&E-Electricity/Gas 3/18/17-4/18/17		$11.20		
				Account Subtotals	$113.83	$0.00	
6/30/2017				*Account Net Change*			$113.83
6/30/2017				*Account Ending Balance*			$113.83
231-7338-00							
Account:	**231-7338-00 (Water Services)**						
7/1/2016				*Account Beginning Balance*			$0.00
7/19/2016	3641-135	Accounts Payable	CCWD-Water service 5/7/16-7/7/16		$203.46		
9/20/2016	3659-370	Accounts Payable	CCWD-Water services for 7/8/16-9/8/16		$1,075.89		
11/15/2016	3677-106	Accounts Payable	CCWD-Water service 9/3/16-11/2/16		$1,281.23		
12/31/2016	3693-366	Accounts Payable	CCWD-Water Service 11/5/16-1/6/17		$2,174.58		
4/4/2017	3710-364	Accounts Payable	CCWD-Water service 1/13/17-3/14/17		$1,592.41		
				Account Subtotals	$6,327.57	$0.00	
6/30/2017				*Account Net Change*			$6,327.57
6/30/2017				*Account Ending Balance*			$6,327.57
231-7381-00							
Account:	**231-7381-00 (Property Tax Admin. Costs)**						
7/1/2016				*Account Beginning Balance*			$0.00
12/19/2016	3689-52	Cash Receipts	Deposit 1604 - Summarized Cash Receipts Receipt		$148.72		

Date	Trans.	Journal	Reference	Debit Amount	Credit Amount	Balance
Account:	**231-7381-00 (Property Tax Admin. Costs)**					
4/17/2017	3717-50	Cash Receipts	Deposit 1689 - Summarized Cash Receipts Receipt	$108.16		
			Account Subtotals	$256.88	$0.00	
6/30/2017			*Account Net Change*			$256.88
6/30/2017			*Account Ending Balance*			$256.88
231-7411-00						
Account:	**231-7411-00 (Legal Services Retainer)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7413-00						
Account:	**231-7413-00 (Legal Services)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7417-00						
Account:	**231-7417-00 (Janitorial Service)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7418-00						
Account:	**231-7419-00 (Other Professional Services)**					
7/1/2016			*Account Beginning Balance*			$0.00
7/19/2016	3641-203	Accounts Payable	Matrix Associat-Management services for July 2016, Diablo Pointe B	$4,375.00		
8/16/2016	3649-273	Accounts Payable	Matrix Associat-Management services for August	$4,375.00		
10/4/2016	3663-863	Accounts Payable	Matrix Associat-Management services for September	$4,375.00		
10/18/2016	3668-7	Accounts Payable	Matrix Associat-October Management Services for Diablo Estates	$4,375.00		
11/15/2016	3677-63	Accounts Payable	Pinnacle Constr-November Diablo Estates Management	$4,375.00		
1/17/2017	3693-187	Accounts Payable	Matrix Associat-January management services -Diablo Estates	$4,532.50		
2/7/2017	3699-73	Accounts Payable	Matrix Associat-December management services for Diablo Estates	$4,375.00		
2/21/2017	3704-40	Accounts Payable	Matrix Associat-February Management services for Diablo Estates	$4,532.50		
3/7/2017	3705-154	Accounts Payable	Matrix Associat-March Management services for Diablo Estates	$4,532.50		
4/18/2017	3718-81	Accounts Payable	Matrix Associat-April Diablo Estates Management services	$4,532.50		
			Account Subtotals	$44,380.00	$0.00	

Date	Trans.	Journal	Reference	Debit Amount	Credit Amount	Balance
Account:	**231-7419-00 (Other Professional Services)**					
6/30/2017			*Account Net Change*			$44,380.00
6/30/2017			*Account Ending Balance*			$44,380.00
231-7420-00						
Account:	**231-7420-00 (Administrative Costs)**					
7/1/2016			*Account Beginning Balance*			$0.00
9/30/2016	3657-9	Journal Entry	Annual Diablo Pointe Lots stormwater filing fees per City Engineer 9	$2,044.00		
			Account Subtotals	$2,044.00	$0.00	
6/30/2017			*Account Net Change*			$2,044.00
6/30/2017			*Account Ending Balance*			$2,044.00
231-7485-00						
Account:	**231-7485-00 (Capital Equipment)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7486-00						
Account:	**231-7486-00 (CERF Charges)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7611-00						
Account:	**231-7611-00 (Principal)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-7615-00						
Account:	**231-7615-00 (CCC Property Tax)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-8101-00						
Account:	**231-8101-00 (Transfer To General Fund)**					

City of [illegible]yton
General Ledger Report

Date	Trans.	Journal	Reference	Debit Amount	Credit Amount	Balance
Account:	**231-8101-00 (Transfer To General Fund)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00
231-8113-00						
Account:	**231-8113-00 (Transfer to Stormwater Fund)**					
7/1/2016			*Account Beginning Balance*			$0.00
6/30/2017			*Account Net Change*			$0.00
6/30/2017			*Account Ending Balance*			$0.00

ATTACHMENT 3

INITIAL ENGINEER'S REPORT (19 pp)

CITY OF CLAYTON

DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT
FOR LANDSCAPE AND LIGHTING AND BENEFIT ASSESSMENT

DRAFT ENGINEER'S REPORT
FISCAL YEAR 2012-13

MARCH 2012

PURSUANT TO
THE LANDSCAPING AND LIGHTING ACT OF 1972,
THE BENEFIT ASSESSMENT ACT OF 1982, AND
ARTICLE XIIID OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:
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CITY OF CLAYTON

MAYOR

Howard Geller

CITY COUNCIL

Joseph A. Medrano
Julie K. Pierce
David T. Shuey
Hank Stratford

CITY MANAGER

Gary Napper

CITY ENGINEER

Rick Angrisani

CITY ATTORNEY

Malathy Subramanian

CITY CLERK

Laci Jackson

ENGINEER OF WORK

SCI Consulting Group

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INTRODUCTION

BACKGROUND

Formation of the "Diablo Estates at Clayton Benefit Assessment District" (the "Assessment District") within the City of Clayton (the "City") is proposed to provide funding for the maintenance, operation and improvement of the landscaping, street lighting, drainage and stormwater treatment facilities to benefit the properties in the Diablo Estates at Clayton subdivision that forms the Assessment District. The Diablo Estates at Clayton subdivision consists of 24 parcels east of Regency Drive and north of Rialto Drive with an approximate area of 19 acres.

This Engineer's Report (the "Report") was prepared to establish the budget for the services and improvements that would be funded by the proposed 2012-13 assessments and to determine the benefits received from the maintenance and improvements by property within the Assessment District and the method of assessment apportionment to lots and parcels. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972 and the Benefit Assessment Act of 1982 (the "Acts") and Article XIIID of the California Constitution (the "Article").

Following submittal of this Report to the City of Clayton City Council (the "City Council") for preliminary approval, the City Council may call for an assessment ballot proceeding and Public Hearing on the proposed establishment of assessments for the improvements.

If it is determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted), the City Council may take action to form the Assessment District and approve the levy of the assessments for fiscal year 2012-13. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in August 2012 for inclusion on the property tax roll for Fiscal Year 2012-13.

LEGISLATIVE ANALYSIS

PROPOSITION 218

The Right to Vote on Taxes Act was approved by the voters of California on November 6, 1996, and is now Article XIIIC and XIIID of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property. This Assessment District will be balloted and approved by property owners in accordance with Proposition 218.

SILICON VALLEY TAXPAYERS ASSOC., INC. V SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. vs. Santa Clara County Open Space Authority (*SVTA*). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special benefits to property, not general benefits.
- The services and/or improvements funded by assessments must be clearly defined.
- Assessment districts must be drawn to contain all parcels that receive a special benefit from a proposed public improvement.
- Assessments paid in the assessment district must be proportional to the special benefit received by each such parcel from the improvements and services funded by the assessment.

This Engineer's Report and the process used to establish these proposed assessments for fiscal year 2012/2013 are consistent with the *SVTA* decision and with the requirements of Article XIIIC and XIIID of the California Constitution based on the following factors:

1. The Assessment District is narrowly drawn to include only the properties that receive special benefit from the specific Improvements and Services. Thus, zones of benefit are not required and the assessment revenue derived from real property in each Assessment District is extended only on the Services in the Assessment District.

2. The Improvements which are constructed and/or maintained with assessment proceeds in the Assessment District are located in close proximity to the real property subject to the assessment. The Improvements and Services provide illumination to streets and sidewalks

enabling improved access to the owners, residents, and guests of such assessed property. The proximity of the Improvements to the assessed parcels and the improved access and increased safety provided to of the residents of the assessed parcels by the Improvements provides a special benefit to the parcels being assessed pursuant to the factors outlined by the Supreme Court in that decision.

3. Due to their proximity to the assessed parcels, the Improvements and Services financed with assessment revenues in the Assessment District benefit the properties in the Assessment District in a manner different in kind from the benefit that other parcels of real property in the City derive from such Improvements and Services, and the benefits conferred on such property in the Assessment District are more extensive than a general increase in property values.

4. The assessments paid in the Assessment District are proportional to the special benefit that each parcel within that Assessment District receives from the Services because:

   a. The specific lighting Improvements and maintenance Services and utility costs thereof in the Assessment District and the costs thereof are specified in this Report; and

   b. The cost of the Services in the Assessment District is allocated among different types of property located within the Assessment District, and equally among those properties which have similar characteristics, such as single-family residential parcels, multi-family residential parcels, commercial parcels, or industrial parcels.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of

the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeal issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the requirements of Article XIIIC and XIIID of the California Constitution and with the *SVTA* decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Assessment District; and the Improvements and Services provide a direct advantage to property in the Assessment District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with Beutz and Dahms because the Improvements and Services will directly benefit property in the Assessment District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with Bonander because the Assessments have been apportioned based on the overall cost of the Improvements and Services and proportional special benefit to each property.

PLANS & SPECIFICATIONS

The work and improvements proposed to be undertaken by the City of Clayton and the Diablo Estates at Clayton Benefit Assessment District (the "Assessment District"), and the costs thereof paid from the levy of the annual assessments, provide special benefit to Assessor Parcels within the Assessment District as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972 and the Benefit Assessment Act of 1982 (the "Acts"), the work, services and improvements are generally described as follows:

Maintenance and servicing of public improvements, including but not limited to, storm drain system, landscaping and lighting and all necessary appurtenances, and labor, materials, supplies, utilities and equipment, and incidental costs as applicable, for property within the Assessment District that is owned or maintained by the City of Clayton (the "Improvements"). Any plans and specifications for these improvements will be filed with the City Engineer of the City of Clayton and are incorporated herein by reference. More specifically the improvements and associated plans are the storm drain system in the Improvement Plans, Diablo Pointe by David Evans and Associates Inc., the lighting in the Joint Trench Composite Plan, Diablo Pointe by Lighthouse Design Inc., and the shared landscaping, fencing, irrigation and entry monument in the Diablo Estates at Clayton Landscape Improvements plan by Thomas Bank and Associates LLP.

As applied herein, "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvement, including repair, removal or replacement of all or any part of any improvement; providing for the life, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste; the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti; the cleaning and replacement of storm drain pipes, drop inlets, catch basins and manholes.

"Servicing" means the cost of maintaining any facility used to provide any service, the furnishing of electric current, or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; or water for the irrigation of any landscaping, or the maintenance of any other improvements.

The figure shown below displays the improvements, maintenance, replacement costs and services to be provided with the Diablo Estates at Clayton Benefit Assessment District.

FIGURE 1 – SUMMARY OF ESTIMATED ANNUAL COSTS FOR DIABLO ESTATES AT CLAYTON

CITY OF CLAYTON
Diablo Estates at Clayton Benefit Assessment District
Summary of Estimated Annual Cost
Fiscal Year 2012-13

Installation, Maintenance & Servicing Costs		
Common Landscaping	$19,426.99	
Weed Abatement (On-lot)	$11,910.00	
Storm Drain System	$27,966.00	
Street Lighting	$1,460.00	
Subtotal - Installation, Maintenance and Servicing		$60,762.99
Incidental Expenses and Administration Costs		$11,900.00
Totals for Installation, Maintenance, Servicing and Incidentals		$72,662.99
Net Cost of Maintenance, Servicing and Incidentals (Net Amount to be Assessed)		$72,662.99
Budget Allocation to Property		
Total Assessment Budget		**$72,662.99**
Single Family Equivalent Benefit Units		24
Assessment per Single Family Equivalent Unit		$3,027.62

ESTIMATE OF COST AND BUDGET – FISCAL YEAR 2012-13

FIGURE 2 – COST ESTIMATE BREAKDOWN FOR DIABLO ESTATES AT CLAYTON

CITY OF CLAYTON
Diablo Estates at Clayton Benefit Assessment District
Estimate of Maintenance, Replacement, and Administrative Costs

Item	Units	Unit Cost	Service Life (years)	Annual Cost		Annual Cost per Lot
Common Landscaping						
Landscape Maintenance	24,600 SF	$0.30		$7,380.00		
Landscape Replacement	24,600 SF	$0.05		$1,230.00		
Tree Maintenance	33 EA	$95.00		$3,135.00		
Tree Replacement - Materials	33 EA	$285.00	40	$235.13		
Water Usage	1,476 100CF	$2.86		$4,221.36		
Meter Charges	12 Mo	$51.00		$612.00		
Irrigation Maintenance & Repair	24,600 SF	$0.03		$738.00		
Frence Maintenance & Repair	1,870 LF	$0.65		$1,215.50		
Entry Monument Maintenance	1 EA	$500.00		$500.00		
Entry Monument Repair	1 LF	$4,000.00	25	$160.00		
					$19,426.99	$809.46
Weed Abatement (On-lot)						
Weed Abatement	397,000 SF	$0.03		$11,910.00		
					$11,910.00	$496.25
Storm Drain System						
Ditch - debris removal & maint	1 LS	$1,000.00		$1,000.00		
Ditch Repair	2,038 LF	$50.00	25	$4,076.00		
Vortsentry Maintenance	1 LS	$1,500.00		$1,500.00		
Vortsentry Replacement	1 LS	$100,000.00	100	$1,000.00		
Bio-Retention Basin Maintenance*	48 EA	$ -		$0.00		
Bio-Retention Basin Replacement	48 EA	$2,000.00	10	$9,600.00		
Stormwater Reporting Fee	1 LS	$5,000.00		$5,000.00		
Annual City Report Fee	1 LS	$2,000.00		$2,000.00		
Catch Basin/Manhole Cleaning	15 EA	$200.00		$3,000.00		
CB/MH/pipe repair	1 LS	$79,000.00	100	$790.00		
					$27,966.00	$1,165.25
Street Lighting						
Maintenance and Repair	1 LS	$500.00		$500.00		
Electricity	4 EA	$240.00		$960.00		
					$1,460.00	$60.83
Annual Administration						
Property Manager	12 Mo	$600.00		$7,200.00		
Annual City Engineer Services	1 LS	$2,500.00		$2,500.00		
Legal Notice/Mailing	1 LS	$100.00		$100.00		
County Collection	1 LS	$100.00		$100.00		
General Reserve	1 LS	$2,000.00		$2,000.00		
					$11,900.00	$495.83
Total					**$72,662.99**	**$3,027.62**
Number of Lots:					**24**	
Cost per Lot:					**$3,027.62**	

* homeowner responsibility

**assumes covenant with Toll Brothers, Inc. for 5 year maintenance period

Unit costs per direction of City of Clayton City Engineer

METHOD OF APPORTIONMENT

METHOD OF APPORTIONMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the installation, maintenance and servicing of improvements and the methodology used to apportion the total assessment to properties within the Assessment District.

The Diablo Estates at Clayton Benefit Assessment District consists of all Assessor Parcels within the boundaries as defined by the Assessment Diagram included within this Report and the Assessor Parcel Numbers listed within the included Assessment Roll. The method used for apportioning the assessments is based upon the proportional special benefits to be derived by the properties in the Diablo Estates at Clayton Benefit Assessment District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two step process: the first step is to identify the types of special benefit arising from the Improvements, and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

DISCUSSION OF BENEFIT

In summary, the assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the District's storm drain system, streets and sidewalks, corridor landscaping, lighting, or a property owner's specific demographic status. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

> *"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the Improvements."*

The Benefit Assessment Act of 1982 states in Government Code Section 54711:

> *"The amount of the assessment imposed on any parcel of property shall be related to the benefit to the parcel which will be derived from the provision of service"*

Proposition 218, as codified in Article XIIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

> *"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."*

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing of the Improvements to be provided with the assessment proceeds. These categories of special benefit are derived in part from the statutes passed by the California Legislature and other studies which describe the types of special benefit received by property from the installation, maintenance and servicing of improvements such as those proposed by the City of Clayton and the Diablo Estates at Clayton Benefit Assessment District. These types of special benefit are summarized as follows:

- Creation of individual lots for residential use that, in absence of the services and improvements to be funded by the assessments, would not be created.
- Improved utility and usability of property
- Improved safety and security lighting for property
- Enhanced visual experience, and desirability of the area.
- Protection of views, scenery and other resources values and environmental benefits enjoyed by residents and guests and preservation of public assets maintained by the City
- Moderation of temperatures, dust control, and other environmental benefits.

These benefit factors, when applied to property in the Assessment District, specifically increase the utility of the property within the Assessment District. For example, the assessments will provide funding to maintain lighting that improves safety and access to the property after dark and landscaping that provides visual and environmental benefits to the properties within the Assessment District. Such improved and well-maintained public facilities enhance the overall usability, quality, desirability and safety of the properties. Moreover, funding for the maintenance and servicing of such public facilities is a condition of development of Diablo Estates at Clayton that is needed to mitigate the negative impacts of this development on the City. Without the Assessment District, this condition of development would not be satisfied, which could affect the approval of new homes on the property. This is another special benefit to the properties in the Assessment District.

GENERAL VERSUS SPECIAL BENEFIT

The proceeds from the Diablo Estates at Clayton Benefit Assessment District would be used to fund improvements and increased levels of maintenance to the public facilities that serve and benefit the properties in the Assessment District. In absence of the Diablo Estates at Clayton Benefit Assessment District, such Improvements would not be properly maintained. Therefore, the Assessment District is specifically proposed to ensure that the necessary and beneficial public facilities for property in the Assessment District are properly maintained and repaired over time. The assessments will ensure that landscaping and street lighting within and adjacent to the Assessment District are functional, well maintained, clean and safe. These public resources directly benefit the property in the Assessment District and will confer distinct and special benefits to the properties within the Assessment District.

In absence of the assessments, a condition of development would not be met and future home construction in the Assessment District could be denied. The creation of residential lots and the approval for the construction of homes in Diablo Estates at Clayton is the overriding clear and distinct special benefit conferred on exclusively on property in the Assessment District and not enjoyed by other properties outside the Assessment District. Moreover, benefits to the public at large, if any, will be offset by benefits residents within the Assessment District receive from the use of other similar public facilities not funded by the Assessment District. Therefore, the assessments solely provide special benefit to property in the Assessment District (100% special benefit) over and above the general benefits conferred to the public at large or properties outside the Assessment District.

METHOD OF ASSESSMENT

This process of apportioning assessments for each property involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalent dwelling units (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated an SFE value, which is each property's relative benefit in relation to a single family home on one parcel. In this case, the "benchmark" property is the single family detached dwelling which is one Single Family Equivalent unit or one SFE.

ASSESSMENT APPORTIONMENT

The proposed assessments for the Diablo Estates at Clayton Benefit Assessment District would provide direct and special benefit to properties in the Assessment District. Diablo Estates at Clayton is a residential single family development project consisting of a total of 24 single family homes, each on a separate parcel. As such, each residential property receives similar benefit from the proposed Improvements. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all parcels is on a dwelling unit or single family residence basis. All improved properties or properties proposed for development are assigned an SFE factor equal to the number of dwelling units developed or planned for the property. In other words, developed parcels and vacant parcels with proposed development will be assessed 1 SFE. The assessments are listed on the Assessment Roll in Appendix A.

APPEALS AND INTERPRETATION

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the City of Clayton City Engineer or his or her designee. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the City of Clayton City Engineer or his or her designee will promptly review the appeal and any information provided by the property owner. If the City of Clayton City Engineer or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the City of Clayton City Engineer or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any property owner who disagrees with the decision of the City of Clayton City Engineer or her or his designee may refer their appeal to the City Council of the City of Clayton and the decision of the City Council of the City of Clayton shall be final.

CERTIFICATES

DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT

1. The undersigned respectfully submits the enclosed Engineer's Report and does hereby certify that this Engineer's Report, and the Assessment and Assessment Diagram herein, have been prepared by me in accordance with the order of the City Council of the City of Clayton.

_____
Engineer of Work, License No. C052091

2. I, the City Clerk, City of Clayton, County of Contra Costa, California, hereby certify that the enclosed Engineer's Report, together with the Assessment and Assessment Diagram thereto attached, was filed and recorded with me on _____, 2012.

_____
City Clerk

3. I, the City Clerk, City of Clayton, County of Contra Costa, California, hereby certify that the Assessment in this Engineer's Report was approved and confirmed by the City Council on _____, 2012, by Resolution No. _____
_____.

_____
City Clerk

4. I, the City Clerk of the City of Clayton, County of Contra Costa, California, hereby certify that a copy of the Assessment and Assessment Diagram was filed in the office of the County Auditor of the County of Contra Costa, California, on _____, 2012.

_____
City Clerk

5. I, the County Auditor of the County of Contra Costa, California, hereby certify that a copy of the Assessment Roll and Assessment Diagram for fiscal year 2012-13 was filed with me on _____, 2012.

_____
County Auditor, County of Contra Costa

ASSESSMENT

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the assessment districts and an assessment of the estimated costs of the Improvements upon all assessable parcels within the assessment district;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Acts and the order of the City Council of the City of Clayton, hereby make the following assessment to cover the portion of the estimated cost of said Improvements, and the costs and expenses incidental thereto to be paid by the assessment district.

The amounts to be paid for said Improvements and the expense incidental thereto, to be paid by the Diablo Estates at Clayton Benefit Assessment District for the fiscal year 2012-13, are generally as follows:

FIGURE 3 – SUMMARY COST ESTIMATES – FISCAL YEAR 2012-13

CITY OF CLAYTON
Diablo Estates at Clayton Benefit Assessment District
Summary Cost Estimate FY 2012-13

Installation, Maintenance & Servicing Costs	$60,763
Incidental Costs	$11,900
Total Budget	$72,663

Budget to Assessment	
Total Budget	$72,663
Total SFE Units	24
Rate per SFE Unit	$3,027.62

As required by the Acts, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Diablo Estates at Clayton Benefit Assessment District. The distinctive number of each parcel or lot of land in said Diablo Estates at Clayton Benefit Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion said net amount of the cost and expenses of said Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Diablo Estates at Clayton Benefit Assessment District in accordance with the special benefits to be received by each parcel or lot from the Improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within the Diablo Estates at Clayton Benefit Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from said Improvements.

The assessments are subject to an annual adjustment tied to the Consumer Price Index for Urban Consumers (CPI-U) for the San Francisco Bay Area as of April of each succeeding year, with the maximum annual adjustment not to exceed 4%. In the event that the annual change in the CPI exceeds 4%, any percentage change in excess of 4% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 4%.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Contra Costa for the fiscal year 2012-13. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Rolls, the amount of the assessment for the fiscal year 2012-13 for each parcel or lot of land within the said Diablo Estates at Clayton Benefit Assessment District.

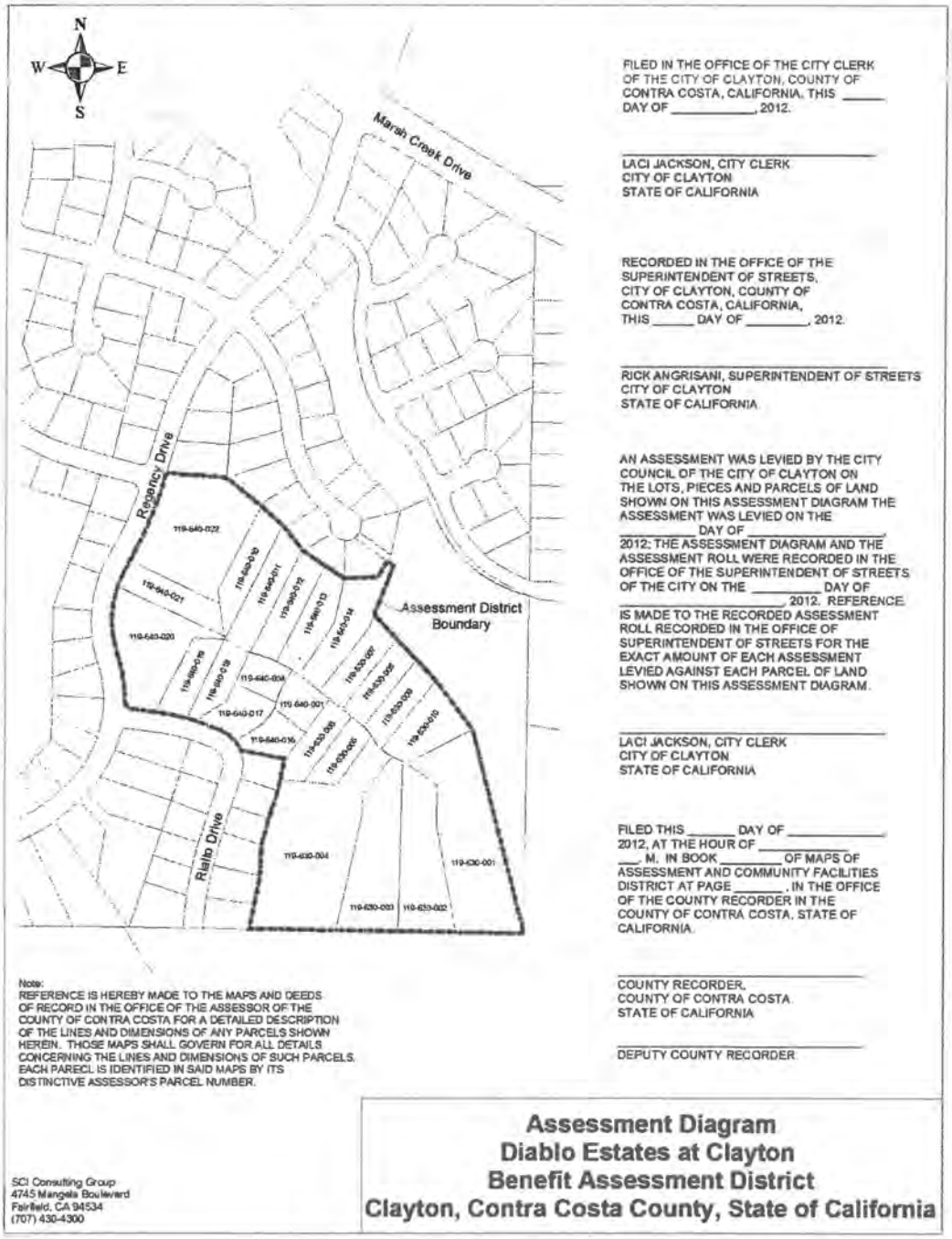
Dated:_____

Engineer of Work

By _____
John W. Bliss, License No. C052091

ASSESSMENT DIAGRAM

The boundaries of the Diablo Estates at Clayton Benefit Assessment District are displayed on the following Assessment Diagram.



APPENDICES

APPENDIX A – ASSESSMENT ROLL, FISCAL YEAR 2012-13

An Assessment Roll (a listing of all parcels assessed within the Assessment District and the amount of the assessment) will be filed with the City Clerk and is, by reference, made part of this Report and is available for public inspection during normal office hours.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.

FIGURE 4 – ASSESSMENT ROLL

CITY OF CLAYTON
Diablo Estates at Clayton Assessment District
Assessment Roll

PARCEL NUMBER	OWNER	SITUS	SFE Units	ASSESSMENT
119-630-001	TOLL CA XIX L P	27 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-002	TOLL CA XIX L P	26 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-003	TOLL CA XIX L P	22 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-004	TOLL CA XIX L P	18 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-005	TOLL CA XIX L P	14 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-006	TOLL CA XIX L P	10 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-007	TOLL CA XIX L P	9 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-008	TOLL CA XIX L P	15 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-009	TOLL CA XIX L P	19 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-630-010	TOLL CA XIX L P	23 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-001	TOLL CA XIX L P	6 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-004	TOLL CA XIX L P	7 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-010	TOLL CA XIX L P	16 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-011	TOLL CA XIX L P	12 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-012	TOLL CA XIX L P	8 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-013	TOLL CA XIX L P	4 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-014	TOLL CA XIX L P	5 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-016	TOLL CA XIX L P	2 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-017	TOLL CA XIX L P	3 SEMINARY RIDGE PL CLAYTON CA 94517	1	$3,027.62
119-640-018	TOLL CA XIX L P	11 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-019	TOLL CA XIX L P	17 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-020	TOLL CA XIX L P	21 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-021	TOLL CA XIX L P	24 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
119-640-022	TOLL CA XIX L P	20 PROMONTORY PL CLAYTON CA 94517	1	$3,027.62
			24	$72,662.88

RESOLUTION NO. -2017

A RESOLUTION APPROVING THE ENGINEER'S REPORT AND DECLARING INTENT TO LEVY AND COLLECT REAL PROPERTY ASSESSMENTS FOR THE DIABLO ESTATES AT CLAYTON BENEFIT ASSESSMENT DISTRICT FOR FISCAL YEAR 2017-18, AND GIVING NOTICE OF THE TIME AND PLACE FOR A PUBLIC HEARING ON THE LEVY OF THE PROPOSED ASSESSMENTS.

THE CITY COUNCIL
City of Clayton, California

WHEREAS, by Resolution No. 04-2012, adopted February 7, 2012, the Clayton City Council formed the Diablo Estates At Clayton Benefit Assessment District ("District") pursuant to the provisions of the Landscaping and Lighting Act of 1972 (Government Code Section 22500 et seq.) and the Benefit Assessment Act of 1982 (Government Code Section 54703 et seq.); and

WHEREAS, while the Benefit Assessment Act of 1982 does not require additional actions prior to levying an annual assessment, the Landscaping and Lighting Act of 1972 ("Act") does require the preparation of an annual Engineer's Report and the holding of a public hearing prior to levying of an annual assessment; and

WHEREAS, the City Engineer has prepared the required Engineer's Report and submitted it to the City Council for review and approval; and

WHEREAS, the City Council reviewed the Engineer's Report at its regular public meeting on May 16, 2017 and found same to be satisfactory and in compliance with the Act; and

WHEREAS, it is now necessary for the City Council to approve the Engineer's Report, establish the date for a public hearing on the levying of the proposed assessments for fiscal year 2017-18 and to direct the City Clerk to give the required notice of the public hearing.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Clayton, California as follows:

1. The Engineer's Report dated May 16, 2017, prepared by the City Engineer as the Engineer for the District, and each part thereof, is sufficient in each particular, has fairly and properly apportioned the cost of the improvement to each parcel of land in the District in proportion to the

estimated benefits to be received by each parcel respectively from such improvements, and is hereby approved as filed.

2. The City Council hereby declares its intent to levy and collect a real property assessment of $3,454.64 on each parcel within the District for a total assessment of $82,911.36 for fiscal year 2017-18.

3. The Assessment District includes Lots 1 through 24, inclusive, as shown on the map of Subdivision 8719 as was recorded in Book 506 of Maps at Page 45, in the Office of the County Recorder of Contra Costa County and as modified by Lot Line Adjustment Nos. 10-01 (2010-0239196) and 10-02 (2010-0239195).

4. As shown on the Engineer's Report on file with the City Clerk, the District will pay for the cost of maintaining storm drainage collection and treatment facilities, street lighting, landscaping and irrigation, and weed abatement using the proposed assessments during fiscal year 2017-18.

5. **A public hearing will be held on Tuesday, July 18, 2017, at or about the hour of 7:00 p.m., of said day, at a regular City Council public meeting at Hoyer Hall in the Clayton Community Library situated at 6125 Clayton Road, Clayton, California,** the regular public meeting place of the Clayton City Council; any and all persons having any interest in the lands within the Diablo Estates At Clayton Benefit Assessment District, liable to be assessed for the expenses of the District for fiscal year 2017-18, may be heard, and any such persons may also present their protests against the proposed assessments with City Clerk at or before the time set for hearing.

6. The City Clerk shall mail notice of the passage of this Resolution and of the time and place of hearing to each owner of real property within the District, as required by Section 54954.6 of the Government Code.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on 16th day of May 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____

Jim Diaz, Mayor

ATTEST:

_____

Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular public meeting thereof held on May 16, 2017.

_____

Janet Brown, City Clerk

Diablo Estates at Clayton Benefit Assessment District

NOTICE TO PROPERTY OWNERS FOR LEVY OF ASSESSMENT

Reason for Assessment

At the request of the original project developer, Toll Bros., Inc., the City of Clayton City Council ("Council") approved Resolution No. 04-2012 on February 7, 2012, forming the Diablo Estates at Clayton Benefit Assessment District ("District") to fund and to pay for the oversight and maintenance of certain facilities solely benefiting the District such as the stormwater treatment facilities, storm drain collection system, common area landscape and irrigation, private street lighting and weed abatement of natural slope areas, all as described in the original Engineer's Report approved by the Council on March 20, 2012.

Notice

This notice informs you, as a real property owner within the Diablo Estates at Clayton Benefit Assessment District that on May 16, 2017, the Clayton City Council adopted Resolution No. xx-2017 approving an Engineer's Report for FY 2017-18, declaring its intent to levy assessments for fiscal year 2017-18 and setting a public hearing on the issue of the proposed assessments:

PUBLIC HEARING: **7:00 p.m. July 18, 2017**
Hoyer Hall (Library Meeting Room) **6125 Clayton Road**

Assessment Information

1. Total District Assessment for the fiscal year beginning on July 1, 2017 and ending June 30, 2018: $82,911.36.

2. Proposed assessment per parcel: The assessment for each parcel is proposed to be $3,454.64 which includes a 3.78% increase in the existing assessment of $3,328.82 per year in accordance with the annual increase in the applicable Consumer Price Index (April 2016 - April 2017; San Francisco-Oakland- San Jose, CA MSA – All Urban Consumers), as allowed by property owner balloting in 2012.

3. Duration of assessment: The assessment will be levied annually at the above proposed rate and collected via one's real property tax bill in fiscal year 2017-18. The assessment may only be increased (other than the authorized allowable annual CPI-U increase described above) in the future by approval of a majority of the property owners.

4. Protests: Only one protest per property is allowed. The levying of the assessment may not be protested, however, the proposed CPI increase may be protested. If written protests are received at City Hall prior to or at the public hearing from a majority of the properties (13 of 24), the proposed increase in the assessments will not be assessed.

5. Engineer's Report: Attached is a copy of the approved Engineer's Report for fiscal year 2017-18.

Questions

If any questions arise regarding the proposed real property assessments for fiscal year 2017-18, please contact the City Engineer Rick Angrisani: he may be reached at (925) 363-7433.

Agenda Date: 5-16-2017

Agenda Item: 3d

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 16, 2017

SUBJECT: A RESOLUTION DEMONSTRATING COMPLIANCE WITH THE STATE'S SURPLUS LAND ACT – GOVERNMENT CODE SECTION 54220 ET SEQ. (CDD-06-17)

RECOMMENDATION

It is recommended the City Council adopt the attached Resolution, demonstrating compliance with the State's Surplus Land Act – Government Code Section 54220 et seq. (**Attachment 1**).

BACKGROUND

The Surplus Land Act was first enacted in 1968 and was amended in 2014 by Assembly Bill 2135. This bill became effective on January 1, 2015 and the law applies to local public agencies: cities (both general and charter), counties, or any district empowered to acquire and hold real property, including school and transit districts. The primary purpose of the revised law is to strengthen affordable housing's Right of First Refusal. The law requires local agencies to prioritize affordable housing as well as parks and open space when disposing of surplus land. When local agencies dispose of surplus land, they are required to give notice to local public entities and organizations involved in affordable housing development. Once a preferred party expresses interest, the parties must enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms.

DISCUSSION

In December of 2016, city staff submitted a grant application for the 2018 Neighborhood Street Rehabilitation project to the Contra Costa Transportation Authority (CCTA) in response to its Coordinated Call for Projects. The Metropolitan Transportation Commission (MTC) allocated $56.1 million dollars in federal funds to the CCTA for its second round of the One Bay Area Grant Program (OBAG 2), which was available under CCTA's Coordinated Call for Projects.

OBAG 2 had a noncompetitive grant component of which $308,000 is to be allocated to the City of Clayton pending submittal of an application and demonstrating compliance with MTC's requirements as outlined in its Resolution No. 4202. One of MTC's requirements is a resolution from general law cities demonstrating compliance with the State of California's

Surplus Land Act (AB 2135). This compliance has to be achieved by June 1, 2017 in order for the City to qualify for the noncompetitive grant funding.

Compliance with the Act is already required by State law; therefore adoption of the Resolution will not change the City's obligations or policies.

FISCAL IMPACT

Failure to adopt the Resolution will make the City ineligible for receiving the OBAG 2 grant funds totaling $308,000 for local street improvement projects. Not adopting this Resolution could also impact the City's eligibility for future funding opportunities.

ATTACHMENTS

1. Resolution No. -2017 [2 pp.]

ATTACHMENT 1

RESOLUTION NO. - 2017

A RESOLUTION DEMONSTRATING COMPLIANCE WITH THE STATE OF CALIFORNIA'S SURPLUS LAND ACT, GOVERNMENT CODE SECITON 54220, ET SEQ.

THE CITY COUNCIL
City of Clayton, California

WHEREAS, the State of California Legislature has declared housing to be of vital statewide importance to the health, safety, and welfare of the residents of this state and that provision of a decent home and suitable living environment for every Californian is priority of the highest order; and

WHEREAS, the State of California's Surplus Land Act, Government Code Section 54220 et seq., requires that prior to disposing of any surplus land a local agency, such as the City of Clayton, shall send a written offer to sell or lease the property to any local public entity in whose jurisdiction the property is located and to any housing sponsor, as defined in Health and Safety Code, section 50074, for the purpose of developing low and moderate income housing on such property; and

WHEREAS, there are now limited funding sources to secure lands for affordable housing given the State of California's recent elimination in 2012 of redevelopment as a financing mechanism, amongst others; and

WHEREAS, public lands can play a critical role in increasing the supply of affordable housing; and

WHEREAS, the Metropolitan Transportation Commission (MTC) has passed Resolution No. 4202 outlining the programming policy and project criteria for the One Bay Area Grant Program (OBAG 2), including the requirement that a local agency who applies for grant funding under OBAG 2 adopt a resolution demonstrating compliance with AB 2135, the Surplus Land Act; and

WHEREAS, the City of Clayton has applied for grant funding, allocated from the Metropolitan Transportation Commission (MTC) to the Contra Costa Transportation Authority, under OBAG 2 for its 2018 Neighborhood Street Rehabilitation Project; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CLAYTON, CALIFORNIA THAT:

SECTION 1. The City Council does hereby find and affirm the above noted Recitals are true and correct and are hereby incorporated in the body of this Resolution as if restated in full.

SECTION 2. The City Council does hereby confirm compliance with Assembly Bill 2135, the State of California's Surplus Land Act (Government Code Section 54220, et seq.) as it exists now or may be amended in the future.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on 16th day of May 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____
Jim Diaz, Mayor

ATTEST:

_____
Janet Brown, City Clerk

I hereby certify that the foregoing Resolution was duly adopted and passed by the City Council of Clayton, California at a regular public meeting thereof held on May 16, 2017.

_____
Janet Brown, City Clerk

Agenda Date: 5-16-2017

Agenda Item: 4b

Declaring
the week of May 21st - 27th
as
"Emergency Medical Services" week

WHEREAS, emergency medical services (EMS) is a vital public service; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, the members of emergency medical services teams are ready to provide compassionate, lifesaving care to those in need twenty-four (24) hours a day, seven (7) days a week; and

WHEREAS, the emergency medical services system consists of emergency medical dispatchers, law enforcement officers, emergency medical technicians, paramedics, firefighters, emergency nurses, emergency physicians, first responders, educators, and administrators; and

WHEREAS, the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, EMS plays a critical role in public outreach and injury prevention, and is evolving in its role as an important member of the healthcare community; and

WHEREAS, the year 2017 marks the 40th anniversary of the implementation of paramedic program enhanced EMS System within Contra Costa County; and

WHEREAS, Contra Costa EMS System is recognized in the state as a leader in exceptional EMS system performance improvement practices focused on improving patient care outcomes; and

WHEREAS, in the last 10 years the EMS System within Contra Costa County has sustained an exceptional Trauma System and implemented a High Risk Heart Attack (STEMI) System, Stroke System and a Cardiac Arrest System of Care; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week.

NOW, THEREFORE, I, Jim Diaz, Mayor, on behalf of the Clayton City Council, do hereby acknowledge, May 21-27, 2017, as "Emergency Medical Services" week with the theme "EMS Strong: Always in Service", and urge my fellow citizens to observe this week with appropriate programs, ceremonies, and activities.

Agenda Date: 5-16-2017
Agenda Item: 7a

Approved:
Gary A. Napper
City Manager

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 16, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER THE INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 15.08 – SIGN PROVISIONS OF THE CLAYTON MUNICIPAL CODE (ZOA-02-17)

RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, open the Public Hearing and take and consider all public testimony and, if determined to be appropriate, take the following actions:

1. Following closure of the Public Hearing, subject to any changes by the City Council, adopt a motion to have the City Clerk read Ordinance No. 475 by title and number only and waive further reading; and

2. Following the City Clerk's reading, by motion approve Ordinance No. 475 for Introduction to amend the Clayton Municipal Code Chapter 15.08 – Sign Provisions in order to comply with the United States Supreme Court decision in *Reed vs. Town of Gilbert, Arizona*; to prohibit mobile billboards; and to incorporate other best practices (ZOA-02-17) (**Attachment 1**).

BACKGROUND

On April 25, 2017, the Planning Commission conducted a noticed public hearing and considered the subject Ordinance. No members of the public spoke during the public comment period. Following questions of staff and a discussion, the Planning Commission unanimously recommended approval of the Ordinance to the City Council (**Attachment 2**).

The United States Supreme Court recently ruled in the case *Reed vs. Town of Gilbert, Arizona* that the provisions of a municipality's sign code must be content-neutral (**Attachment 3**). Portions of the Town of Gilbert's sign code were struck down by the United States Supreme Court due to the sign code subjecting ideological, political, and directional signs to different sets of rules with respect to size, location, and length of display time. The Court found these rules to be content-based, as opposed to content-neutral, and did not meet the strict legal standard of serving a compelling governmental interest. The Court was clear that, as long as the regulation is not based upon a sign's message, local governments may regulate the size, lighting, location, timing, and number of signs. These regulations apply to fixed versus electronic messaging, placement on public versus private property, commercial versus residential, and on-premises versus off-premise signs.

DISCUSSION

SIGNIFICANT PROPOSED CHANGES TO CITY'S ORDINANCE

In response to the United State Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* and other required updates, City staff recommends amendments to the Clayton Municipal Code as it pertains to its Sign Provisions. A redline copy of the proposed amendments to the Clayton Municipal Code has been included as **Attachment 4** to easily track the changes.

The major changes to the City's Sign Ordinance are as follows:

Content-Neutral

The majority of the proposed changes occur in Section 15.08.020 – Definitions, in order to clarify and create definitions that do not distinguish between sign content such as ideological, political, or directional. These changes specifically respond to the decision rendered by the United States Supreme Court on *Reed vs. Town of Gilbert, Arizona.*

Prohibition of Mobile Billboards

While this has not been an issue in the City of Clayton, staff is recommending this prohibition in the interest of the public for the safe movement of vehicular traffic, reduction of air pollution, and to maintain the aesthetic appearance of the City. The prohibition of these types of signs have been upheld by the courts because the ordinances were narrowly tailored to significant government interests in traffic control, public safety, and aesthetics. Further, the proposed ordinance has left other adequate alternatives for advertising.

Clean Up Items

- Addition and deletion of zoning districts that have been removed or added since the last update to the Sign Provisions.
- Consistency in height for Monument Signs, Pole Signs, Commercial Entry Signs and Noncommercial Signs.
- Consistency with the prohibition of signs in the public right-of-way.

ENVIRONMENTAL

This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

FISCAL IMPACT

There is no direct fiscal impact to implement this Ordinance.

ATTACHMENTS

1. Ordinance No. 475 with the following Exhibits: [16 pp.]
   Exhibit A – Clayton Municipal Code Sections 15.08 – Sign Provisions
   Exhibit B – Sign Illustrations
2. Excerpt from April 25, 2017 Planning Commission Staff Report and Minutes [4 pp.]
3. United States Supreme Court Decision Syllabus for *Reed vs. Town of Gilbert, AZ* [4 pp.]
4. Redline Changes to Chapter 15.08 – Sign Provisions of the Clayton Municipal Code [13 pp.]

ATTACHMENT 1

ORDINANCE NO. 475

AN ORDINANCE AMENDING CHAPTER 15.08 OF THE CLAYTON MUNICIPAL CODE REGARDING SIGN PROVISIONS

THE CITY COUNCIL

City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, the City Council wishes to update its sign regulations to comply with the U.S. Supreme Court's decision in *Reed v. Town of Gilbert* and to incorporate other current best practices; and

WHEREAS, the City Council further wishes to eliminate mobile billboard advertising within the city in order to promote the safe movement of vehicular traffic, to reduce air pollution, and to maintain the aesthetic appearance of the city as recognized in *Showing Animals Respect & Kindness v. City of West Hollywood* (2008) 166 Cal.App.4th 815 and other applicable law; and

WHEREAS, this Ordinance will ensure that City residents and others are able to exercise one's constitutional right to free speech subject to the City's substantial interests in traffic safety, aesthetics and otherwise ensuring the general health, safety and welfare.

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

Section 1. Recitals. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Amendment. Chapter 15.08 of the Clayton Municipal Code is hereby amended to read in full as set forth in Exhibit A, attached hereto and incorporated herein by this reference. As set forth in Section 15.08.020 of Exhibit A, the graphic attached as Exhibit B to this Ordinance shall be inserted into Section 15.08.020 in any codification of this Ordinance or the Clayton Municipal Code.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. CEQA. The City Council hereby determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a

significant effect or physical change to the environment.

Section 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a noticed public hearing during a regular public meeting of the City Council of the City of Clayton, California held on May 16, 2017.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on June 6, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____
Jim Diaz, Mayor

ATTEST

_____
Janet Brown, City Clerk

APPROVED AS TO FORM

Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton held on May 16, 2017, and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on June 6, 2017.

Janet Brown, City Clerk

Exhibit A

Chapter 15.08
SIGN PROVISIONS

Sections:

15.08.010 Purpose Statements
15.08.020 Definitions
15.08.030 Permit Procedures
15.08.040 Exempt Signs
15.08.050 Prohibited Signs
15.08.060 General Sign Requirements and Standards
15.08.070 Regulations for Special Signs
15.08.080 Computation of Sign Area and Height
15.08.090 Maintenance
15.08.100 Non-conforming Signs
15.08.105 Substitution
15.08.110 Enforcement

15.08.010 Purpose. The purpose of this chapter is to provide standards for the height, size, location, and appearance of building and street graphics, in order to:

A. Encourage sound signing practices as an aid to business and to inform the public. Signage is to be used primarily for identification, not for advertising.
B. Create an attractive economic and business climate.
C. Preserve and improve the appearance of the city as a place in which to live and work and as an attraction to nonresidents who come to visit or trade.
D. Protect and enhance the rural atmosphere of the city.
E. Minimize adverse effects on public and private property.
F. Prevent excessive and confusing sign displays.
G. Reduce hazards to motorists and pedestrians.
H. Enable the fair and consistent enforcement of sign regulations.
I. Promote the public health, safety, and general welfare.

15.08.020 Definitions.

A. Address Sign: A sign listing the street address and, in the case of a residential use, the name of the occupants of the premises.
B. Animated Sign: A sign that conveys its message or attracts attention through moving, rotating, changing, or flashing lights or components.
C. Awning: A hood or cover that projects from the wall of a building and is composed of rigid or non-rigid materials.
D. Awning Sign: A sign or graphic attached to or printed on an awning (see Sign Illustrations).
E. Banner: A temporary commercial or noncommercial sign of lightweight fabric, plastic, paper, or similar material that is mounted on a building (see Sign Illustrations).

F. Billboard: A sign that directs attention to a product, place, activity, person, institution, business, or subject that is not entirely related to the premises on which the sign is located.

G. Building Marker: A sign indicating the name of a building, date of construction, and incidental information about its construction, which is cut into masonry or made of bronze or other permanent material.

H. Building Sign: A permanent sign attached to a building or other structure that is an integral part of a building. A building sign includes an awning sign, a projecting sign, a suspended sign, a wall sign, and a window sign, an address sign, and a building marker.

I. Canopy (or Marquee): A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, wood, glass, or plastic.

J. Commercial Center Entry Sign: A sign located at the entry to a shopping center, business area, or office park identifying the center, area, or park and identifying the businesses located therein.

K. Commercial Sign: Any sign with an image or message which primarily concerns the commercial or economic interests of the sign sponsor or intended audience, or which proposes a commercial transaction.

L. Directory Sign: A sign or set of similarly designed individual signs displayed in sequence that lists tenants or occupants within a building or business center, and is designed or be viewed primarily by pedestrians (see Sign Illustrations).

M. Flag: Fabric, banner, or bunting containing distinctive colors, patterns, or symbols.

N. Ground Sign (or Freestanding Sign): A permanent sign supported by one or more uprights, poles, or braces in or upon the ground or placed upon a planter, wall, retaining wall, or other structure that is not an integral part of a building. A ground sign includes a monument sign, a pole sign, a kiosk sign, commercial center entry sign, directory sign, multiple address sign, neighborhood/district entry sign.

O. Incidental Sign: An informational sign, whose purpose is secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives.

P. Interior Sign: A sign located in the interior of a building, mall, court, standing or enclosed lobby intended for interior viewing only.

Q. Kiosk Sign: A sign located on a small freestanding structure which has three (3) or more surfaces.

R. Mobile Billboard: Any vehicle, or wheeled conveyance which carries, conveys, pulls, or transports any sign or billboard for the primary purpose of advertising. Mobile billboard shall not include (1) any vehicle which displays an advertisement or business identification of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisements; (2) buses; or (3) taxicabs.

S. Monument Sign: A type of ground sign constructed upon a solid appearing base or pedestal (see Sign Illustrations).

T. Multiple Address Sign: A sign or set of similarly designed individual signs displayed in sequence placed at the entrance of a private residential street or area that lists the street address and names of the occupants of the residences along the street or within the area.

U. Mural: A work of art, containing no commercial message, applied to and made an integral part of an exterior wall.

V. Neighborhood/District Entry Sign: A sign identifying a neighborhood or district (see Sign Illustrations).

W. Noncommercial Sign: Any sign displaying a message that is not commercial.

X. Noncommercial Location Sign: A sign identifying a noncommercial use.

Y. Nonconforming Sign: A sign legally existing at the time of the effective date of this Chapter which does not conform to the provisions of this Chapter.

Z. Off-Site Sign: A sign directing attention to a business, service, product, or entertainment that is not sold or offered on the site where the sign is located, including billboards and other outdoor advertising signs.

AA. On-Site Sign: A sign directing attention to a business, service, product, or entertainment that is sold or offered on the site where the sign is located.

BB. Parapet or Parapet Wall: That portion of a building wall that rises above the roof level or eave line.

CC. Pennant: A sign of lightweight fabric, plastic, or similar material that is attached to a pole at one edge (see Sign Illustrations).

DD. Permanent Sign: Any sign intended for use for a period greater than thirty (30) calendar days.

EE. Personal Property Sale Sign: A temporary commercial sign advertising a sale of personal property.

FF. Pole Sign: A type of ground sign mounted to or hanging from a pole or similar structure (see Sign Illustrations).

GG. Portable Sign: A sign not permanently attached to the ground, building, or other permanent structure and designed to be transported, including but not limited to: signs designed to be transported by means of wheels; signs in the form of A-frames or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked in or visible from the public right of way, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs do not include mobile billboards.

HH. Projecting Sign: A sign extending from a building face or wall so that the sign face is perpendicular or at an angle to the building face or wall (see Sign Illustrations).

II. Real Estate Sign: A commercial sign advertising the sale, lease, or rent of property and the identification of the firm handling the sale, lease, or rent.

JJ. Residential Open House Sign: A temporary commercial sign advertising an open house for a house for sale.

KK. Roof Sign: A sign erected upon or above a roof or parapet of a building or structure. A sign mounted on a vertical extension of a wall that extends above a roof structure is considered a wall sign.

LL. Sign: Any name, identification, description, symbol, display, illustration, or device, including any structure, machine (including vending machine), component parts and paint, viewable by the general public that directs attention to a product, place, activity, person, institution, or business.

MM. Sign Area: The area within a perimeter which forms the outside shape, including any frame, and forms an integral part of the display, but excluding the necessary supports,

poles, or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas visible from any position at one (1) time will be totaled.

NN. Sign Face: The visible portions of a sign including all characters and symbols, but excluding structural elements not an integral part of the display.

OO. Sign Illustrations: Examples of various signs in pictorial format incorporated into Section 15.08.020 of the Clayton Municipal Code.

PP. String Pennant: A lightweight plastic, fabric, or other material, whether or not containing a message or symbols, suspended from a rope, wire, or string in series, usually designed to move in the wind.

QQ. Subdivision Marketing Pole Pennant: A single piece of lightweight plastic, fabric, or other material, whether or not containing a message of any kind that is temporarily suspended from a pole and is designed to move in the wind to promote the sale of newly subdivided lots and/or newly constructed dwellings.

RR. Subdivision Marketing Signs: Temporary commercial signs, including ground signs, wall-mounted signs, pole signs, pennants, and real estate signs, designed to promote the sale of newly subdivided lots and/or newly constructed dwellings (see Sign Illustrations).

SS. Suspended Sign: A sign attached to and located below any permanent eave, roof, or canopy (see Sign Illustrations).

TT. Temporary Commercial Sign: Any commercial sign intended for use for a period of less than thirty (30) days.

UU. Temporary Noncommercial Sign: Any noncommercial temporary sign displaying an ideological, political or other noncommercial message, that is constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.

VV. Wall Sign: A sign not exceeding six (6) inches in thickness that is painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of said wall (see Sign Illustrations).

WW. Window Sign: A sign displayed on window glass (including the glass of doors) or within three (3) feet of a window, designed to be viewed from the exterior of the window (see Sign Illustrations).

15.08.030 Permit Procedures.

A. City Review - General. City review and approval is required for all signs except those specified by this Chapter as exempt or prohibited. No City review or approval is required for a change of copy on an existing permitted sign that is in full compliance with the requirements and standards of this Chapter. In addition to meeting the requirements of this Chapter, all signs shall comply with all applicable California Building Code requirements. No sign shall be constructed, placed, erected, or modified unless such construction, placement, erection, or modification is authorized by the owner, or his or her representative, of the property upon which the sign is to be placed. Application for sign review and approval shall be accompanied by written authorization from the property owner, or his or her authorized representative, for placement of the proposed sign or signs.

B. City Review and Approval. The City shall review and approve signs according to the following procedures:

1. Administrative Review and Approval. The following signs shall be reviewed and approved administratively by the Community Development Department if they conform to the general sign requirements and standards of Section 15.08.060 and the regulations for special signs of Section 15.08.070.
   a. Directory signs provided the sign does not exceed ten (10) square feet in area, nor a height of six (6) feet.
   b. Any sign proposed for a property consistent in terms of size, number, and location with a previously-approved master sign plan, unless otherwise specified in an applicable master sign plan.
   c. All building and ground signs proposed for individual businesses that are located on a property that have a previous approval for similar signage, and the proposed sign(s) are consistent in terms of size, number, and location with the previous approval. (This provision does not apply to a Corner Lot or Through Lot where signage is being proposed along multiple property frontages)
2. Exception. Any sign proposal considered within the parameters of this subsection that in the judgment of the Community Development Director may not comply with the intent or purpose of this Chapter may be referred to the Planning Commission for consideration.
3. Planning Commission Review and Approval. The following signs shall be reviewed and approved by the Planning Commission in accordance with Chapter 17.64 of the Clayton Municipal Code.
   a. Master sign plans.
   b. Neighborhood/district entry signs.
   c. Commercial center entry signs.
   d. Subdivision marketing sign program.
   e. Noncommercial locational signs.
   f. Directory signs that exceed ten (10) square feet in area and six (6) feet in height.
   g. All building and ground signs for individual businesses that are located on a property that have not had previous approval for signage, involve signage on multiple frontages, and/or involve an increase in the previously-approved signage area, increase in the number of signs, or substantially change the location of signage.
   h. Any sign proposal that, in the judgment of the Community Development Director, may not comply with the intent or purpose of this Chapter.
4. Variance. A variance shall be required from the Planning Commission for any deviations from the general sign requirements and standards of Section 15.08.060 or the regulations for special signs of Section 15.08.070 of this Chapter according to the procedures set out in Chapter 17.52 of the Clayton Municipal Code.

15.08.040 Exempt Signs. The following signs shall not require review and approval by City:

A. Address signs, provided the sign does not exceed two (2) square feet in area.

B. Public information, identification, civic event, and directional signs erected by a public agency or public utility.
C. Incidental signs.
D. Legal notices posted by law.
E. Building markers, provided the sign does not exceed four (4) square feet in area and is not illuminated.
F. Signs displayed by private individuals, when required by law or regulations of any governmental agency.
G. Temporary noncommercial signs on private real property, provided the aggregate signage displayed at one time does not exceed thirty (30) square feet in area per parcel.
H. Wall signs indicating the historical significance of a site or building, provided the sign does not exceed four (4) square feet in area and is not illuminated.
I. Signs displayed in the interior of a building, mall, court, stadium, or enclosed lobby more than three (3) feet from an exterior window or door and intended for interior viewing only.
J. Multiple address signs, provided the individual signs do not exceed four (4) inches by twenty-four (24) inches.
K. Residential open house signs for a home sale in accordance with the standards of Section 15.08.070 of this Chapter.
L. Flags, provided they are not used in a commercial manner or to advertise a business or its location.
M. Murals containing no commercial message, provided the mural has intrinsic artistic value or appeal regardless of the business in the building on whose wall the mural is painted. Murals shall take into consideration the overall architecture of the building and shall not be placed on decorative surfaces or finishes. The colors and materials used shall be reasonably harmonious with those in the area.
N. Personal property sale signs, in accordance with the standards of Section 15.08.070 of this Chapter.
O. Real estate signs in accordance with the provisions of Section 15.08.070 of this Chapter.
P. Portable signs in accordance with the provisions of Section 15.08.070 of this Chapter.
Q. Banners and pennants in accordance with the provisions of Section 15.08.070 of this Chapter.

15.08.050 Prohibited Signs. The following signs are prohibited anywhere in the City:
A. Animated signs.
B. Flags used in a commercial manner or to advertise a business or its location.
C. Signs that by color, wording, design, location, or illumination resemble or conflict with any traffic-control device or with safe and efficient flow of traffic.
D. Signs that obstruct the free and clear vision of or create confusion for motorists or pedestrians.
E. Signs with lighting detrimental to surrounding property or prevents peaceful enjoyment of residential uses.
F. Banners and pennants, except as provided in Section 15.08.070 of this Chapter.
G. Roof signs.
H. String pennants.
I. Balloons and similar inflatable signs.

J. Permanent signs mounted on fences or deck/balcony railings.
K. Portable signs except as provided in Section 15.08.070 of this Chapter.
L. Temporary signs are prohibited in the public right-of-way except for signs for City-sponsored community events in location(s) approved by the City.
M. Signs located on private property without the property owner's approval.
N. Off-site signs except for:
    1. Temporary noncommercial signs.
    2. Residential open house signs.
    3. Garage or yard sale signs.
    4. Signs attached to trees, shrubs, or other natural features.
O. Mobile billboard operating on a street or other public place within the city in which the public has the right of travel.

15.08.060 General Sign Requirements and Standards.

A. Signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts - Sign Permits. A sign permit is required in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts for all non-exempt signs as follows:
    1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
    2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
    3. Subdivision marketing sign program in accordance with the standards of Section 15.08.070 of this Chapter.
    4. No other non-exempt signs are allowed in these districts.
B. Signs in the L-C District - Sign Permits. A sign permit is required in the L-C District for all non-exempt signs as follows:
    1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
    2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
    3. Master sign plan in accordance with the standards of Section 15.08.070 of this Chapter.
    4. Commercial center entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
    5. Subdivision marketing sign program in accordance with Section 15.08.070 of this Chapter.
C. Signs in the L-C District - Standards. Ground and building signs relating to on-site commercial activities are authorized in the L-C Districts in accordance with the following standards:
    1. The aggregate sign area of any combination of ground signs and building signs for a building or a business shall not exceed one (1) square foot per lineal foot of building frontage or store frontage. Exempt signs, directory signs, commercial center entry signs, pennants, and portable signs are not subject to this aggregate sign limit.
    2. Monument signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable

aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.

3. Pole signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
4. Kiosk signs (ground signs) shall not exceed twenty-four (24) square feet in area (all faces) and shall not exceed seven (7) feet in height.
5. Projecting signs (building signs) shall not exceed twelve (12) square feet in area and shall maintain a vertical clearance of at least eight (8) feet.
6. Suspended signs (building signs) oriented toward pedestrian areas or walkways shall not exceed six (6) square feet in area and shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path.
7. Suspended signs (building signs) oriented toward street traffic and/or parking lots shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path, and may not be displayed over vehicular access. The size of such a suspended sign may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty (20) square feet.
8. Window signs (building signs) shall not cover more than forty (40) percent of the glazed area of an individual window panel or more than twenty (20) percent of the aggregate glazed area on any one building frontage or store frontage.
9. Wall Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
10. Awning Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.

D. Signs in the PD District. Signs in the PD District shall conform to the standards or signs for uses defined in the applicable General Plan designation. For signs in areas designated residential, cultural center, institutional, school, or open space by the General Plan, the requirements and standards for signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts shall apply. For signs in areas designated commercial by the General Plan, the requirements and standards for signs in the L-C District shall apply unless otherwise specified by a master sign plan.

15.08.070 Regulations for Special Signs.

A. Neighborhood/District Entry Signs. Neighborhood/district entry signs are allowed in all districts subject to the following standards:
   1. The sign shall include only the name of the neighborhood or district.
   2. Lettering shall not exceed eighteen (18) inches in height.
   3. The top of the letters shall not exceed six (6) feet in height.

B. Commercial Center Entry Signs. Commercial center entry signs are allowed in commercial districts subject to the following standards:
   1. One (1) sign may be located near each main vehicular entrance to the shopping center, business area, or office park fronting on a public roadway.
   2. The sign may be a pole sign or monument sign.
   3. The sign shall not exceed eight (8) feet in height.

4. Lettering shall not exceed twenty-two (22) inches in height.

C. Banners. Banners for new or relocated businesses are allowed temporarily in commercial districts subject to the following standards:

1. Banner in lieu of permanent sign:
   a. The banner shall be secured on all sides.
   b. The banner may only be displayed for up to thirty (30) days, with up to an additional thirty (30) day extension if approved administratively by the Community Development Department.
   c. The banner must conform to the sign area dimensions and location of Section 15.08.060 C of this Chapter.
2. Promotional banner. A second banner in addition to that noted above may be allowed subject to the following standards:
   a. The banner may be a wall, window, or suspended sign.
   b. The banner may only be displayed for up to thirty (30) days.
   c. The banner may be no larger than the banner as approved per Section 15.08.070 C1 and must conform to the sign area dimensions of Section 15.08.060 C of this Chapter.

D. Pennants. Pennants are allowed in commercial districts subject to the following standards.

1. Only one (1) pennant may be displayed by any one (1) business.
2. The pennant shall be secured to a pole on one (1) side and shall be hanging.
3. The pennant shall not exceed two (2) feet in width or four (4) feet in length.
4. The pennant shall be made in a professional manner and workmanship of fabric, plastic, or similar material designed to withstand at least six (6) months of outdoor exposure. Paper pennants shall not be allowed.
5. The bottom of a pennant shall be at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path. A pennant may not be displayed over a street, driveway, or vehicular access.

E. Portable Signs. Portable signs are allowed in commercial districts subject to the following standards:

1. Only one (1) portable sign may be displayed by any one (1) business.
2. The sign shall only be in the form of an A-frame, sandwich board, menu board, or umbrella.
3. The sign shall not exceed three (3) feet in height or two (2) feet in width per face, except for an umbrella.
4. The sign shall be displayed only during the hours the business is open to the public and shall be removed during non-business hours.
5. The sign shall be displayed immediately adjacent to the business it advertises.
6. The sign shall not be displayed in a public right-of-way nor shall it obstruct a pedestrian walkway.
7. The sign shall be constructed out of a stable and rigid material (i.e., PVC is not considered an acceptably rigid material).

F. Residential Open House and Personal Property Sale Signs. Residential open house and personal property sale signs are allowed for residential uses subject to the following standards:

1. A total of one (1) on-site sign and up to six (6) off-site signs.

2. Only one (1) off-site sign may be displayed at any one intersection for each residential open house or personal property sale.
3. The signs shall not exceed three (3) feet in height or two (2) feet in width.
4. The signs shall only be displayed up to one (1) hour before, during, and up to one (1) hour following the residential open house or personal property sale.
5. The signs shall not be displayed in a public right-of-way nor shall they obstruct a pedestrian walkway, except signs shall be allowed behind the sidewalk or behind the curb if there is no sidewalk.
6. No signs shall be displayed on private property without the prior consent of the property owner.
7. Balloons, flags, pennants, animated devices, and similar objects are prohibited. (see Section 17.16.020E of the Municipal Code for further regulations for Personal Property Sales).

G. Noncommercial Locational Signs. Noncommercial locational signs are allowed in all districts subject to the following standards:
1. The signs may include building signs and ground signs.
2. The aggregate sign area may not exceed twenty-four (24) square feet for a lot up to forty thousand (40,000) square feet in size. For lots larger than forty thousand (40,000) square feet, sign area may be increased subject to specific Planning Commission review and approval.
3. No ground or pole sign shall exceed eight (8) feet in height.

H. Real Estate Signs. Real estate signs are allowed in all districts subject to the following standards:
1. Only one (1) on-site real estate sign may be displayed on a front or side yard frontage. An additional real estate sign may be displayed on a rear yard frontage.
2. Real estate signs in residential districts shall not exceed six (6) square feet in area. Real estate signs in commercial districts shall not exceed twelve (12) square feet in area.
3. The sign may be in the form of a pole sign or a wall sign.
4. The sign shall not exceed six (6) feet in height.
5. The sign shall be removed within ten (10) days of the lot or building(s) being sold, leased, or rented.
6. Real estate signs located off-site of the subject property (e.g., at nearby intersection, public landscape, public property, public right of way) are not allowed.

I. Subdivision Marketing Sign Program. Subdivision marketing signs are allowed in residential districts subject to the approval of a subdivision marketing sign program in accordance with the following standards:
1. The program may include a combination of temporary ground signs, wall signs, subdivision marketing pole pennants, and real estate signs.
2. All subdivision marketing signs shall be displayed within the boundaries of the subdivision.
3. Subdivision marketing pole pennants shall not exceed twenty-five (25) feet in height or be located closer than every fifty (50) feet.
4. All subdivision marketing signs shall be removed within thirty (30) days of the opening of escrow for sale of the last home in the subdivision.

5. The dimensions of any sign shall not exceed eight (8) feet in length, nor eight (8) feet in height, nor a total area of sixty (60) square feet.

J. Master Sign Plan. At the discretion of the City or one or more property owners, a master sign plan may be established for a shopping center, business area, office park, or similar identifiable geographic area. Such master sign plan may impose sign requirements and standards addressing the number, height, area, color, or other sign characteristics in a manner more restrictive than that allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter. Such a master sign plan may be established to promote an enhanced sense of identity, aesthetic value, or other feature. A master sign plan will not only identify and describe those sign characteristics that are more restrictive than those allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter, but also the purpose or goal for which the master sign plan is established.

15.08.080 Computation of Sign Area and Height. The following principles shall govern the computation of sign area and height.

A. Computation of Area of Individual Signs. The sign area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign form the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative wall when such wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

B. Computation of Area of Multi-Faced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.

C. Computation of Height. The height of a sign shall be computed as the distance from the grade at the edge of the public way along which a sign is placed or oriented to the highest point of the sign, or any structural or architectural component of the sign. When the grade at the edge of the public way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the public way shall not be included in determining the sign's overall height.

D. Computation of Total Permitted Sign Area. The total area of all individual signs permitted on a lot shall be computed according to Section 15.08.060 C of this Chapter. Property fronting two (2) or more streets are allowed the permitted sign area specified in Section 15.08.060 C for each such street frontage.

15.08.090 Maintenance. All signs shall be maintained in good repair and shall be cleaned, painted, and replaced as necessary to present a neat appearance at all times.

15.08.100 Nonconforming Signs.

A. Except for regular maintenance, no non-conforming sign shall be altered, modified, added to, or increased in area, unless the entire sign is brought into conformity with the requirements and standards of this Chapter.

B. Any non-conforming sign that is damaged or destroyed to the extent of fifty (50) percent or more of its estimated market value shall not be replaced or repaired except by a sign that conforms to the requirements and standards of this Chapter.

C. Any non-conforming sign relating to a business that has not operated for six (6) consecutive months shall be removed.

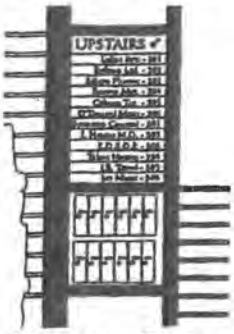
15.08.105 Substitution. In each instance and under the same conditions to which this Chapter permits any sign, a sign containing an ideological, political or other noncommercial message that is constructed to the same physical dimensions of the permitted sign shall be permitted.

15.08.110 Enforcement. Any person erecting, displaying, or maintaining a sign in violation of this Chapter is guilty of an infraction and shall be subject to enforcement and penalties set out in Chapters 1.12, 1.14, 1.16, and 1.20 of Title 1 of the Clayton Municipal Code.

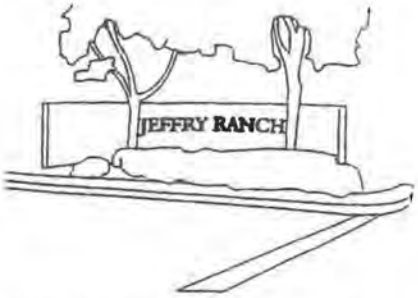
EXHIBIT B

SIGN ILLUSTRATIONS

Monument Sign



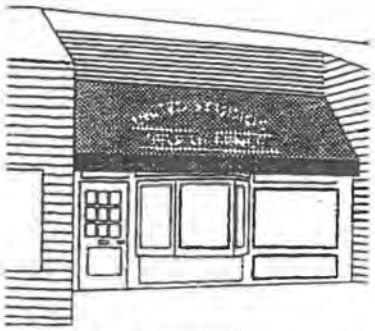
Directory Sign



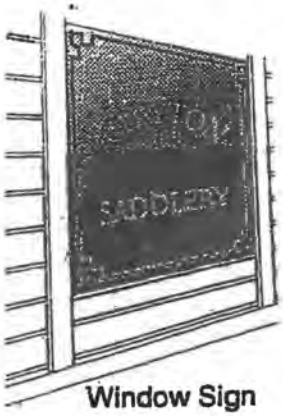
Neighborhood/District Entry Sign

Wall Sign

Suspended Sign



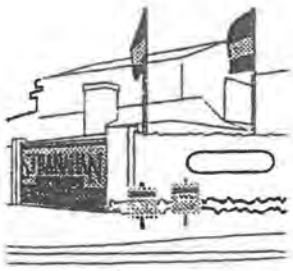
Awning Sign



Window Sign

Pennant

Projecting Sign



Subdivision Marketing Signs

Banner

Pole Sign

ATTACHMENT 2

PLANNING COMMISSION
STAFF REPORT

Meeting Date:	**April 25, 2017**
Item Number:	**5.b.**
From:	**Mindy Gentry** **Community Development Director**
Subject:	**Ordinance to Amend the Sign Provisions (ZOA-02-17)**
Applicant:	**City of Clayton**

REQUEST

The City of Clayton is requesting a public hearing to consider a City-initiated Ordinance amending Title 15 "Building and Construction", Chapter 15.08 – Sign Provisions of City of Clayton Municipal Code in order to revise the Sign Provisions to comply with the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona,* to prohibit mobile billboards, and to incorporate other best practices (ZOA-02-17) **(Attachment A)**.

PROJECT INFORMATION

Location:	Citywide
Environmental:	This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.
Public Notice:	On April 14, 2017, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the City.

BACKGROUND

The United States Supreme Court ruled in the case *Reed vs. Town of Gilbert, Arizona* that the provisions of a municipality's sign code must be content-neutral **(Attachment B)**. Portions of the Town of Gilbert's sign code were struck down by the United States Supreme Court due to the sign code subjecting ideological, political, and directional signs to different rules with respect to size, location, and length of display time. The Court found these rules to be content-based, as opposed to content-neutral, and did not meet the strict legal standard of serving a compelling governmental interest. The Court was clear that, as long as the regulation is not based upon a sign's message, local governments may regulate the size, lighting, location, timing, and number of signs. These regulations apply to fixed versus electronic messaging, placement on public versus private property, commercial versus residential, and on-premises versus off-premise signs.

SIGNIFICANT PROPOSED CHANGES TO CITY'S ORDINANCE

In response to the United State Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* and other required updates, City staff is recommending amendments to the Clayton Municipal Code as it pertains to its Sign Provisions. A redline copy of the proposed amendments to the Clayton Municipal Code has been included as **Attachment C** to easily see the changes.

The major changes to the City's Sign Ordinance are as follows:

Content-Neutral

The majority of the proposed changes occur in Section 15.08.020 – Definitions in order to clarify and create definitions that do not distinguish between sign content such as ideological, political, or directional. These changes are specifically in response to the decision rendered by the United States Supreme Court on *Reed vs. Town of Gilbert, Arizona.*

Prohibition of Mobile Billboards

While this has not been an issue in the City of Clayton, staff is recommending this prohibition in the interest of the public for the safe movement of vehicular traffic, reduction of air pollution, and to improve the aesthetic appearance of the City. The prohibition of these types of signs have been upheld by the courts because the ordinances were narrowly tailored to significant government interests in traffic control, public safety, and aesthetics. Further, the proposed ordinance has left other adequate alternatives for advertising.

Clean Up Items

- Addition and deletion of zoning districts that have been removed or added since the last update to the Sign Provisions.
- Consistency in height for Monument Signs, Pole Signs, Commercial Entry Signs and Noncommercial Signs.
- Consistency with the prohibition of signs in the public right-of-way.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 02-17, recommending City Council approval of an Ordinance amending the City's Sign Provisions (**Attachment A**).

ATTACHMENTS

A. Planning Commission Resolution No. 02-17, with attachment:
   Exhibit 1 – Draft Ordinance Amending Chapter 15.08 – Sign Provisions
B. United States Supreme Court Decision Syllabus
C. Redline Changes to Chapter 15.08 – Sign Provisions

Commissioner Altwal indicated the following:

- He concurs with Vice Chair Wolfe's comments.
- This amendment will help us to meet the requirements of the General Plan and help reduce density on applicable parcels of land in Clayton.

Commissioner Cloven indicated the following:

- He is in support of the amendment.
- The amendment would not increase density but would actually reduce the number of units that could be built on particular piece of property.
- This amendment will assist in preserving the character of Clayton.

Chair Richardson indicated the following:

- When I moved to Clayton 30 years ago, I remember it being very different from today.
- I very much enjoy the rural character and quality of life in Clayton that includes such things as the sidewalks in the Town Center being stamped to look like wood and bringing our third grade children downtown to show them the beauty and history of our community as we pass on our legacy.
- We are always trying to find ways to carry our traditions and lifestyle forward as part of the vision of our community.
- It is an ongoing challenge to balance the rights of property owners to improve their property with what we as a community can accept on that property.
- This amendment allows a property that could be developed with 100 units to be developed with a less amount of units once the sensitive areas on the property are subtracted out.
- This amendment protects our environmental resources and removes impediments to meeting the housing requirements mandated by the State.

Commissioner Altwal moved and Vice Chair Wolfe seconded a motion to adopt Resolution No. 01-17 recommending City Council approval of:

1) **A General Plan Amendment to modify the calculation of residential densities and not require a minimum density for residential parcels with sensitive land areas (GPA-03-16); and**
2) **An Ordinance adding Chapter 17.22 to Title 17 "Zoning" determining the methodology of residential density calculations for residential parcels with sensitive land areas (ZOA-03-17).**

The motion passed 5-0.

5.b. ZOA-02-17, **Municipal Code Amendment, City of Clayton.** A request for consideration of a City initiated Ordinance amending Title 15 "Building and Construction", Chapter 15.08 – Sign Provisions of City of Clayton Municipal Code in order to revise the Sign Provisions to comply with the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona,* to prohibit mobile billboards, and to incorporate other best practices.

Director Gentry presented the staff report.

Vice Chair Wolfe had the following questions:

- Does this amendment impact mobile billboards only or other types of signage as well? *Director Gentry indicated that this amendment would allow better control of temporary signage. Mobile billboards are a separate issue; something you would see in other communities as mobile billboards are not a something you see in Clayton and, as a result, are not a controversial issue.*
- What part of our Sign Provisions would be impacted by this amendment? *Director Gentry indicated that this would impact the Sign Provisions in their entirety.*

Commissioner Altwal had the following questions:

- How would this amendment apply to a vehicle with a billboard on it that was just driving through town? *Director Gentry indicated that enforcement would be dependent on the spirit of the law. From staff's perspective, there would be no issue if the vehicle was merely driving through town; however, if the vehicle was seen repeatedly over a short duration, there might be an issue.*
- What about a vehicle that parks overnight will an advertisement on it such as "Got Junk"? *Director Gentry indicated that vehicles advertising the vehicle owner's business would be exempt from these new sign regulations.*

Commissioner Cloven had the following questions:

- Did the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* touch upon allowing a jurisdiction to audit offensive messages on signage? *Director Gentry indicated that* Reed vs. Town of Gilbert, Arizona *did not pertain to first amendment rights for hate speech or messages regarded as distasteful.*

Commissioner Gall had the following questions:

- Did the City's legal counsel review this amendment? *Director Gentry responded yes.*
- With this amendment, we are not prohibiting the right to free speech are we? *Director Gentry indicated that this amendment would remove provisions on signs based on their content and would provide us with content-neutral provisions which preserves first amendment rights.*

Chair Richardson expressed support for the amendment.

The public hearing was opened.

There were no comments.

The public hearing was closed.

Commissioner Altwal moved and Commissioner Cloven seconded a motion to adopt Resolution No. 02-17, recommending City Council approval of an Ordinance amending the City's Sign Provisions. The motion passed 5-0.

6. OLD BUSINESS

None.

ATTACHMENT - 3

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED ET AL. *v.* TOWN OF GILBERT, ARIZONA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 13–502. Argued January 12, 2015—Decided June 18, 2015

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. "Ideological Signs," defined as signs "communicating a message or ideas" that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. "Political Signs," defined as signs "designed to influence the outcome of an election," may be up to 32 square feet and may only be displayed during an election season. "Temporary Directional Signs," defined as signs directing the public to a church or other "qualifying event," have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the "qualifying event" and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code's sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

Held: The Sign Code's provisions are content-based regulations of

Syllabus

speech that do not survive strict scrutiny. Pp. 6–17.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g., R. A. V.* v. *St. Paul*, 505 U. S. 377, 395. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___. And courts are required to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Id.*, at ___. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be " 'justified without reference to the content of the regulated speech,' " or were adopted by the government "because of disagreement with the message" conveyed. *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791. Pp. 6–7.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign's communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. Pp. 7.

(c) None of the Ninth Circuit's theories for its contrary holding is persuasive. Its conclusion that the Town's regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network, Inc.*, 507 U. S. 410, 429. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit's conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints

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is a "more blatant" and "egregious form of content discrimination," *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829, but "[t]he First Amendment's hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic," *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code's categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 658. This same analysis applies to event-based distinctions. Pp. 8–14.

(d) The Sign Code's content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code's differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___. Assuming that the Town has a compelling interest in preserving its aesthetic appeal and traffic safety, the Code's distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network*, *supra*, at 425. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 14–15.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 817. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—*e.g.*, warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 16–17.

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707 F. 3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined

ATTACHMENT 4

Chapter 15.08
SIGN PROVISIONS

Sections:

15.08.010 Purpose Statements
15.08.020 Definitions
15.08.030 Permit Procedures
15.08.040 Exempt Signs
15.08.050 Prohibited Signs
15.08.060 General Sign Requirements and Standards
15.08.070 Regulations for Special Signs
15.08.080 Computation of Sign Area and Height
15.08.090 Maintenance
15.08.100 Non-conforming Signs
15.08.105 Substitution
15.08.110 Enforcement

15.08.010 Purpose. The purpose of this chapter is to provide standards for the height, size, location, and appearance of building and street graphics, in order to:

A. Encourage sound signing practices as an aid to business and to inform the public. Signage is to be used primarily for identification, not for advertising.
B. Create an attractive economic and business climate.
C. Preserve and improve the appearance of the city as a place in which to live and work and as an attraction to nonresidents who come to visit or trade.
D. Protect and enhance the rural atmosphere of the city.
E. Minimize adverse effects on public and private property.
F. Prevent excessive and confusing sign displays.
G. Reduce hazards to motorists and pedestrians.
H. Enable the fair and consistent enforcement of sign regulations.
I. Promote the public health, safety, and general welfare.

15.08.020 Definitions.

A. Address Sign: A sign listing the street address and, in the case of a residential use, the name of the occupants of the premises.
B. Animated Sign: A sign that conveys its message or attracts attention through moving, rotating, changing, or flashing lights or components. ~~This does not include a barber pole or time and temperature sign.~~
C. Awning: A hood or cover that projects from the wall of a building and is composed of rigid or non-rigid materials.
D. Awning Sign: A sign or graphic attached to or printed on an awning (see Sign Illustrations).
E. Banner: A temporary commercial or noncommercial sign of lightweight fabric, plastic, paper, or similar material that is mounted on a building (see Sign Illustrations).

F. Billboard: A sign that directs attention to a product, place, activity, person, institution, business, or subject that is not entirely related to the premises on which the sign is located.

G. Building Marker: A sign indicating the name of a building, date of construction, and incidental information about its construction, which is cut into masonry or made of bronze or other permanent material.

H. Building Sign: A permanent sign attached to a building or other structure that is an integral part of a building. A building sign includes an awning sign, a projecting sign, a suspended sign, a wall sign, and a window sign, an address sign, and a building marker.

I. Canopy (or Marquee): A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, wood, glass, or plastic.

J. Commercial Center Entry Sign: A sign located at the entry to a shopping center, business area, or office park identifying the center, area, or park and identifying the businesses located therein.

~~J.~~K. Commercial Sign: Any sign with an image or message which primarily concerns the commercial or economic interests of the sign sponsor or intended audience, or which proposes a commercial transaction.

~~K. Community Event: An occasional and/or seasonal event open to the general public sponsored by a public/quasi public institution or by a private party if the event promotes Clayton and its rural tradition. (Note: Such a community event typically requires a temporary use permit.)~~

~~L. Community Event Sign: A temporary ground sign, building sign, portable sign, or banner advertising a community event.~~

~~M.~~L. Directory Sign: A sign or set of similarly designed individual signs displayed in sequence that lists tenants or occupants within a building or business center, and is designed or be viewed primarily by pedestrians (see Sign Illustrations).

~~N.~~M. Flag: Fabric, banner, or bunting containing distinctive colors, patterns, or symbols~~, used as a symbol of a government or political subdivision. Fabric, banner, or bunting signifying identification with any private or quasi-public institution or business is not considered a flag.~~.

~~Personal Property Sale Sign: A temporary sign advertising a personal property sale.~~

~~O.~~N. Ground Sign (or Freestanding Sign): A permanent sign supported by one or more uprights, poles, or braces in or upon the ground or placed upon a planter, wall, retaining wall, or other structure that is not an integral part of a building. A ground sign includes a monument sign, a pole sign, a kiosk sign, commercial center entry sign, directory sign, multiple address sign, neighborhood/district entry sign.

~~P. Holiday Decorations: Temporary decorations, containing no commercial content, that celebrate or commemorate a holiday or season, including greetings, banners, announcements, and displays.~~

~~Q.~~O. Incidental Sign: ~~A non-governmental~~An informational sign, whose purpose is secondary to the use of the lot on which it is located, such as "no parking", "entrance"~~,~~ "loading only", "telephone", and other similar directives. ~~No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.~~.

~~Integrated Development: A group of two (2) or more uses or parcels planned and developed in a joint manner with undivided or non-segregated parking facilities shared by them or that are governed by a common business, tenant, homeowner, or other association or by common conditions, covenants, and restrictions (CC&Rs).~~

~~R.~~P. Interior Sign: A sign located in the interior of a building, mall, court, standing or enclosed lobby intended for interior viewing only.

Q. Kiosk Sign: A sign located on a small freestanding structure which has three (3) or more surfaces.

~~S.~~R. Mobile Billboard: Any vehicle, or wheeled conveyance which carries, conveys, pulls, or transports any sign or billboard for the primary purpose of advertising. Mobile billboard shall not include (1) any vehicle which displays an advertisement or business identification of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisements; (2) buses; or (3) taxicabs.

~~T.~~S. Monument Sign: A type of ground sign constructed upon a solid appearing base or pedestal (see Sign Illustrations).

~~U.~~T. Multiple Address Sign: A sign or set of similarly designed individual signs displayed in sequence placed at the entrance of a private residential street or area that lists the street address and names of the occupants of the residences along the street or within the area.

~~V.~~U. Mural: A work of art, containing no commercial message, ~~that is~~ applied to and made an integral part of an exterior wall.

V. Neighborhood/District Entry Sign: A sign identifying a neighborhood or district (see Sign Illustrations).

W. Noncommercial Sign: Any sign displaying a message that is not commercial.

X. Noncommercial Location Sign: A sign identifying a noncommercial use.

~~X.~~Y. Nonconforming Sign: A sign legally existing at the time of the effective date of this Chapter which does not conform to the provisions of this Chapter.

~~Y.~~Z. Off-Site Sign: A sign directing attention to a business, service, product, or entertainment that is not sold or offered on the site where the sign is located, including billboards and other outdoor advertising signs.

~~Z.~~AA. On-Site Sign: A sign directing attention to a business, service, product, or entertainment that is sold or offered on the site where the sign is located.

~~AA.~~BB. Parapet or Parapet Wall: That portion of a building wall that rises above the roof level or eave line.

~~BB.~~CC. Pennant: A sign of lightweight fabric, plastic, or similar material that is attached to a pole at one edge (see Sign Illustrations).

~~CC.~~DD. Permanent Sign: Any sign intended for use for a period greater than thirty (30) calendar days.

EE. Personal Property Sale Sign: A temporary commercial sign advertising a sale of personal property ~~sale~~.

~~DD.~~FF. Pole Sign: A type of ground sign mounted to or hanging from a pole or similar structure (see Sign Illustrations).

~~EE. Political Sign: A temporary sign concerning a candidate, party, or proposition.~~

~~FF.~~GG. Portable Sign: A sign not permanently attached to the ground, building, or other permanent structure and designed to be transported, including but not limited to: ~~s~~Signs designed to be transported by means of wheels; signs in the form of A-frames or T-

frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked in or visible from the public right of way, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs do not include mobile billboards.

~~GG.~~HH. Projecting Sign: A sign extending from a building face or wall so that the sign face is perpendicular or at an angle to the building face or wall (see Sign Illustrations).

~~HH. Public/Quasi Public Institution: A church, synagogue, or other place of worship, hospital, public school, private school, day care center, community service organization, social club, philanthropic organization or similar use.~~

~~II. Public/Quasi Public Institution Sign: A ground sign or building sign displayed by a public/quasi public institution.~~

~~JJ.~~II. Real Estate Sign: A commercial sign advertising the sale, lease, or rent of property and the identification of the firm handling the sale, lease, or rent.

~~KK.~~JJ. Residential Open House Sign: A temporary commercial sign advertising an open house for a house for sale.

~~LL.~~KK. Roof Sign: A sign erected upon or above a roof or parapet of a building or structure. A sign mounted on a vertical extension of a wall that extends above a roof structure is considered a wall sign.

~~MM. Service/Community Service Organization: Club or association not organized for profit but for the purpose of promoting community interests, patriotism, welfare of youth, and other like purposes.~~

~~NN.~~LL. Sign: Any name, identification, description, symbol, display, illustration, or device, including any structure, machine (including vending machine), component parts and paint, viewable by the general public that directs attention to a product, place, activity, person, institution, or business.

~~OO.~~MM. Sign Area: The area within a perimeter which forms the outside shape, including any frame, and forms an integral part of the display, but excluding the necessary supports, poles, or uprights on which the sign may be placed. If the sign consists ~~or~~of more than one section or module, all areas visible from any position at one (1) time will be totaled.

~~PP.~~NN. Sign Face: The visible portions of a sign including all characters and symbols, but excluding structural elements not an integral part of the display.

OO. Sign Illustrations: Examples of various signs in pictorial format incorporated into Section 15.08.020 of the Clayton Municipal Code.

~~QQ.~~PP. String Pennant: A lightweight plastic, fabric, or other material, whether or not containing a message or symbols, ~~that is~~ suspended from a rope, wire, or string in series, usually designed to move in the wind.

~~RR.~~QQ. Subdivision Marketing Pole Pennant: A single piece of lightweight plastic, fabric, or other material, whether or not containing a message of any kind that is temporarily suspended from a pole and is designed to move in the wind to promote the sale of newly subdivided lots and/or newly constructed dwellings.

~~SS.~~RR. Subdivision Marketing Signs: Temporary commercial signs, including ground signs, wa~~e~~ll-mounted signs, pole signs, pennants, and real estate signs, designed to promote the sale of newly subdivided lots and/or newly constructed dwellings (see Sign Illustrations).

~~TT.~~SS. Suspended Sign: A sign attached to and located below any permanent eave, roof, or canopy (see Sign Illustrations).

~~UU.~~TT. Temporary Commercial Sign: Any commercial sign intended for use for a period of less than thirty (30) days.~~constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.~~

UU. Temporary Noncommercial Sign: Any noncommercial temporary sign displaying an ideological, political or other noncommercial message~~.~~, that is constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.

VV. Wall Sign: A sign not exceeding six (6) inches in thickness that is painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of said wall (see Sign Illustrations).

WW. Window Sign: A sign, displayed on window glass (including the glass of doors) or within three (3) feet of a window, designed to be viewed from the exterior of the window (see Sign Illustrations).

15.08.030 Permit Procedures.

A. City Review - General. City review and approval is required for all signs except those specified by this Chapter as exempt or prohibited. No City review or approval is required for a change of copy on an existing permitted sign that is in full compliance with the requirements and standards of this Chapter. In addition to meeting the requirements of this Chapter, all signs shall comply with all applicable ~~Uniform~~California Building Code requirements. No sign shall be constructed, placed, erected, or modified unless such construction, placement, erection, or modification is authorized by the owner, or his or her representative, of the property upon which the sign is to be placed. Application for sign review and approval shall be accompanied by written authorization from the property owner, or his or her authorized representative, for placement of the proposed sign or signs.

B. City Review and Approval. The City shall review and approve signs according to the following procedures:

1. Administrative Review and Approval. The following signs shall be reviewed and approved administratively by the Community Development Department if they conform to the general sign requirements and standards of Section 15.08.060 and the regulations for special signs of Section 15.08.070.

   a. Directory signs provided the sign does not exceed ten (10) square feet in area, nor a height of six (6) feet.

   ~~b. Community event signs. (Note: A temporary use permit is typically required for the community event itself)~~

   ~~c.~~b. Any sign ~~that is~~ proposed for a property ~~that is~~ consistent in terms of size, number, and location with a previously-approved master sign plan, unless otherwise specified in an applicable master sign plan.

   ~~d.~~c. All building and ground signs proposed for individual businesses that are located on a property that have a previous approval for similar signage, and the proposed sign(s) are consistent in terms of size, number, and location with the previous approval. (This provision does not apply to a

Corner Lot or Through Lot where signage is being proposed along multiple property frontages)

2. Exception. Any sign proposal considered within the parameters of this subsection that in the judgment of the Community Development Director may not comply with the intent or purpose of this Chapter may be referred to the Planning Commission for consideration.
3. Planning Commission Review and Approval. The following signs shall be reviewed and approved by the Planning Commission in accordance with Chapter 17.64 of the Clayton Municipal Code.
   a. Master sign plans.
   b. Neighborhood/district entry signs.
   c. Commercial center entry signs.
   d. Subdivision marketing sign program.
   e. ~~Public/quasi-public institution~~Noncommercial locational signs.
   f. Directory signs that exceed ten (10) square feet in area and six (6) feet in height.
   g. All building and ground signs for individual businesses that are located on a property that have not had previous approval for signage, involve signage on multiple frontages, and/or involve an increase in the previously-approved signage area, increase in the number of signs, or substantially change the location of signage.
   h. Any sign proposal that, in the judgment of the Community Development Director, may not comply with the intent or purpose of this Chapter.
4. Variance. A variance shall be required from the Planning Commission for any deviations from the general sign requirements and standards of Section 15.08.060 or the regulations for special signs of Section 15.08.070 of this Chapter according to the procedures set out in Chapter 17.52 of the Clayton Municipal Code.

15.08.040 Exempt Signs. The following signs shall not require review and approval by City:

A. Address signs, provided the sign does not exceed two (2) square feet in area.
B. Public information, identification, civic event, and directional signs erected by a public agency or public utility.
C. Incidental signs.
D. Legal notices posted by law.
E. Building markers, provided the sign does not exceed four (4) square feet in area and is not illuminated.
F. Signs displayed by private individuals, when required by law or regulations of any governmental agency.
G. ~~Political~~Temporary noncommercial signs ~~at~~on private real property, provided ~~that~~ the ~~sign~~aggregate signage displayed at one time does not exceed ~~three~~thirty (30) square feet in area~~, is not displayed on public property or public right-of-way, is limited to one (1) sign per property for each candidate, party, or issue, and is removed within five (5) days after the election~~ per parcel.
~~H. Signs that are displayed during the course of and at the site of a political event or demonstration, provided the signs are displayed no more than twenty-four (24) hours prior to the event and are removed within twenty-four (24) hours following the event.~~

~~I. Holiday decorations that do not contain any commercial message, provided they are removed within seven (7) days after the holiday.~~

~~J.~~H. Wall signs indicating the historical significance of a site or building, provided the sign does not exceed four (4) square feet in area and is not illuminated.

~~K.~~I. Signs displayed in the interior of a building, mall, court, stadium, or enclosed lobby more than three (3) feet from an exterior window or door and intended for interior viewing only.

~~L. Signs prohibiting trespassing provided the sign does not exceed two (2) sq. ft. in area.~~

~~M.~~J. Multiple address signs, provided the individual signs do not exceed four (4) inches by twenty-four (24) inches.

~~N.~~K. Residential open house signs for a home sale in accordance with the standards of Section 15.08.070 of this Chapter.

~~O.~~L. Flags, provided they are not used in a commercial manner or to advertise a business or its location.

~~P.~~M. Murals containing no commercial message, provided the mural has intrinsic artistic value or appeal regardless of the business in the building on whose wall the mural is painted. Murals shall take into consideration the overall architecture of the building and shall not be placed on decorative surfaces or finishes. The colors and materials used shall be reasonably harmonious with those in the area.

~~Q.~~N. Personal property sale signs, in accordance with the standards of Section 15.08.070 of this Chapter.

~~R.~~O. Real estate signs in accordance with the provisions of Section 15.08.070 of this Chapter.

~~S.~~P. Portable signs in accordance with the provisions of Section 15.08.070 of this Chapter.

~~T.~~Q. Banners and pennants in accordance with the provisions of Section 15.08.070 of this Chapter.

15.08.050 Prohibited Signs. The following signs are prohibited anywhere in the City:

A. Animated signs.

B. Flags used in a commercial manner or to advertise a business or its location.

C. Signs that by color, wording, design, location, or illumination resemble or conflict with any traffic-control device or with safe and efficient flow of traffic.

D. Signs that obstruct the free and clear vision of or create confusion for motorists or pedestrians.

E. Signs with lighting ~~that is~~ detrimental to surrounding property or prevents peaceful enjoyment of residential uses.

F. Banners and pennants, except as provided in Section 15.08.070 of this Chapter.

G. Roof signs.

H. String pennants.

I. Balloons and similar inflatable signs.

J. Permanent signs mounted on fences or deck/balcony railings.

K. Portable signs except as provided in Section 15.08.070 of this Chapter.

~~L. Signs that bear or contain statements, words, or pictures of an obscene, untruthful, or misleading character, except for political signs.~~

~~M.~~L. ~~Signs located within a public right-of-way or posted on utility poles or on any other public property, except when placed on such property by the public agency having jurisdiction. Notwithstanding the foregoing, private and political~~Ttemporary signs are

prohibited in the public right-of-way except for signs for City-sponsored community events in location(s) approved by the Citymay be allowed by permit within the public right-of-way in accordance with and subject to terms, conditions and standards to be adopted by resolution of the City Council. Signs installed without a valid permit may be removed without notice, in addition to issuance of citation for Code violation.

~~N.~~M. Signs located on private property without the property owner's approval.

~~O.~~N. Off-site signs except for:

1. ~~Political~~Temporary noncommercial signs.
2. ~~Community event signs.~~
3. ~~2~~. Residential open house signs.
4. ~~3~~. Garage or yard sale signs.
5. ~~4~~. Signs attached to trees, shrubs, or other natural features.

O. Mobile billboard operating on a street or other public place within the city in which the public has the right of travel.

15.08.060 General Sign Requirements and Standards.

A. Signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts - Sign Permits. A sign permit is required in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts for all non-exempt signs as follows:

1. ~~Public/quasi public institution~~Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
3. Subdivision marketing sign program in accordance with the standards of Section 15.08.070 of this Chapter.
4. No other non-exempt signs are allowed in these districts.

B. Signs in the L-C ~~and P-A-O~~ Districts - Sign Permits. A sign permit is required in the L-C ~~and P-A-O~~ Districts for all non-exempt signs as follows:

1. ~~Public/quasi public institution~~Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
3. Master sign plan in accordance with the standards of Section 15.08.070 of this Chapter.
4. Commercial center entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
5. Subdivision marketing sign program in accordance with Section 15.08.070 of this Chapter.

C. Signs in the L-C ~~and P-A-O~~ Districts - Standards. Ground and building signs relating to on-site commercial activities are authorized in the L-C ~~and P-A-O~~ Districts in accordance with the following standards:

1. The aggregate sign area of any combination of ground signs and building signs for a building or a business shall not exceed one (1) square foot per lineal foot of building frontage or store frontage. Exempt signs, directory signs, commercial

center entry signs, pennants, and portable signs are not subject to this aggregate sign limit.

2. Monument signs (ground signs) shall not exceed ~~seven~~eight (~~7~~8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
3. Pole signs (ground signs) shall not exceed ~~seven~~eight (~~7~~8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
4. Kiosk signs (ground signs) shall not exceed twenty-four (24) square feet in area (all faces) and shall not exceed seven (7) feet in height.
5. Projecting signs (building signs) shall not exceed twelve (12) square feet in area and shall maintain a vertical clearance of at least eight (8) feet.
6. Suspended signs (building signs) oriented toward pedestrian areas or walkways shall not exceed six (6) square feet in area and shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path.
7. Suspended signs (building signs) oriented toward street traffic and/or parking lots shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path, and may not be displayed over vehicular access. The size of such a suspended sign may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty (20) square feet.
8. Window signs (building signs) shall not cover more than forty (40) percent of the glazed area of an individual window panel ~~n~~or more than twenty (20) percent of the aggregate glazed area on any one building frontage or store frontage.
9. Wall Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
10. Awning Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.

D. Signs in the PD District. Signs in the PD District shall conform to the standards or signs for uses defined in the applicable General Plan designation. For signs in areas designated residential, cultural center, institutional, school, or open space by the General Plan, the requirements and standards for signs in the R-10, R-12, R-15~~,~~, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts shall apply. For signs in areas designated commercial by the General Plan, the requirements and standards for signs in the L-C ~~and P-A-O~~ Districts shall apply unless otherwise specified by a master sign plan.

15.08.070 Regulations for Special Signs.

A. Neighborhood/District Entry Signs. Neighborhood/district entry signs are allowed in all districts subject to the following standards:
   1. The sign shall include only the name of the neighborhood or district.
   2. Lettering shall not exceed eighteen (18) inches in height.
   3. The top of the letters shall not exceed six (6) feet in height.

B. Commercial Center Entry Signs. Commercial center entry signs are allowed in commercial districts subject to the following standards:
   1. One (1) sign may be located near each main vehicular entrance to the shopping center, business area, or office park fronting on a public roadway.
   2. The sign may ~~e~~be a pole sign or monument sign.
   3. The sign shall not exceed ~~ten~~ eight (~~10~~8) feet in height.
   4. Lettering shall not exceed twenty-two (22) inches in height.

C. Banners. Banners for new or relocated businesses are allowed temporarily in commercial districts subject to the following standards:
   1. Banner in lieu of permanent sign:
      a. The banner shall be secured on all sides.
      b. The banner may only be displayed for up to thirty (30) days, with up to an additional thirty (30) day extension if approved administratively by the Community Development Department.
      c. The banner must conform to the sign area dimensions and location of Section 15.08.060 C of this Chapter.
   2. Promotional banner. A second banner in addition to that noted above may be allowed subject to the following standards:
      a. The banner may be a wall, window, or suspended sign.
      b. The banner may only be displayed for up to thirty (30) days.
      c. The banner may be no larger than the banner as approved per Section 15.08.070 C1 and must conform to the sign area dimensions of Section 15.08.060 C of this Chapter.

D. Pennants. Pennants are allowed in commercial districts subject to the following standards.
   1. Only one (1) pennant may be displayed by any one (1) business.
   2. The pennant shall be secured to a pole on one (1) side and shall be hanging.
   3. The pennant shall not exceed two (2) feet in width ~~n~~or four (4) feet in length.
   4. The pennant shall be made in a professional manner and workmanship of fabric, plastic, or similar material designed to withstand at least six (6) months of outdoor exposure. Paper pennants shall not be allowed.
   5. The bottom of a pennant shall be at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path. A pennant may not be displayed over a street, driveway, or vehicular access.

E. Portable Signs. Portable signs are allowed in commercial districts subject to the following standards:
   1. Only one (1) portable sign may be displayed by any one (1) business.
   2. The sign shall only be in the form of an A-frame, sandwich board, menu board, or umbrella.
   3. The sign shall not exceed three (3) feet in height ~~n~~or two (2) feet in width per face, except for an umbrella.
   4. The sign shall be displayed only during the hours the business is open to the public and shall be removed during non-business hours.
   5. The sign shall be displayed immediately adjacent to the business it advertises.
   6. The sign shall not be displayed in a public right-of-way nor shall it obstruct a pedestrian walkway.

7. The sign shall be constructed out of a stable and rigid material (i.e., PVC is not considered an acceptably rigid material).

F. Residential Open House and Personal Property Sale Signs. Residential open house and personal property sale signs are allowed for residential uses subject to the following standards:

1. A total of one (1) on-site sign and up to six (6) off-site signs.
2. Only one (1) off-site sign may be displayed at any one intersection for each residential open house or personal property sale.
3. The signs shall not exceed three (3) feet in height ~~nor~~ two (2) feet in width.
4. The signs shall only be displayed up to one (1) hour before, during, and up to one (1) hour following the residential open house or personal property sale.
5. The signs shall not be displayed in a public right-of-way nor shall they obstruct a pedestrian walkway, except signs shall be allowed behind the sidewalk or behind the curb if there is no sidewalk.
6. No signs shall be displayed on private property without the prior consent of the property owner.
7. Balloons, flags, pennants, animated devices, and similar objects are prohibited. (see Section 17.16.020E of the Municipal Code for further regulations for Personal Property Sales).

G. ~~Public/Quasi Public Institution Signs. Public and quasi-public institution signs~~ Noncommercial Locational Signs. Noncommercial locational signs are allowed in all districts subject to the following standards:

1. The signs may include building signs and ground signs.
2. The aggregate sign area may not exceed twenty-four (24) square feet for a lot up to forty thousand (40,000) square feet in size. For lots larger than forty thousand (40,000) square feet, sign area may be increased subject to specific Planning Commission review and approval.
3. No ground or pole sign shall exceed ~~ten~~ eight (~~10~~8) feet in height.

H. Real Estate Signs. Real estate signs are allowed in all districts subject to the following standards:

1. Only one (1) on-site real estate sign may be displayed on a front or side yard frontage. An additional real estate sign may be displayed on a rear yard frontage.
2. Real estate signs in residential districts shall not exceed six (6) square feet in area. Real estate signs in commercial districts shall not exceed twelve (12) square feet in area.
3. The sign may be in the form of a pole sign or a wall sign.
4. The sign shall not exceed six (6) feet in height.
5. The sign shall be removed within ten (10) days of the lot or building(s) being sold, leased, or rented.
6. Real estate signs located off-site of the subject property (e.g., at nearby intersection, public landscape, public property, public right of way) are not allowed.

I. Subdivision Marketing Sign Program. Subdivision marketing signs are allowed in residential districts subject to the approval of a subdivision marketing sign program in accordance with the following standards:

1. The program may include a combination of temporary ground signs, wall signs, subdivision marketing pole pennants, and real estate signs.
2. All subdivision marketing signs shall be displayed within the boundaries of the subdivision.
3. Subdivision marketing pole pennants shall not exceed twenty-five (25) feet in height ~~nor~~ be located closer than every fifty (50) feet.
4. All subdivision marketing signs shall be removed within thirty (30) days of the opening of escrow for sale of the last home in the subdivision.
5. The dimensions of any sign shall not exceed eight (8) feet in length, nor ~~ten~~ eight (~~10~~8) feet in height, nor a total area of sixty ~~four~~ (6~~4~~0) square feet.

~~J. Community Event Signs. Community event signs are allowed in all districts subject to the following standards:~~

~~1. No more than one (1) community event sign shall be displayed on a building, lot, or area.~~

~~2. The sign shall not exceed twenty-four (24) square feet in area; ground signs shall not exceed seven (7) feet in height.~~

~~3. Hanging or suspended signs shall not exceed twenty (20) square feet in area and shall maintain a vertical clearance of at least eight (8) feet over a pedestrian area and may not be displayed over vehicular access.~~

~~4. A community event sign shall not be calculated as part of a building's or lot's maximum allowable signage as specified in Sections 15.08.060 and 15.08.080 of this Chapter.~~

~~5. Any portable community event sign is also subject to the regulations of Section 15.08.070 E 1-4 of this Chapter.~~

~~K.~~J. Master Sign Plan. At the discretion of the City or one or more property owners, a master sign plan may be established for a shopping center, business area, office park, or similar identifiable geographic area. Such master sign plan may impose sign requirements and standards addressing the number, height, area, color, or other sign characteristics in a manner more restrictive than that allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter. Such a master sign plan may be established to promote an enhanced sense of identity, aesthetic value, or other feature. A master sign plan will not only identify and describe those sign characteristics that are more restrictive than those allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter, but also the purpose or goal for which the master sign plan is established.

15.08.080 Computation of Sign Area and Height. The following principles shall govern the computation of sign area and height.

A. Computation of Area of Individual Signs. The sign area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign form the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative wall when such wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

B. Computation of Area of Multi-Ffaced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.

C. Computation of Height. The height of a sign shall be computed as the distance from the grade at the edge of the public way along which a sign is placed or oriented to the highest point of the sign, or any structural or architectural component of the sign. When the grade at the edge of the public way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the public way shall not be included in determining the sign's overall height.

D. Computation of Total Permitted Sign Area. The total area of all individual signs permitted on a lot shall be computed according to Section 15.08.060 C of this Chapter. Property fronting two (2) or more streets are allowed the permitted sign area specified in Section 15.08.060 C for each such street frontage.

15.08.090 Maintenance. All signs shall be maintained in good repair and shall be cleaned, painted, and replaced as necessary to present a neat appearance at all times.

15.08.100 Nonconforming Signs.

A. Except for regular maintenance, no non-conforming sign shall be altered, modified, added to, or increased in area, unless the entire sign is brought into conformity with the requirements and standards of this Chapter.

B. Any non-conforming sign that is damaged or destroyed to the extent of fifty (50) percent or more of its estimated market value shall not be replaced or repaired except by a sign that conforms to the requirements and standards of this Chapter.

C. Any non-conforming sign relating to a business that has not operated for six (6) consecutive months shall be removed.

15.08.105 Substitution. In each instance and under the same conditions to which this Chapter permits any sign, a sign containing an ideological, political or other noncommercial message that is constructed to the same physical dimensions of the permitted sign shall be permitted.

15.08.110 Enforcement. Any person erecting, displaying, or maintaining a sign in violation of this Chapter is guilty of an infraction and shall be subject to enforcement and penalties set out in Chapters 1.12, 1.14, 1.16, and 1.20 of Title 1 of the Clayton Municipal Code.

Agenda Date: 5-16-2017
Agenda Item: 7b

CITY OF CLAYTON
Founded 1857 . . Incorporated 1964

Approved
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 16, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER A GENERAL PLAN AMENDMENT TO THE LAND USE ELEMENT AND THE INTRODUCTION OF AN ORDINANCE TO MODIFY THE CALCULATION OF RESIDENTIAL DENSITY ON PARCELS WITH SENSITIVE LAND USES (GPA-03-16 AND ZOA-03-17)

RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, open the Public Hearing and consider all public testimony and, if determined to be appropriate, take the following actions:

1. Following closure of the public hearing, subject to any changes by the City Council, motion to approve the Resolution amending the Land Use Element of the General Plan to modify the determination of residential developable acreage and density calculations and not require a minimum density on parcels with sensitive land areas (GPA-03-16) (**Attachment 1**).

2a. Motion to have the City Clerk read the Ordinance No. 476 by title and number only and waive further reading; and

2b. Following the City Clerk's reading, by motion approve Ordinance No. 476 for Introduction, adding Section 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas to the *Clayton Municipal Code* describing and determining how General Plan residential densities are calculated for proposed residential projects on parcels with sensitive land areas (**Attachment 2**).

BACKGROUND

SILVER OAK ESTATES GENERAL PLAN CONFORMANCE ISSUE

A proposed Silver Oak Estates project consists of 59 units which are comprised of seven (7) single-family homes, 28 townhomes, and 24 "Green Courts" located on approximately 5.37 acres; a neighborhood swimming pool and cabana on 0.59 acres; roadways on 2.10 acres; and open space on 7.84 acres. The project is to be sited on the 13.96-acre Hurd Ranch property located between the northerly terminus of Lydia Lane and south of Oakhurst Drive in Clayton. The currently proposed project has been in various stages of the City's entitlement process since approximately 2010, which has included the completion of a draft Initial Study/Mitigated Negative Declaration and the start of the process to undertake an Environmental Impact Report.

Due to staff attrition and following this staff's cursory review of the project in 2016, it became apparent the attached product type (e.g. townhomes) being proposed by the applicant, the 28 townhomes and 24 "Green Courts", were not in conformance with the City's General Plan. The General Plan designation for the property is Single Family Medium Density (MD) (3.1 to 5 units per acre) which is described in the General Plan as being "intended for and allows planned unit development (PUD) and single-family subdivisions. Development will range from a standard single-family subdivision to a zero lot line or single-family home." The current General Plan designation would allow for 43 to 70 units on the subject property. While the proposed number of units, 59, fits within the overall allowed density, the General Plan land use designation of Single Family Medium Density (MD) is reserved for various single-family detached product types; therefore, the proposed attached product type would not fit within the Single Family Medium Density designation and would only fit within one of the three Multifamily General Plan land use designations, Multifamily Low, Multifamily Medium, or Multifamily High Density.

In light of the proposed product type only fitting into the three multifamily land use designations, another issue arises because these designations require a higher density with more units to the acre. When applied to the subject site it would force additional units being required in order to fit the General Plan density range, a result of which the subject property really cannot manage given the physical constraints—the creek and sloping topography—located on the site. If the project applicant wanted to further pursue the proposed product type, a General Plan amendment to Multifamily Low Density would result in a minimum unit count 106 units (7.6 units/acre), which would be an overall increase of 47 units on the property from the proposed 59 units.

Further, if the applicant were to try and fit the prescribed product type, detached single family homes, on the subject site it would result in a small lot single-family development of detached homes more than likely with a zero lot line and/or minimal setbacks. Given the physical constraints or sensitive land uses on the property, it is questionable whether the parcel is large enough to even fit a detached single-family product type in the density range prescribed by the General Plan.

For example, the subject site for the Silver Oak Estates project contains large physical constraints or sensitive land areas such as sloping topography and Mount Diablo

Creek (**Attachment 3**). Specifically, the Habitat Conservation Easement is 6.53 acres, which includes a minimum 50-foot required setback from the top of bank of Mount Diablo Creek. This constraint alone removes almost half, 47%, of the developable acreage of the site, making it nearly impossible for a development project to fit within the parameters of the General Plan as it pertains to development intensity and allowed product type. Further, the topography on the property additionally restricts the number of units due the slope and required grading.

These physical constraints on the project site provide limited developable land in order to fit the required number of units and to provide the identified product type, detached single-family home. This issue is occurring because the General Plan bases the density range on legal or gross acreage of the parcel whether or not there are physical constraints or sensitive land uses on the property. Another way to categorize the issue would be trying to fit unwarranted density on a site that is really much smaller given the constraints that exist. By not providing the option of using the net acreage by subtracting the constrained property, this could result in a less desirable project given that the site may not necessarily have a proper land use designation due to the constraints and the resulting development intensity would not correspond given its location and surroundings.

Staff's purpose for sharing some details of the proposed Silver Oaks Estate Project is not to trigger the City Council's discussion of this specific proposed project, but rather to use the unintended consequence of applying this existing General Plan Land Use Element requirement as the reason for staff's submittal of an amendment to produce projects more befitting of the current character of Clayton's residential neighborhoods. In fact, staff respectfully requests the City Council not discuss the merits or details of the proposed Silver Oaks Estate Project except to the extent it is a real-world example supporting a beneficial necessity to modify this Land Use Element requirement.

PLANNING COMMISSION REVIEW

A Planning Commission study session was held on October 25, 2016 (**Attachment 4**) considering and discussing the aforementioned predicament and whether there would be support to address this issue by allowing a net density calculation to occur in situations where there are physical constraints or sensitive land uses on a residentially designated site in order to meet the density range and product type as identified by the General Plan. The Planning Commission was supportive of this idea and directed staff to proceed with drafting a proposal utilizing net density when there are physical constraints or sensitive land uses on residentially designated parcels.

The Planning Commission held a duly-noticed public hearing on April 18, 2017 (**Attachment 5**) considering the proposed amendment to the Land Use Element of the General Plan and the associated Ordinance to make changes to the *Clayton Municipal Code*. Due to some initial social media confusion regarding the intent of the proposed General Plan amendment and Ordinance, members of the public appeared speaking against this proposal. However, once the true purpose of these proposed changes was clearly explained and staff was able to respond to specific questions on how this

would apply and matriculate to future development projects and affect development within the City, the public sentiment morphed to one of support. The Planning Commission also expressed support for this Amendment and Ordinance because it will create the opportunity for more desirable developments and prevent unwarranted density on constrained sites.

DISCUSSION

The General Plan has established minimum and maximum densities for all residentially designated uses within the City and gross acreage and net acreage are commonly used measurements of land area. The General Plan residential density ranges or developable areas are currently calculated from the legal or gross acreage of the parcel, which is considered to be all land including easements and rights-of-way. Net acreage would be any developable acreage following any required subtractions which could include open space or public rights-of-way, amongst others.

Further, the General Plan requirement for density on the legal or gross acreage of the parcel fits for those properties that are flat and/or minimally constrained; however this requirement does not appropriately apply to those properties that are limited in their developable land due large physical site constraints. The city of Clayton is approximately 98 percent built-out and many of the available properties left to develop are marginal or more difficult, particularly properties with site constraints such as slopes or creeks. The overall intent of these amendments would be to prevent unwarranted density on a site that is really much smaller, given the constraints that exist, and to provide the City with the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density.

GENERAL PLAN AMENDMENT

The proposed language changes to the Land Use Element are contained within one paragraph at the beginning of the discussion on Residential Designations, located on Page II-5 of the General Plan (**Attachment 6**). These proposed changes would allow density calculations to be determined from the net developable acreage of the parcel as well as not require the minimum density to be met for sites that have sensitive land areas. The intent of the proposed change will allow developers with constrained lots containing sensitive areas to meet both the prescribed General Plan density range and product type. Further, given the community's general lack of support for higher density housing developments and the General Plan's support of lower density developments, these amendments would apply to and be required for all qualifying property and therefore not optional.

The City of Clayton's General Plan Land Use Element contains the following goals:

- To maintain the rural character that has been the pride and distinction of Clayton.
- To encourage a balance of housing types and densities consistent with the rural character of Clayton.
- To preserve natural features, ecology, and scenic vistas of the Clayton area.

The proposed amendment captures the intent and vision as discussed in the goals of the General Plan. The amendment would decrease the overall density on certain eligible properties to help retain the rural character of Clayton, while balancing a variety of housing types and densities. The amendment will also help to preserve natural features, ecology, and scenic vistas by decreasing the overall required density on a property that has sensitive land uses such as creeks and rock outcroppings.

In addition, the General Plan Land Use Element, under Objective 1, identifies a policy of establishing density designations based on terrain, circulation, adjacent uses, and area characteristics. This proposed change in density calculations would help to fulfill this General Plan policy because as outlined in the proposed Ordinance, any slopes over 26% would be subtracted from the developable acreage thereby better fitting the density to the terrain and would retain sensitive land areas, which would result in developments better tailored to the area characteristics.

Housing Element Compliance

The City has a total Regional Housing Needs Assessment (RHNA) obligation of 141 units for the 2014-2022 planning period. The City's certified Housing Element, after taking into consideration a subsequently approved General Plan Amendment, has an estimated capacity of 272 housing units, which results in a housing surplus of 131 units. The subject General Plan Amendment may reduce the overall residential density capacity of the assumed and identified housing units within the Housing Element. However, the Housing Element did assume some known constraints, such as slopes, on particular properties, which were taken into account when determining the realistic capacity, but not all constraints were documented on vacant or underdeveloped properties. Given that the City has an estimated housing surplus of 131 units and this proposed amendment would only impact parcels with sensitive land areas, it is anticipated the decrease in density will still result in adequate capacity to accommodate its RHNA obligation give the large surplus of housing units. Even after taking the largest parcel available for development, 13.96 acres (Silver Oak Estates), into consideration, its application would still result in a surplus of 104 to 108 units.

ZONING ORDINANCE

As referenced in the language of the General Plan amendment, the calculation of residential densities is to be further defined and described in the *Clayton Municipal Code*. The proposed addition of Chapter 17.22 - Residential Density Calculations for Residential Parcels with Sensitive Land Areas in the *Clayton Municipal Code* would provide those details on how to calculate residential densities when sensitive land areas exist on a residential parcel (**Exhibit A of Attachment 2**). The Ordinance sets the parameters for determining developable acreage as well as what sensitive land areas are considered to be excluded from the gross or legal acreage of the parcel. The sensitive land areas that were identified were features that were clearly definable and constituted areas that cannot be developed, should avoid being developed, or should be preserved due to their environmental value such as floodplains, creeks, and wetlands.

For illustrative purposes, if a developer has a property that is ten legal or gross acres in size and the property has a General Plan designation of Single Family Medium Density General Plan (3.1 to 5 units per acre) it would result in a density range of 31 to 50 units. However if the property happens to contain sensitive land areas, such as 1.3 acres of land within the 100-year floodplain and 0.7 acres with a slope that exceeds 26%, then those combined two acres would need to be subtracted from the gross or legal acreage to determine the developable acreage. Following the exclusion of these sensitive areas, it would result in eight developable acres, which would create a lesser density range of 24.8 to 40 units per acre. This calculation results in lowering the overall density on residential parcels with sensitive land areas.

ENVIRONMENTAL

Pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was adopted by the Clayton City Council on July 18, 1985 with the finding the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR.

FISCAL IMPACT

Due to fewer parcels that would be created, the proposed action could lead to a possible nominal reduction in future overall property tax revenue to the City.

ATTACHMENTS

1. Resolution No. -2017 [3 pp.]
2. Ordinance No. 476 [2 pp.] with the attachment:
   Exhibit A – Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas
3. Sample Constraints Map [1 pp.]
4. Excerpt of the Staff Report and Minutes from the October 25, 2016 Planning Commission Study Session [4 pp.]
5. Excerpt of the Staff Report and Minutes from the April 18, 2017 Planning Commission [9 pp.]
6. Redline Changes to the Land Use Element of the General Plan [1 pp.]

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION AMENDING THE CLAYTON GENERAL PLAN LAND USE ELEMENT TO MODIFY THE CALCULATION OF RESIDENTIAL DENSITIES AND NOT REQUIRE A MINIMUM DENSITY FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS

(GPA-03-16)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, State Planning and Zoning Law, and specifically California Government Code Section 65358, authorizes cities to amend their general plans; and

WHEREAS, the city of Clayton is ninety-eight (98) percent built-out and the majority of properties available to develop are marginal or more difficult due to sensitive land areas such as slopes or creeks; and

WHEREAS, the City of Clayton wishes to amend its General Plan to create the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density; and

WHEREAS, the City of Clayton wishes to protect sensitive land areas in a manner that these areas would be excluded from the gross or legal acreage of a developable residential parcel; and

WHEREAS, the City has a certified Housing Element with a total Regional Housing Needs Allocation (RHNA) obligation of 141 units and there is a total of 272 available units identified in the City's certified 2015-2023 Housing Element, which provides a surplus of 131 units; and

WHEREAS, this General Plan amendment will still provide the City with adequate capacity to accommodate its Regional Housing Needs Allocation (RHNA) obligation and the proposed amendment is internally consistent with the balance of the General Plan; and

WHEREAS, the proposed amendment of the General Plan Land Use Element would be in the public interest, has been assessed for potential impacts and has been determined to not be detrimental to the public health, safety, or welfare; and

WHEREAS, pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was certified by the Clayton City Council on July 18, 1985 with the finding the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on April 25, 2017 on the proposed amendment of the General Plan Land Use Element, at which it considered the applicable public testimony, staff reports, and related documents; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 01-17 which recommended City Council approval of the amendment to the General Plan Land Use Element; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, on May 16, 2017 the City Council held a duly-noticed public hearing and gave due consideration to the Planning Commission's recommendation as well as all applicable testimony, comments and documents, and the proposed General Plan Amendment; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON, THAT:

SECTION 1. The City Council does hereby find and affirm the above noted Recitals are true and correct and are hereby incorporated in the body of this Resolution as if restated in full.

SECTION 2. The section entitled "Residential Designations" on Page II-5 and Page II-6 of the Land Use Element of the General Plan is hereby amended to read in full as follows:

"RESIDENTIAL DESIGNATIONS

There are seven residential designations. The density ranges for each residential land use designation are based on the developable acreage of the parcel. Developable acreage and residential density calculations are further defined and described in the Clayton Municipal Code regarding residential parcels with sensitive land areas. Maximum density cannot be guaranteed but will fall within the range identified for each residential land use designation. Due to differences in developable acreage because of the constraints attributable to sensitive land areas, residential parcels with sensitive land areas shall fall within the not to exceed maximum density for developable acreage, and shall not have a minimum density requirement. Second dwelling units are exempt from the determination of residential densities.

When clustering is proposed for development, the City may provide relief from the lot coverage standards discussed below.

Unless otherwise noted, the following uses are allowed in each of the General Plan residential categories, provided they meet the requirements of the underlying zoning district, applicable specific plan policies and guidelines, and applicable general plan policies:

- Churches and places of worship;
- Public / quasi-public buildings and facilities;

- Day care centers, family day care homes, and residential care facilities;
- Bed and breakfast facilities;
- Lodges, fraternal organizations, and clubs;
- Crop and tree farming and horticulture, not including the raising or keeping of any animals other than ordinary household pets; and
- Publicly-owned parks and playgrounds.

Additional uses allowed under each category are described below."

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a regular public meeting thereof held on May 16, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____
Jim Diaz, Mayor

ATTEST:

_____
Janet Brown, City Clerk

I certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton, California at a regular public meeting held on May 16, 2017.

_____
Janet Brown, City Clerk

ATTACHMENT 2

ORDINANCE NO. 476

AN ORDINANCE AMENDING TITLE 17, "ZONING", BY ADDING CHAPTER 17.22 TO THE CLAYTON MUNICIPAL CODE REGARDING RESIDENTIAL DENSITY CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS

THE CITY COUNCIL
City of Clayton, California

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:

WHEREAS, the city of Clayton is ninety-eight (98) percent built-out and the majority of properties available to develop are marginal or more difficult due to sensitive land areas such as slopes or creeks; and

WHEREAS, the City of Clayton wishes to create the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density; and

WHEREAS, the City of Clayton wishes to protect sensitive land areas in a manner that such areas would be excluded from the gross or legal acreage of a developable residential parcel; and

WHEREAS, the City has a total Regional Housing Needs Allocation (RHNA) obligation of 141 units and there is a total of 272 available units identified in the City's certified 2015-2023 Housing Element, which provides a surplus of 131 units; and

WHEREAS, the proposed amendments to the Clayton Municipal Code will still provide the City with adequate capacity to accommodate its Regional Housing Needs Allocation (RHNA) obligation; and

WHEREAS, the proposed amendments to the Clayton Municipal Code do not conflict and are in conformance with the City of Clayton General Plan because an amendment to the General Plan has been brought simultaneously to modify the calculations of residential densities and not require a minimum density for residential properties with sensitive land uses; and

WHEREAS, the Clayton Planning Commission held a duly-noticed public hearing on April 25, 2017, at which it adopted Resolution No. 01-17 recommending City Council approval of the proposed Ordinance to amend Title 17 of the Clayton Municipal Code, by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas; and

WHEREAS, proper notice of the public hearing on this Ordinance for this time and date was given in all respects as required by law; and

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this matter.

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

Section 1. Recitals. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Amendment. Chapter 17.22 of the Clayton Municipal Code is hereby added to read in full as set forth in Exhibit A, attached and incorporated by this reference.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. CEQA. The City Council hereby determines, pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was certified by the Clayton City Council on July 18, 1985 with the finding the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR.

Section 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on May 16, 2017.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on June 6, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Jim Diaz, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton held on May 16, 2017, and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on June 6, 2017.

Janet Brown, City Clerk

EXHIBIT A

Chapter 17.22

RESIDENTIAL DENSITY CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS

Sections:

17.22.010 Purpose
17.22.020 Calculating Density for Residential Parcels with Sensitive Land Areas
17.22.030 Determining Capacity
17.22.040 Density Calculation
17.22.050 Constraints Map

17.22.010 Purpose. The purpose of this section is to describe and determine how General Plan residential densities are calculated for proposed residential projects when sensitive land areas exist on a residential parcel.

17.22.020 Calculating Density for Residential Parcels with Sensitive Land Areas. The General Plan establishes minimum and maximum densities for all residentially designated uses within the City. Residential density is a computation expressing the number of dwelling units per acre based on the developable acreage of the land. The developable acreage shall not include sensitive land areas for purposes of calculating the permitted subdivision capacity (density) on a parcel or parcels of land. Because of the constraints due to sensitive land areas, residential parcels with sensitive land areas shall fall within a not to exceed maximum density for developable acreage and shall not have a minimum density requirement.

Public rights-of-way and utility easements are to be considered as part of the developable acreage.

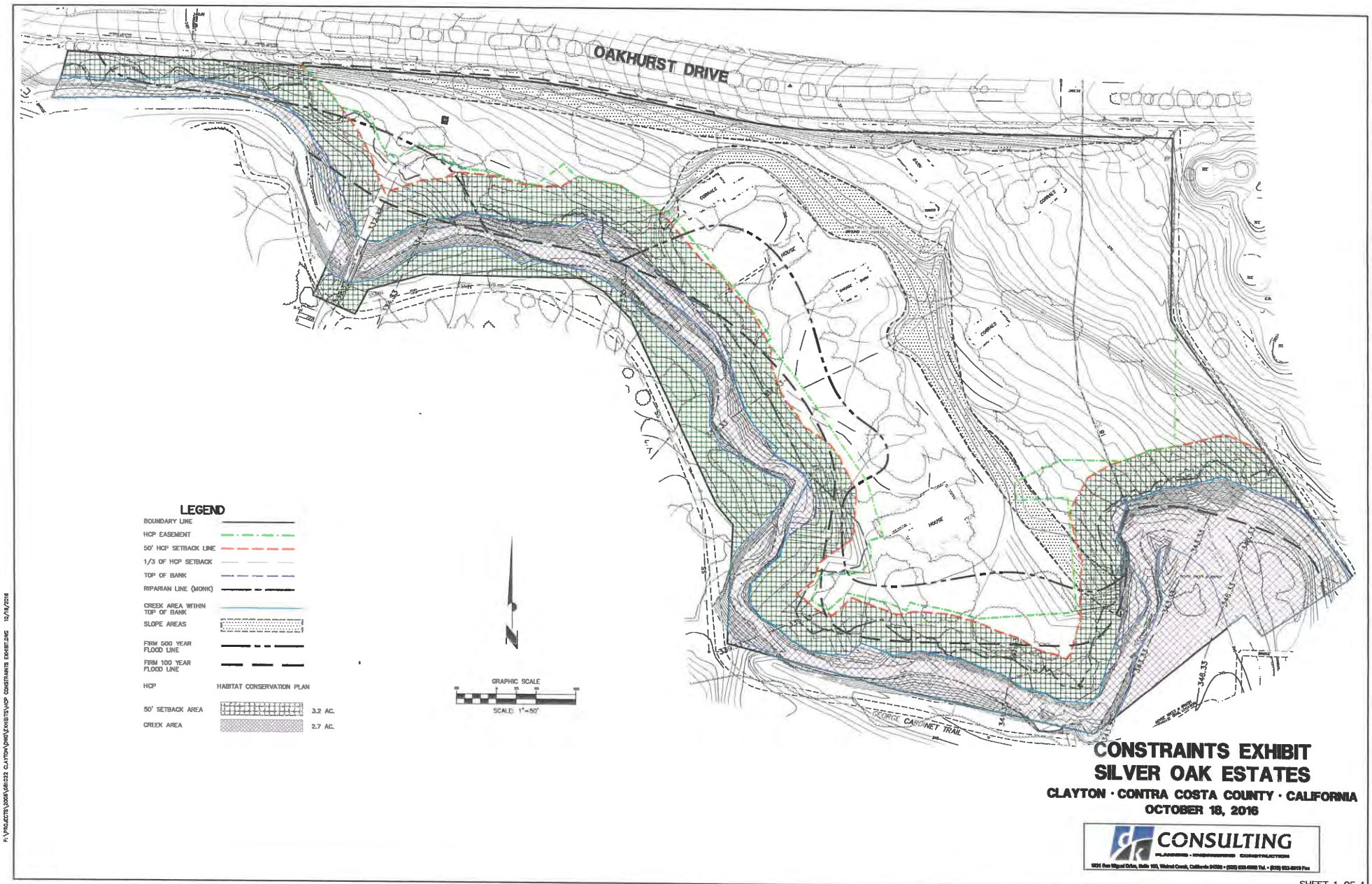
17.22.030 Determining Capacity. Developable acreage shall be determined by excluding the following sensitive land area(s) from the gross or legal acreage of a parcel(s):

1) Land within the 100-year floodplain;
2) Land or slopes exceeding 26 percent;
3) Creeks, streams, and the associated setback provisions as set forth in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan as implemented by City Ordinance No. 412;
4) Rock outcroppings; and
5) Wetlands as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan;
6) Land containing species of endangered plants that have been identified as a no-take species as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan; and

7) Any other similar features as determined by the Planning Commission.

17.22.040 Density Calculation. To calculate the numerical maximum range of housing units; exclude the identified sensitive land areas from the legal or gross acreage and then multiply the remaining acreage by the highest number in the density range for the applicable residential General Plan land use designation for the maximum density.

17.22.050 Constraints Map. Prior to permitting any request for a subdivision or parcel map allowing for the construction of any residential units, a constraints map shall be submitted analyzing the developable and non-developable acreage of the property.



CONSTRAINTS EXHIBIT
SILVER OAK ESTATES

CLAYTON · CONTRA COSTA COUNTY · CALIFORNIA
OCTOBER 18, 2016

CONSULTING
PLANNING · ENGINEERING · CONSTRUCTION

SHEET 1 OF 1
08-1022

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ATTACHMENT - 3

ATTACHMENT 4

PLANNING COMMISSION
STAFF REPORT

Meeting Date:	**October 25, 2016**
Item Number:	**5.b.**
From:	**Mindy Gentry** **Community Development Director**
Subject:	**Study Session to Consider a General Plan Amendment to Allow Net Acreage Density Calculations on Properties with Physical Site Constraints (GPA-01-16)**
Applicant:	**City of Clayton**

DISCUSSION

SILIVER OAK ESTATES GENERAL PLAN CONFORMANCE ISSUE

The proposed Silver Oak Estates project consists of 59 units which are comprised of seven (7) single-family homes, 28 town homes, and 24 "Green Courts" located on approximately 5.37 acres; a neighborhood swimming pool and cabana on 0.59 acres; roadways on 2.10 acres; and open space on 7.84 acres. The project is to be located on the 13.96-acre Hurd Ranch property located between the northerly terminus of Lydia Lane and south of Oakhurst Drive in Clayton. The currently proposed project has been going through the City's entitlement process since approximately 2010, which has included the completion of a draft Initial Study/Mitigated Negative Declaration and the start of the process to undertake an Environmental Impact Report.

Due to staffing changes and following staff's cursory review of the project in 2016, it became apparent the attached product type being proposed by the applicant, the 28 town homes and 24 "Green Courts", were not in conformance with the City's General Plan. The General Plan designation for the property is Single Family Medium Density (MD) (3.1 to 5 units per acre) which is described in the General Plan as being "intended for and allows planned unit development (PUD) and single-family subdivisions. Development will range from a standard single-family subdivision to a zero lot line or single-family home." This General Plan designation would allow for 43 to 70 units on the subject property. While the proposed number of units, 59, fits within the overall allowed density, the General Plan land use designation of Single Family Medium Density (MD) is reserved for various single-family detached product types; therefore, the proposed attached product type would not fit within the Single Family Medium Density designation and would only fit within one of the three Multifamily General Plan land use designations, Multifamily Low, Multifamily Medium, or Multifamily High Density. In regards to product type, this determination has been consistently applied throughout the City and there is no evidence the City has ever deviated from its interpretation of the General Plan Single Family land use designation as being anything other than a designation for a single-family detached product type. In light of the proposed product type only fitting into the three multifamily land use designations, another issue arises because these designations require a higher density with more units to the acre, which, if applied to the subject site, would result in additional units being required in order to fit the General Plan density range of which the subject property really cannot manage given the physical constraints—the creek and sloping topography—located on the site. A General Plan amendment to Multifamily Low Density would result in a minimum unit count 106 units (7.6 units/acre) in order to allow the proposed product type, which would be an overall increase of 47 units on the property from the proposed 59

units.

Further, if the applicant were to try and fit the prescribed product type on the subject site it would result in a small lot single-family development of detached homes more than likely with a zero lot line or minimal setbacks. Given the physical constraints of the property, it is questionable whether the parcel is large enough to even fit a detached single-family product type.

PREVIOUSLY SUBMITTED PROJECT BACKGROUND FOR SILVER OAK ESTATES

Prior to 2010, the project previously filed with the City back in 2000 on the subject property consisted of a single-family detached residential development with 28 homes. The applicant is claiming at the time this application was subject to and required a General Plan amendment to change the land use density of the site from Multifamily Medium Residential to Single Family Medium Residential, which is evidenced by a letter from the Community Development Director at the time, Jeremy Graves. Mr. Graves indicated in his letter dated August 7, 2000 to the applicant, Callida Development LLC, "The current *General Plan Diagram* designation for the site is Multi-Family Medium Density (10.1 – 15 units per gross acre). Since the density proposed for the project is approximately 2.1 units per gross acre, an amendment of the *General Plan Diagram* designation for the site to [Single Family] Low Density (1.1 – 3 units per gross acre) is needed." Even though Mr. Graves identified the property having a designation of Multifamily Medium Density residential, staff is unable to find any indication in the official City records that the property ever had a Multifamily residential land use designation. The previously adopted Housing Elements, one adopted in June of 2000 and the other adopted in September of 2005 both show the property designated as Single Family Medium Density (3.1 to 5 units per acre). Further, City Council resolutions approving any General Plan amendments on this property are absent.

GENERAL PLAN AMENDMENT

Given the difficulty of being able to meet the General Plan density range with the allowed product type and the community contention surrounding the project, the applicant has requested that the City take the lead in processing a General Plan amendment. Further, the applicant has alluded to the processing of this amendment would assist in alleviating the previous determinations made by staff.

The General Plan Land Use Element currently states, "The acreages are based on the legal or gross acreage of the parcel. Maximum density cannot be guaranteed but density will fall within a range due to differences in sites" (**Attachment A**). The concept of the proposed General Plan amendment would be to allow projects with large physical site constraints to determine the density calculation based on net developable acreage rather than the gross or legal acreage of the parcel. The amendment would be drafted in a manner to allow the City Council or the Planning Commission the opportunity to make findings to support the request to use net acreage in instances where the site contains a certain percentage of slopes over 25%, or if the site contains a flood plain, rock outcroppings, a creek, or another type of physical constraint.

For example, the subject site for the Silver Oak Estates project contains large physical constraints such as sloping topography and Mount Diablo Creek (**Attachment B**). In particular, the Habitat Conservation Easement is 6.53 acres, which includes a minimum 50-foot required setback from the top of bank of Mount Diablo Creek. This constraint alone removes almost half, 47%, of the developable acreage of the site, making it nearly impossible for a development project to fit within the parameters of the General Plan as it pertains to development intensity and allowed product type. Further, the topography on the property additionally restricts the number of units due the slope and required grading.

These physical constraints on the project site provide limited land available for development in order to fit the required number of units and to provide the allowable product type identified in the General Plan. This issue is occurring because the General Plan bases the density range on legal or gross acreage of the parcel whether or not there are physical constraints on the property. Another way to categorize the issue would be trying to fit unwarranted intense density on a site that is really much smaller given the constraints that exist. By not providing the option of using the net acreage by subtracting the constrained property, this could result in a less desirable project given that the site may not necessarily have a proper land use designation due to the constraints and the resulting development intensity would not correspond given its location and surroundings.

The General Plan requirement for density on the legal or gross acreage of the parcel fits for those properties that are flat and/or minimally constrained; however this requirement does not appropriately apply to those properties that are limited in their developable land due large physical site constraints. The City of Clayton is approximately 98 percent built-out and the available properties left to develop are marginal or more difficult, particularly properties with site constraints such as slopes or creeks. This amendment could provide the City with the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density.

The particulars of the General Plan amendment and possibly appropriate corresponding changes to the Clayton Municipal Code would be addressed during this process. The proposed details such as the applicability, standards, and findings would come back at a later date to the Planning Commission and City Council for review and consideration. For example, a benchmark, such as a percentage of property that is constrained, identifying when the net acreage versus gross acreage could be applied to a property that contains a physical constraint could result from the process. The amendment is envisioned so that the required findings and/or standards of review for the use of net acreage versus gross acreage would need to be considered and identified during a site specific entitlement process as well.

OTHER CONSIDERATIONS

- HCD – The City has a total Regional Housing Needs Assessment (RHNA) obligation of 141 units for the 2014-2022 planning period. The City's Housing Element has an estimated capacity of 275 housing units, which results in a housing surplus of 137 units. The subject property was included in the City's inventory of available sites for housing units, which help to demonstrate that the City could accommodate its given RHNA (**Attachment C**). The City's Housing Element identified the site with an assumed realistic capacity (80% of maximum density) of 56 units; however the physical constraints were not fully taken into consideration, which resulted in a much higher estimate of capacity given the allowed product types within the General Plan. If the site were to be developed not utilizing the gross developable acreage as called for in the General Plan, but rather a net acreage by removing, at a minimum, the 6.53 acre Conservation easement the property would yield approximately 23 to 37 units. This would decrease the City's adopted Housing Element's assumed realistic capacity to 29 units from the assumed 56, assuming no further acreage deductions would be necessary for the sloping topography. By applying the unit range of the General Plan designation based on the reduced acreage, the City of Clayton would still have adequate housing capacity based on the density range, 104 to 118 additional housing units above its RHNA obligation.

- Other Applications – While this proposed amendment has been generated from one particular situation, it could be beneficial to other parcels in the City. For example, one parcel that could benefit from this amendment, if applied, would be the vacant High Street property behind the Post Office. This property has a significant slope, which could constrain the property from achieving the required density, at 20 units per acre. This amendment could also assist the property in resulting in a more suitable development for the area.

RECOMMENDATION

It is recommended the Planning Commission consider and discuss as well as provide feedback to staff regarding whether a formal General Plan amendment process, along with associated changes to the Clayton Municipal Code, if required, should be initiated. Considerations as to the scope of the General Plan amendment and changes to the Clayton Municipal Code, if that process is recommended, are also being requested by staff.

ATTACHMENTS

A. Excerpt from the General Plan Land Use Element
B. Sample Constraints Map
C. Excerpt from the Housing Element – Capacity to Accommodate the 2014-2022 RHNA

5.b. **GPA-01-16; General Plan Amendment; City of Clayton.** A study session to consider a General Plan amendment to allow net acreage density calculations on properties with physical site constraints.

Director Gentry presented the staff report and indicated that an email was received from a citizen in support of the General Plan amendment.

Chair Richardson asked how the City will determine what the "constraints" are. *Director Gentry indicated that staff will create a list of constraints once we receive feedback.*

Commissioner Altwal indicated that it would be good to have a list of site constraints and was supportive of utilizing a tool that would allow projects to achieve compliance with applicable General Plan densities.

Vice Chair Catalano asked is staff proposing to change the General Plan definition from gross acreage to net acreage or will the City continue to use gross acreage and just allow projects with site constraints to use net acreage? *Director Gentry indicated that, as currently proposed, gross acreage would continue to be used and then we would need to still determine whether this would a City-generated necessity to use net acreage or would the use of net acreage be at the request of the developer.*

The public hearing was opened.

Mark Kelson, 29 Tiffin Court, expressed support for the General Plan amendment.

Jennifer Butticci, 343 Alexander Place, expressed opposition to the Silver Oak Estates project, specifically raising concerns over the impacts the development would cause to wildlife current living on the project site.

Ann Vestal, 1737 Indian Wells Way, expressed opposition to the Silver Oak Estates project, specifically raising concerns over project-generated traffic, the height of the proposed structures, and the compatibility of the project with the existing neighborhoods in Clayton.

Heather Prewitt, 1778 Indian Wells Way, expressed opposition to the Silver Oak Estates project, specifically raising concerns over the impacts the development would cause to wildlife current living on the project site, project-generated traffic, the height of the proposed structures.

Cedric Jensen, 301 Saclan Terrace, indicated that the number of units proposed for the Silver Oak Estates project should be compliant with what the neighboring property owners want.

The public hearing was closed.

By consensus, the Planning Commission expressed support for initiating the General Plan amendment process, along with associated changes to the Clayton Municipal Code to allow net acreage density calculations on properties with physical site constraints.

ATTACHMENT 5

PLANNING COMMISSION
STAFF REPORT

Meeting Date:	**April 25, 2017**
Item Number:	**5.a.**
From:	**Mindy Gentry** **Community Development Director**
Subject:	**General Plan Amendment and Ordinance to Modify the Calculation of Residential Density on Parcels with Sensitive Land Areas (GPA-03-16 and ZOA-03-17)**
Applicant:	**City of Clayton**

REQUEST

The City of Clayton is requesting a public hearing to consider a City-initiated General Plan Amendment to its Land Use Element and an Ordinance to modify the residential density calculations and to not require a minimum density on residentially-designated parcels containing sensitive land areas (**Attachment A**). The Ordinance would amend Title 17 "Zoning" by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas (GPA-03-16 and ZOA-03-17).

PROJECT INFORMATION

Location:	Citywide
Environmental:	Pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was adopted by the Clayton City Council on July 18, 1985 with the finding that the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR.
Public Notice:	On April 14, 2017, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the City.

BACKGROUND

On October 25, 2016, the Planning Commission held a study session to provide feedback regarding a General Plan Amendment to allow a net acreage density calculation in lieu of gross or legal acreage on properties with physical constraints. This issue is described in full detail in the Planning Commission study session staff report from October 25, 2016 (**Attachment B**); however a brief summary is provided below.

This issue was derived due to the Silver Oak Estates project, located between the northerly terminus of Lydia Lane and south of Oakhurst Drive, having to contend with large physical constraints on the property and the inability for a project to be designed to meet both the prescribed General Plan density range and the product type. More specifically, the parcel contains undevelopable areas such as the Mount Diablo Creek, which requires a substantial setback as well as sloped topography, conditions which have made it difficult to meet the designated density range of 43 to 70 units. Further, the physical constraints or sensitive land areas such as the aforementioned creek and slope contained on the property made it questionable whether the remaining parcel was large enough to fit a detached single-family product type, as required by the City's General Plan, and within the prescribed density range of 3.1 to 5 units per acre. This issue is occurring because the General Plan bases the density range on legal or gross acreage of the parcel whether or not there are physical constraints on the property. Given this predicament, which could affect other parcels within the City, the Planning Commission expressed support at their October 25, 2016 meeting for initiating a General Plan amendment and any associated Zoning Code changes to allow net acreage density calculations when a site has a physical constraint or sensitive land areas in order to meet the density range and product type as identified by the City's General Plan.

DISCUSSION

The General Plan has established minimum and maximum densities for all residentially designated uses within the City. That density range is currently calculated from the legal or gross acreage of the parcel, which is considered to be all land including easements and rights-of-way. Gross acreage and net acreage are commonly used measurements of land area. Net acreage would be any developable acreage following any required subtractions which could include open space or public rights-of-way, amongst others.

Further, the General Plan requirement for density on the legal or gross acreage of the parcel fits for those properties that are flat and/or minimally constrained; however this requirement does not appropriately apply to those properties that are limited in their developable land due large physical site constraints. The City of Clayton is approximately 98 percent built-out and many of the available properties left to develop are marginal or more difficult, particularly properties with site constraints such as slopes or creeks. The overall intent of these amendments would be to prevent unwarranted density on a site that is really much smaller, given the constraints that exist, and to provide the City with the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density.

GENERAL PLAN AMENDMENT

After receiving support and direction from the Planning Commission at the study session, staff began to research the issue of determining residential density calculations while also conforming to the goals and policies of the City's General Plan. The proposed language changes to the Land Use Element are contained within one paragraph at the beginning of the discussion on Residential Designations, located on Page II-5 (**Attachment C**). These proposed changes would allow density calculations to be determined based off of the net developable acreage of the parcel as well as not require the minimum

density to be met for sites that have sensitive land areas. The intent of the proposed change will allow developers with constrained lots containing sensitive areas to meet both the prescribed General Plan density and product type. Further, given the community's lack of interest for higher density housing developments and the General Plan's support of lower density developments, these amendments would apply to and be required for all qualifying property and not optional.

The City of Clayton's General Plan Land Use Element contains the following goals:

- To maintain the rural character that has been the pride and distinction of Clayton.
- To encourage a balance of housing types and densities consistent with the rural character of Clayton.
- To preserve natural features, ecology, and scenic vistas of the Clayton area.

The proposed amendment captures the intent and vision as discussed in the goals of the General Plan. The amendment would decrease the overall density to help retain the rural character of Clayton, while balancing a variety of housing types and densities. The amendment will also help to preserve natural features, ecology, and scenic vistas by decreasing the overall required density on a property that has sensitive land uses such as creeks and rock outcroppings.

In addition, the General Plan Land Use Element, under Objective 1, identifies a policy of establishing density designations based on terrain, circulation, adjacent uses, and area characteristics. This proposed change in density calculations would help to fulfill this General Plan policy because as outlined in the proposed Ordinance, any slopes over 26% would be subtracted from the developable acreage thereby better fitting the density to the terrain and would retain sensitive land areas, which would result in developments better tailored to the area characteristics.

Housing Element Compliance

The City has a total Regional Housing Needs Assessment (RHNA) obligation of 141 units for the 2014-2022 planning period. The City's certified Housing Element, after taking into consideration a subsequently approved General Plan Amendment, has an estimated capacity of 272 housing units, which results in a housing surplus of 131 units. The subject General Plan Amendment may reduce the overall residential density capacity of the assumed and identified housing units within the Housing Element. However, the Housing Element did assume some known constraints, such as slopes, on particular properties, which were taken into account when determining the realistic capacity, but not all constraints were documented on vacant or underdeveloped properties. Given that the City has an estimated housing surplus of 131 units and this proposed amendment would only impact parcels with sensitive land areas, it is anticipated the decrease in density will still result in adequate capacity to accommodate its RHNA obligation give the large surplus of housing units. Even after taking the largest available parcel, 13.96 acres (Silver Oak Estates), for development into consideration, it would still result in a surplus of 104 to 108 units.

ZONING ORDINANCE

As referenced in the language of the General Plan amendment, the calculation of residential densities is to be further defined and described in the Clayton Municipal Code. The proposed addition of Chapter 17.22 in the Clayton Municipal Code would provide those details on how to calculate residential densities when sensitive land areas existing on a residential parcel. The Ordinance sets the parameters for determining developable acreage as well as what sensitive land areas are considered to be excluded from the gross or legal acreage of the parcel. The sensitive land areas that were identified were features that were clearly definable and constituted areas that cannot be developed, should avoid being developed, or should be preserved due to their environmental value such as floodplains, creeks, and

wetlands.

For illustrative purposes, if a developer has a property that is ten legal or gross acres in size and the property has a General Plan designation of Single Family Medium Density General Plan (3.1 to 5 units per acre) it would result in a density range of 31 to 50 units. However if the property happens to contain sensitive land areas, such as 1.3 acres of land within the 100-year floodplain and 0.7 acres with a slope that exceeds 26%, then those combined two acres would need to be subtracted from the gross or legal acreage to determine the developable acreage. Following the exclusion of these sensitive areas, it would result in eight developable acres, which would create a density range of 24.8 to 40 units per acre. This calculation results in lowering the overall density on residential parcels with sensitive land areas.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 01-17 recommending the City Council approve:

1) A General Plan Amendment to modify the calculation of residential densities and not require a minimum density for residential parcels with sensitive land areas; and
2) An Ordinance adding Chapter 17.22 to Title 17 "Zoning" determining the methodology of residential density calculations for residential parcels with sensitive land areas.

ATTACHMENTS

A. Planning Commission Resolution 01-17 with attachment:
   Exhibit 1 – Draft Ordinance Adding Chapter 17.22 in Title 17 "Zoning" with attachment:
   Exhibit A - Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Uses
B. October 25, 2016 Planning Commission Study Session Staff Report and Minutes
C. Redline Changes to the General Plan Land Use Element

Minutes
Clayton Planning Commission Meeting
Tuesday, April 25, 2017

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Chair Richardson called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present: Chair Dan Richardson
Vice Chair Carl Wolfe
Commissioner Bassam Altwal
Commissioner Peter Cloven
Commissioner William Gall

Absent: None

Staff: Community Development Director Mindy Gentry
Assistant Planner Milan Sikela, Jr.

2. ADMINISTRATIVE

2.a. Review of agenda items.

2.b. Declaration of Conflict of Interest.

None.

2.c. Vice Chair Wolfe to report at the City Council meeting of May 2, 2017.

3. PUBLIC COMMENT

None.

4. MINUTES

4.a. Approval of the minutes for the April 11, 2017 Planning Commission meeting.

Vice Chair Wolfe moved and Commissioner **Gall seconded a motion to approve the minutes, as submitted. The motion passed 5-0.**

5. PUBLIC HEARINGS

5.a. **GPA-03-16 and ZOA-03-17, General Plan Amendment and Municipal Code Amendment, City of Clayton.** A request for consideration of an amendment to the Land Use Element of the General Plan regarding the determination of residential density calculations as well as an Ordinance pertaining to the associated changes to the Clayton Municipal Code for the purposes of determining residential density calculations for residential parcels with sensitive land areas.

The staff report was presented by Director Gentry.

Commissioner Altwal had the following questions:

- Since 98% of Clayton is built out, of the remaining 2% that is undeveloped, which of that 2% is sensitive land area? *Director Gentry indicated that, of the 2%, no parcel-specific site assessment of sensitive areas has been conducted. Some parcels may contain sensitive areas such as slopes and creeks while other parcels may contain such attributes as PG&E easements. However, PG&E easements would not constitute a sensitive land area.*
- Can there be a reduction in the amount of items being listed as sensitive land areas in proposed Section 17.22.030 – Determining Capacity? *Director Gentry indicated that the list being reduced or expanded is up to the Planning Commission.*

Vice Chair Wolfe asked if this amendment is based solely on the developable part of the land. *Director Gentry responded that was correct and added that part of the impetus for this amendment emerged from the Silver Oak Estates project (which is not being discussed at tonight's meeting since the Silver Oak Estates project is not on tonight's agenda) which, because of the physical constraints on the site, the developer could not meet the development range and product type required by the General Plan.*

Commissioner Gall had the following questions:

- What does the Regional Housing Needs Allocation (RHNA) obligation of 141 units mean? *Director Gentry indicated that the State of California allocates to regional governments—which, in the Bay Area's case is the Association of Bay Area Governments (ABAG)—the number of housing units that ABAG is required to plan for in the Bay Area and then, in turn, ABAG distributes the number of housing units to all communities within ABAG's jurisdiction. With regards to Clayton, ABAG has allocated an obligation of 141 units that Clayton has to demonstrate that there is adequate capacity within the community to accommodate the 141 units.*
- In Attachment A of the Planning Commission Resolution, on Page 2 of 3, under Residential Designations, it states that second dwelling units are exempt from the determination of residential densities; so does that means that a second dwelling unit on a residential property would not be counted toward calculation of density requirements? *Director Gentry replied that, based on recent State mandates, the State has removed a lot of local jurisdictional control over the development of second dwelling units, which are now known as accessory dwelling units, and cities are now required to allow accessory dwelling units in residential districts. Second units would not to be included when calculating density.*

Commissioner Cloven had the following questions:

- There are two developments—Silver Oak Estates and High Street Townhomes—that would be potentially impacted by this Ordinance; were there any other possible future projects in Clayton that might be impacted as well? *Director Gentry indicated that currently no applications have been submitted to the City for projects that might be affected by this Ordinance.*

Commissioner Altwal asked who initiated this amendment? *Director Gentry indicated that this amendment was generated by staff as a method of rectifying inconsistences when a project is unable to meet the General Plan density and product type requirements.*

Chair Richardson had the following questions:

- If the old Fire Station property were to be redeveloped, would the PG&E tower easement be counted toward density requirements as covered by this amendment? *Director Gentry indicated that this amendment would only apply to environmentally-sensitive land issues such as creeks and slopes and would not apply to power lines.*
- Am I correct in understanding that this amendment, when applied to pertinent developments, would actually result in fewer units being constructed on the project site? *Director Gentry indicated that was correct.*

The public hearing was opened.

Rod Padilla, 311 Saclan Terrace, indicated the following:

- Although he appreciated the City for trying to remedy the General Plan density inconsistency issue, he does not support approval of the amendment and urged the City to find another way to address this issue.
- When a prospective developer is looking at a project site, they know what already exists on that site and should respect the natural attributes of that site.
- The City should not be accommodating developers; developers should be accommodating the City.

Bill Jordan, 6690 Marsh Creek Road, indicated the following:

- This should be a developer-initiated amendment.
- Based on the feedback received by the community and City over the conceptual High Street Townhome project, the City should not be initiating this amendment.
- I hope that if, this Ordinance is approved, that there is still an option for a project developer to opt out of having to comply with these regulations and be allowed to use other methods of compliance such as density bonuses.

Mark Kelson, 29 Tiffin Court, indicated the following:

- I support this amendment.
- I think it is important to have a method of providing consistency between the General Plan and what is actually existing on the project site.
- When Clayton was established, the vision was to keep our community semi-rural and low density and this amendment provides a mechanism to help protect that vision.

Shirley Jensen, 301 Saclan Terrace, indicated that, now that she understands the components of the Ordinance, she supports the amendment.

Steve Crockett, 6001 Golden Eagle Way, indicated the following:

- He has concerns that the amendment is being proposed by the City in order to accommodate the development of the Silver Oak Estates project.

- The developer of the Silver Oak Estates project should be developing their property in accordance with Clayton's vision.

Chair Richardson indicated that the Silver Oak Estates project is not on the agenda tonight, so the merits of the project cannot be discussed. This public hearing is about the amendment only and how this amendment would apply to the development of future projects Citywide.

Laurel Crockett read passages from the General Plan Land Use Element and indicated the following:

- She is opposed to the amendment.
- Approval of the amendment will allow high density development to destroy our community.
- I do not understand why the City is proposing to amend regulations to help the developer of Silver Oak Estates construct a high density development in our community.
- This amendment does not comply with the rural character of Clayton and the vision of the General Plan Land Use Element.

David Shihabi, 177 Brandywine Place, indicated the following:

- He is opposed to the amendment.
- This amendment will bring high density housing and more people to our City and, yet, we do not have the infrastructure to handle this type of development and the increased traffic and other impacts it will bring to Clayton.

Ann Vestal, 1737 Indian Well Way, indicated the following:

- She is opposed to the amendment.
- This amendment will bring high density housing to Clayton which does fit in with our community.

Dane Horton, 100 Forest Hill Drive, indicated the following:

- He is opposed to the amendment.
- This amendment will bring high density to our City which will be a visual eyesore as well as impacting parking, traffic, and draining our water resources.

Nancy Topp, 175 Brandywine Place, indicated the following:

- She is opposed to the amendment.
- Been a Clayton residence for 20 years and moved because of the open space amenities.
- This amendment would bring to Clayton the type of development we see in San Francisco or Walnut Creek and would ruin the character of our community.
- We have very little retail space or retirement living opportunities in Clayton and we should be preserving our remaining developable land for retail and retirement development.

The public hearing was closed.

Director Gentry indicated the following:

- City staff introduced this amendment as way to decrease the density designation and number of units when sensitive land uses are present on a property.
- This amendment is a tool to allow a reduction in the proposed number of units in order to avoid a situation where a developer would have to construct higher density units in order to meet the density range on a particular piece of property that is constrained by sensitive land areas.

Commissioner Gall had the following questions and comment:

- So there is no high density housing being proposed as part of this amendment? *Director Gentry indicated that was correct as this amendment is only addressing how residential densities are calculated which would actually result in a less dense project on particular property that is constrained by sensitive land areas.*
- So this amendment would only be applicable to these sensitive areas? *Director Gentry indicated that was correct.*
- Would this amendment would actually assist in meeting our General Plan goals and objectives of preserving our rural character and encourage this balance of housing types and densities consistent with this rural character? *Director Gentry responded yes and added that we are also trying to achieve compliance with the densities and product types listed in the General Plan.*

Commissioner Altwal asked how much of the two percent of remaining developable land in Clayton is comprised of the Silver Oak Estates project site? *Director Gentry indicated that the Silver Oak Estates project site is the largest parcel of undeveloped land remaining, being approximately 14 acres in area, which would comprise approximately 30 percent of the remaining developable land in Clayton.*

Vice Chair Wolfe indicated the following:

- He appreciated the interest of the public in this amendment.
- There is a misunderstanding as to what we are trying to achieve with this amendment.
- We are not proposing high density housing.
- This amendment will go a long way toward lessening the density on applicable parcels of land.
- We are continuing the public's desire to preserve the rural character of Clayton and this amendment will provide us with another method of attaining this preservation of character.
- Projects will still have to come before the Planning Commission and City Council and be scrutinized on an individual basis.

Commissioner Gall indicated the following:

- He concurs with Vice Chair Wolfe's comments.
- This amendment will allow us to protect those attributes of Clayton we love such as slopes greater than 26%, creeks, and other sensitive areas which are part of the character of our community.

Commissioner Altwal indicated the following:

- He concurs with Vice Chair Wolfe's comments.
- This amendment will help us to meet the requirements of the General Plan and help reduce density on applicable parcels of land in Clayton.

Commissioner Cloven indicated the following:

- He is in support of the amendment.
- The amendment would not increase density but would actually reduce the number of units that could be built on particular piece of property.
- This amendment will assist in preserving the character of Clayton.

Chair Richardson indicated the following:

- When I moved to Clayton 30 years ago, I remember it being very different from today.
- I very much enjoy the rural character and quality of life in Clayton that includes such things as the sidewalks in the Town Center being stamped to look like wood and bringing our third grade children downtown to show them the beauty and history of our community as we pass on our legacy.
- We are always trying to find ways to carry our traditions and lifestyle forward as part of the vision of our community.
- It is an ongoing challenge to balance the rights of property owners to improve their property with what we as a community can accept on that property.
- This amendment allows a property that could be developed with 100 units to be developed with a less amount of units once the sensitive areas on the property are subtracted out.
- This amendment protects our environmental resources and removes impediments to meeting the housing requirements mandated by the State.

Commissioner Altwal moved and Vice Chair Wolfe seconded a motion to adopt Resolution No. 01-17 recommending City Council approval of:

1) **A General Plan Amendment to modify the calculation of residential densities and not require a minimum density for residential parcels with sensitive land areas (GPA-03-16); and**
2) **An Ordinance adding Chapter 17.22 to Title 17 "Zoning" determining the methodology of residential density calculations for residential parcels with sensitive land areas (ZOA-03-17).**

The motion passed 5-0.

5.b. **ZOA-02-17, Municipal Code Amendment, City of Clayton.** A request for consideration of a City-initiated Ordinance amending Title 15 "Building and Construction", Chapter 15.08 – Sign Provisions of City of Clayton Municipal Code in order to revise the Sign Provisions to comply with the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona,* to prohibit mobile billboards, and to incorporate other best practices.

Director Gentry presented the staff report.

7b Support establishment of a Heritage Center that would permit uses that support historical heritage and community activity within the Town Center.

7c Support development of community playfields. (Amended by Resolution 21-87, dated 5/16/87)

Objective 8

To direct development of Keller Ranch within appropriate areas as constrained by topography, visual corridors, geologic factors, water courses and other planning considerations.

Policies

8a Utilize map designation footprint to indicate development form.

8b Permit density transfer among residential development areas within the overall unit limit.

8c Designate Country Club and athletic field facilities as Open Space/Facility.

8d Permit minor design deviation among residential development, open space, open space/facility, and commercial designation footprints through the Planned Development approval process. (Amended by Resolution 21-87, dated 5/16/87)

LAND USE DESIGNATIONS

The General Plan Diagram indicates application, location, extent, type and density of development. Designations provide assurance of city policy and guidance to homeowners, landowners, and developers. (Amended by Resolution 25-2004, dated 6/1/04)

RESIDENTIAL DESIGNATIONS

There are seven residential designations. The ~~acreages~~ density ranges for each residential land use designation are based on the ~~legal or gross~~developable acreage of the parcel. Developable acreage and residential density calculations are further defined and described in the Clayton Municipal Code regarding residential parcels with sensitive land areas. Maximum density cannot be guaranteed but ~~density~~ will fall within ~~a~~the range identified for each residential land use designation. ~~d~~Due to differences in developable acreage~~sites~~ because of the constraints attributable to sensitive land areas, residential parcels with sensitive land areas shall fall within the not to exceed maximum density for developable acreage and shall not have a minimum density requirement. Second dwelling units are exempt from the determination of residential densities.

When clustering is proposed for development, the City may provide relief from the lot coverage standards discussed below.

Unless otherwise noted, the following uses are allowed in each of the General Plan residential categories, provided they meet the requirements of the underlying zoning district, applicable specific plan policies and guidelines, and applicable general plan

Agenda Date: 5-16-2017

Agenda Item: 8a

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR MG

DATE: MAY 16, 2017

SUBJECT: UPDATE ON COMMUNITY CHOICE ENERGY (CCE) PROGRAMS AND A PRESENTATION FROM MCE CLEAN ENERGY (MCE) OFFERING TO JOIN A JOINT POWERS AUTHORITY (JPA) (CDD-18-15)

RECOMMENDATION

It is recommended the City Council receive the staff report for an update on Community Choice Energy and a presentation from MCE Clean Energy (MCE, formerly known as Marin Clean Energy) and following the opportunity for public comment, the City Council provide policy direction to staff regarding the offer of membership in MCE.

BACKGROUND

In October 2015, the Board of Supervisors directed County staff to research the possibility of forming a Contra Costa County Community Choice Energy program and to reach out to the cities to determine the willingness to participate in a technical/feasibility study. The County received adequate support and interest from a number of the cities, including Clayton, to conduct and share the cost of a technical study that analyzed four possible options:

1) No change to the status quo and remain solely with PG&E;
2) Form a CCE partnership among the cities within Contra Costa County as well as the County for the unincorporated areas;
3) Partner with Alameda County (and its cities) to form a CCE program; or
4) Join the MCE Clean Energy (MCE) program.

The Clayton City Council was first presented with the concept of Community Choice Energy at its meeting of January 19, 2016 (**Attachment 1**). At this meeting, the City Council authorized Contra Costa County to obtain the PG&E load data for all customer classes within our city for the purposes of studying a local Contra Costa County Community Choice Energy program, and also authorized City staff to send a non-binding letter to Contra Costa County confirming the City's interest in participating in a local Contra Costa CCE.

On June 7, 2016, the City Council authorized City staff to execute a Memorandum of Understanding with Contra Costa County, along with other participating cities, for the preparation of a technical study of electrical load data for the potential formation of a Contra Costa CCE program (**Attachment 2**). At this time, the majority of cities within Contra Costa County were not members of a CCE and agreed to support and contribute to this technical study. Five jurisdictions in Contra Costa County had already joined or were in the process of joining MCE (Walnut Creek, Richmond, Lafayette, San Pablo, and El Cerrito). The draft technical study was released on November 30, 2016 and was presented to the Clayton City Council on January 17, 2017 (**Attachment 3**). As part of this presentation, staff also requested preliminary policy direction from the City Council regarding Community Choice Energy. The Council asked questions of the County's CCE consultant and MCE representatives spoke during public comment providing additional information to the Council. No action was taken by the Council; Councilmember Pierce desired additional information regarding more specific case studies and any monetary risk before making a recommendation.

Following the release of the draft technical study, on January 17, 2017 at the Board of Supervisors meeting, the Board indicated to County staff and the public its strong preference to join one of the existing CCE programs, MCE or EBCE, rather than create a new joint powers authority solely for those jurisdictions within the County (**Attachment 4**). On May 2, 2017, the BOS decided to join MCE Clean Energy (MCE). This decision eliminated the possibility of forming a Contra Costa CCE due to the lack of feasibility because of the high start-up costs, level of effort, and program risks as well as the decisions of other jurisdictions within the County to join MCE.

DISCUSSION

Overview of Community Choice Energy Programs

Community Choice Energy programs allow communities to participate in a Joint Powers Authority (JPA) to purchase and procure power within a defined jurisdiction in order to secure alternative energy supply contracts on a community-wide basis. Under law, electrical customers within a subscribed jurisdiction are automatically enrolled by default into the program served by their jurisdiction's JPA; however it is voluntary and one can choose to opt out. While the JPA is responsible for procurement and power generation, electricity is still transmitted through Pacific Gas and Electric's (PG&E) transmission lines and customers would continue to be billed for electricity and gas by PG&E. Numerous jurisdictions throughout the State of California are currently looking at this issue and exploring the possibility of either creating their own CCEs or joining an existing program.

Overview of the Technical Study for Contra Costa County

The City of Clayton, along with other participating jurisdictions within Contra Costa County, including the County itself, undertook a technical study to explore the options of implementing or joining a CCE. The main findings in the Technical Study are discussed below:

1. The Study finds that the jurisdictions in Contra Costa County studied in this report have several options for implementing a Community Choice Energy (CCE) program that would likely result in lower greenhouse gas (GHG) emissions, increased local renewable energy generation, and increased local job creation compared to remaining with current electricity service from Pacific Gas and Electric Company (PG&E).

2. The electricity rates charged under various CCE scenarios available to the jurisdictions covered in this study would likely be similar or less than the rates charged by PG&E for comparable service. The degree to which CCE rates are reduced below comparable PG&E rates depends in large part on the extent to which the CCE pursues policy objectives other than rate minimization in its energy procurement practices. Competing policy objectives may include increasing the supply of locally generated renewable energy, promoting energy efficiency, and maximizing local employment generated from a CCE program.

3. The Study finds that Contra Costa County includes enough technically feasible locations to meet a significant proportion of electricity demand for the area studied through locally generated renewable energy.

4. The implementation of a CCE program within the studied area is projected to create between 500 to 700 new jobs within Contra Costa County compared to remaining with current PG&E service, depending on the CCE option implemented.

5. The Study compares three CCE program alternatives to current PG&E service and identifies the tradeoffs associated with these four alternatives. The decision of which program alternative to implement will require policy makers to balance costs and potential risks and benefits of each option.

CCE Programs

City staff invited PG&E, MCE, and the new East Bay Community Energy (EBCE) to make presentations to the Clayton City Council for consideration.

- **PG&E** – PG&E declined to present publicly, which has been consistently applied elsewhere throughout the County as the CCE process has taken shape. PG&E indicated due to the topic being highly litigious, the advice and guidance from their legal team was to not speak publicly on this matter. The PG&E representative did provide information from its website regarding PG&E's energy portfolio which is included as **Attachment 5.** If the Council decides not to take action, all electrical customers within the city of Clayton will stay with PG&E with no change and will not have the option of participating in the Community Choice Energy program.

- **East Bay Community Energy (EBCE)** was recently formed by Alameda County in October of 2016 with 11 of its 14 cities agreeing to participate. The EBCE JPA is relatively new, with its first Board of Directors meeting occurring on January 30, 2017, and is still in the process of hiring staff and becoming completely established.

Further, EBCE is in the process of submitting an Implementation Plan to the California Public Utilities Commission (CPUC), which will discuss rate design, how EBCE will procure energy and carry out the functions required by the CPUC. A letter from EBCE was sent to Contra Costa County on February 21, 2017 highlighting and detailing the terms of membership with the JPA (**Attachment 6**).

EBCE's power portfolio is expected to be determined by Board of Directors in late 2017 and is anticipated the portfolio will provide much of its electricity from renewable sources such as solar, wind, and geothermal at rates competitive with PG&E. It is unclear at this time if the EBCE employees will be part of the CalPERS retirement system, but it is anticipated this is likely to occur.

There are still many unknowns at this time for the possibilities of membership in EBCE. One of the main issues regarding membership in EBCE is that our City has not been formally invited and City staff's invitation to present to the City Council seemingly hinged upon Contra Costa County's decision regarding its membership. Following the County's decision to join MCE, City's staff's invitation to EBCE to present to the Clayton City Council went unacknowledged without a response.

- **MCE Clean Energy (MCE)** was launched in 2010 and was the first CCE program in the State of California. MCE is currently offering a "no cost" inclusion period for those jurisdictions interested in joining the JPA, which has been extended until June 30, 2017. MCE serves the Counties of Marin and Napa, and the Cities of Richmond, Benicia, El Cerrito, San Pablo, Lafayette, Walnut Creek, Novato, Benicia, American Canyon, St. Helena, Mill Valley, Larkspur, Sausalito, Calistoga, and Belvedere. Other Contra Costa jurisdictions have taken action in the past three weeks and will also eventually be served by MCE, which is indicated in the table below.

  The default service for MCE is to provide 50% renewable energy, but does have the option of choosing a 100% renewable energy, but with an increase in price. Contra Costa County with all remaining cities joining would have an overall voting share of 62% with Clayton having a 1.5% share, if deciding to join. It should be noted, the employees of MCE are not part of the CalPERS retirement system but employ a 401k pension system instead.

  A representative from MCE Clean Energy (MCE) will be in attendance and make a presentation to the City Council to provide an overview of its program and to offer a "no-cost" membership into the Joint Powers Authority (JPA).

Countywide Jurisdictional CCE Update

Since the Board of Supervisors undertook the exploratory process of establishing a Community Choice Energy program, there has been significant movement and key developments throughout the County regarding this topic over the past several months. The table below provides a brief status of each jurisdiction within the County regarding their membership in a CCE program.

Jurisdiction	CCE Status
Antioch	Mayor requested consideration of an ordinance to join MCE on May 23, 2017 agenda
Brentwood	No information
Concord	Council Sub-Committee is recommending joining MCE to be considered by the full Council on May 23, 2017
Contra Costa County	Voted to join MCE on May 2, 2017
Danville	Voted to join MCE on May 2, 2107
El Cerrito	Voted to join MCE in December 2014
Hercules	No information
Lafayette	Voted to join MCE on January 25, 2016
Martinez	Referred CCE to a Council Sub-Committee on May 3, 2017
Moraga	Voted to join MCE on April 26, 2017
Oakley	Voted to join MCE on May 9, 2017
Orinda	No information
Pinole	Holding a community forum on May 16, 2017 regarding CCE
Pittsburg	Recommendation to join MCE will be considered by the City Council on May 15, 2017
Pleasant Hill	No information
Richmond	Voted to join MCE in June 2012
San Pablo	Voted to join MCE in November 2014
San Ramon	Decided on May 9, 2017 to invite MCE and EBCE to make presentations to the Council
Walnut Creek	Member of MCE since September 2016

BENEFITS AND RISKS

Benefits of a CCE

- Local Control – By joining a CCE, it provides communities with control over energy decisions. Currently power customers do not have a choice of an electrical provider, or how that power is generated. The CCE would also be able to maintain control over energy efficiency programs or have programs to guarantee equity in the distribution of efficiency benefits. Participating jurisdictions would automatically enroll all electrical customers into the CCE; however individual consumer participation is entirely voluntary and one can choose to opt out of the CCEA if they prefer to receive their electrical energy from PG&E. Naturally, should a city become a member of a CCE and a considerable number of local subscribers opt to stay with PG&E for electricity, the resultant CCE's rates could be affected due to lesser volume participation.

- Increase Use of Renewable and Alternative Energy- To the extent that a CCE values renewable and alternative energy generation over and above the levels mandated by the State, CCEs can increase the amount of energy generated from renewable sources by offering customers electricity derived from 100% renewable sources.

- Increase in Competition – PG&E is an Investor Owned Utility (IOU), which is large privately owned company and currently has a regulated monopoly in most of northern California. Consumers within the CCE jurisdiction would have the opportunity to receive electricity from a local public agency governed by officials who would be responsive to the interests of the local community.

Risk and Costs of Joining a CCE

- By joining a CCE, the City of Clayton would be agreeing to join a Joint Powers Authority specifically for the purpose of procuring and providing electrical power. By law, the JPA can only be funded from program revenues, which means the City's General Fund would be insulated and separate from the JPA. This is a benefit; however the City also would assume a portion of any debt incurred by the JPA and if the City wishes in the future to exit the JPA program after inclusion then there would be apportioned costs associated to cover the cost of the power that was procured for the jurisdiction. The exit cost would fluctuate overtime due to the length of the energy contracts that have been procured and it is unknown what that exit cost would be at this time.

- It is conceivable a CCE could not compete effectively against PG&E by not providing competitive rates with those that are offered by PG&E; therefore the CCE would not be financially feasible. This could have implications for the JPA due to long-term contracts for energy procurement. This would be an assumed risk when joining a JPA.

The table below provides a summary of the risks and benefits of joining a CCE or remaining solely with PG&E, the status quo. A version of this table was included as part of the Contra Costa County Technical Study, but has been updated given the recent events surrounding CCE programs in the County.

CRITERION	PG&E	MCE	EBCE
Electricity Rates	No change	Likely lower*	Likely lower*
GHG Reduction	No change	Some	Some
Local Control	No change	Some	Some
Start Up Costs	N/A	None	None
Level of Effort	None	Minimal	Greater
Program Risks	None	Some	Greater
Timing	N/A	Late 2017	Unknown
Local Economic Benefit	Minimal	Some	Some

*Energy is a commodity and prices could fluctuate where a CCE is more expensive than PG&E; however the current and historical rates have shown a CCE to be slightly less expensive than PG&E.

OPTIONS

The City Council has the following options to consider regarding this topic:

1. Take no action. This would result in no change to the electrical customers within the city of Clayton by staying completely with PG&E; individual residents and businesses do not have the option of participating in a Community Choice Energy program except by a jurisdiction's action.

2. Direct staff to bring this item back at a later date, either in the near future or at a later date, if the City Council wants to revisit the status of the two CCE programs, MCE and EBCE, and to see how the programs have developed and changed over time. It is unclear whether MCE and EBCE would continue to offer the "no cost" inclusion period beyond the June 30, 2017 deadline.
3. Direct staff to draft a Resolution authorizing the City to submit an application for membership to join MCE.

FISCAL IMPACT

If the City Council does not take action, then no further staff time will be incurred. If the City Council directs staff to bring the item back at a later date or to draft a Resolution there would be nominal costs associated with the staff time to do so.

If the City Council decides to join MCE now there will be no direct costs to the City and the City's General Fund will be insulated as the JPA is a separate entity; however the City does assume a proportional share of debt risk by joining the JPA. If the City wants to exit the JPA after joining, there would be an undetermined cost to exit. Should the City decide to join MCE or EBCE at a later time, there may be a membership fee to pay.

ATTACHMENTS

1. Excerpt of the Staff Report and Minutes from the January 19, 2016 City Council Meeting [6pp.]
2. Excerpt of the Staff Report from the June 7, 2016 City Council Meeting [3 pp.]
3. Excerpt of the Minutes from the January 17, 2017 City Council Meeting [3 pp.]
4. Final Technical Study for Community Choice Energy for Contra Costa County [95 pp.]
5. PG&E Energy Portfolio Information [2 pp.]
6. EBCE Letter Dated February 21, 2017 to Contra Costa County [2 pp.]

ATTACHMENT 1

Agenda Date: 1-19-2016

Agenda Item: 8b

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR

DATE: JANUARY 19, 2016

SUBJECT: COMMUNITY CHOICE AGGREGATION (CDD-18-15)

RECOMMENDATION

Following staff presentations and an opportunity for public comment, it is recommended the City Council:

1) Adopt the attached Resolution authorizing Contra Costa County to obtain the electrical load usage data from Pacific Gas & Electric Company (PG&E) for all customer classes and customers located within the City of Clayton for the purposes of studying alternatives for a local Contra Costa Community Choice Aggregation (CCA) (also referred to as Community Choice Energy). The Resolution also memorializes the City's interest in participating in a pre-development and feasibility study to create a CCA in partnership with Contra Costa County while not obligating the expenditure of any City funds.

2) Direct staff to send a non-binding letter before January 31, 2016 to Contra Costa County confirming the City's interest in participating in a local Contra Costa CCA by authorizing the County to collect the City's Pacific Gas & Electric Company load data and its willingness to financially participate in the feasibility study without obligating funds. The letter will also express the City's preference to have the costs for the study allocated on a per-capita basis rather divided by the number of participating agencies.

BACKGROUND

In October 2015, the Board of Supervisors directed County staff to research the possibility of Community Choice Aggregation through three different options. The initial process is twofold. The first step is to request cities within the County to authorize the County to collect electrical load usage data from PG&E to determine the overall demand. The data would be utilized in a manner to investigate the feasibility of electrical procurement options through a potential CCA. The second request of cities was to determine the willingness to share in the

cost of conducting a feasibility study, which is estimated by the County to be $100,000 to $150,000 without formal financial obligation.

The direction provided by the Board of Supervisors included three possible options to be evaluated:

- Forming a CCA partnership among the cities within Contra Costa County as well as the County for the unincorporated areas;
- Partnering with Alameda County (and its cities) to form a CCA program; or
- Join the Marin Clean Energy program (which currently serves Marin County, unincorporated Napa County, and the cities of Benicia, El Cerrito, Richmond, and San Pablo).

Representatives from Contra Costa County will be making a presentation at the City Council meeting to provide an overview of the Community Choice Aggregation program and the options the County is exploring.

OVERVIEW OF COMMUNITY CHOICE AGGREGATION

Assembly Bill 117 (2002) established Community Choice Aggregation in California and allowed cities and counties to become electricity providers by facilitating the purchase, sale, and generation of electrical energy.

In 2010, Marin Clean Energy (MCE) became the first certified CCA in California followed by Sonoma Clean Power in 2014. Both JPAs are comprised of their host counties and several cities. The cities of Richmond, San Pablo, and El Cerrito joined Marin Clean Energy and are now served by MCE. The cities of Walnut Creek and Lafayette have submitted letters of intent to join MCE, which is considering granting them membership in fall of 2016. Other counties and cities throughout the State of California are exploring the formation of a CCA with San Francisco receiving approval of its implementation plan from the California Public Utilities Commission, which is the organization charged with regulating CCAs.

The CCA would be responsible for power generation and PG&E would still own the grid, maintain power lines, and issue monthly bills.

Benefits of a CCA

- Local Control – By forming a CCA, it provides communities with control over energy decisions. Currently power customers do not have a choice of an electrical provider, or how that power is generated. The CCA would also be able to maintain control over energy efficiency programs or have programs to guarantee equity in the distribution of efficiency benefits. Participating jurisdictions would automatically enroll all electrical customers into the CCA; however individual consumer participation is entirely voluntary and one can choose to opt out of the CCA if they prefer to receive their electrical energy from PG&E. Naturally, should a city become a member of a CCA and a considerable number of local subscribers opt to stay with PG&E for

electricity, the resultant CCA's rates could be affected due to lesser volume participation.

- Increase Use of Renewable and Alternative Energy- To the extent that a CCA values renewable and alternative energy generation over and above the levels mandated by the State, CCAs can increase the amount of energy generated from renewable sources by offering customers electricity derived from 100% renewable sources.

- Increase in Competition – PG&E is an Investor Owned Utility (IOU), which is large privately owned company and currently has a regulated monopoly in most of northern California. Consumers within the CCA jurisdiction would have the opportunity to receive electricity from a local public agency governed by officials who would be responsive to the interests of the local community.

Risk and Costs of a CCA

There are risks associated with the formation of a CCA, with the primary risk being sustainability. It is conceivable the CCA could not compete effectively against PG&E by not providing competitive rates with those that are offered by PG&E; therefore the CCA would not be financially feasible. The price of electricity a Contra Costa County CCA could offer has a number of variables such as the number of customers in the CCA as well as the agency's portfolio of energy sources.

There are start-up costs associated with forming the CCA, such as public outreach, feasibility analysis, and legal expenses to form a joint powers agreement as well as costs following the formation of JPA such as hiring CCA staff, preparation of an implementation plan, and execution of energy purchase contracts with suppliers.

FISCAL IMPACT

The local authorization of the City's PG&E load data does not require the expenditure of any City funds. The Resolution memorializes the City's interest, but does not obligate it to financially participate in the feasibility and technical study for the creation of a local Contra Costa Community Choice Aggregation. The County has identified the study may cost $100,000 to $150,000, but the City's share has not been identified. Staff will bring the item back to the City Council for consideration once the City's financial share has been identified by the County. City staff is also recommending the non-binding letter of interest to the County state the costs associated with the study be spread on a per capita basis rather than on a per agency basis.

ATTACHMENTS

1. Resolution [2 pp.]
2. Letter from Contra Costa County to the City of Clayton [5 pp.]

website. Applicants are appointed by the City Council following an interview with its Sub-Committee.

Councilmember Pierce thanked the Trails and Landscaping Committee members for its hard work and efforts.

Mayor Geller opened the item to receive public comments; no public comments were offered.

It was moved by Councilmember Haydon, seconded by Councilmember Shuey, to accept and approve the Trails and Landscaping Committee's Annual Report for FY 2014-15. (Passed; 4-0 vote).

(b) Discuss and consider adoption of Resolution 06-2016 indicating City interest in exploring Community Choice Aggregation (CCA) energy for the city of Clayton in partnership with the County of Contra Costa and other public agency partners.

Community Development Director Mindy Gentry provided a brief overview and then introduced Jason Crapo, Deputy Director for the Contra Costa Department of Conservation and Development and Tom Kelly from LEAN Energy US who presented a slideshow regarding Community Choice Energy (CCE) options for Contra Costa County.

Mr. Crapo explained Community Choice Energy enables local governments to procure and/or develop power on behalf of their public facilities, residents and businesses from "green" or renewable energy sources. Mr. Crapo introduced Tom Kelly to continue with the presentation.

Mr. Kelly advised Marin and Sonoma Counties are currently operational with CCAs while the City and County of San Francisco is launching one soon. He also noted there are only three programs currently operational in California. Mr. Kelly continued his presentation comparing Marin and Sonoma County's programs financial conditions for FY 2015-16 showing a 3.5% - 4% increase to revenues and similar consumer rate reductions from PG&E. He explained the basic program mechanics involving the formation or joining of a Joint Powers Agency begins with the passage of a local Ordinance to enter into the Joint Powers Agreement; he advised when operational, all community consumers are automatically subscribed to the CCA JPA and customers must "opt-out" to remain with PG&E, an action that can be done by phone, on-line or mail. Mr. Kelly also advised of some of the risks involved including rate competition/ market fluctuation, customer "opt-outs" can negatively impact rates offered, political local policy objectives, and regulatory/legislative.

Councilmember Pierce asked if the Joint Powers Agreement indicates a maximum fee for the administrative costs of the program? Mr. Crapo advised that matter would be clarified during the formation and drafting of the Joint Powers Agreement.

Councilmember Shuey inquired on recurring complaints from participants of existing Community Aggregation Energy programs. Mr. Kelly advised when a CCE program has been implemented, most consumers do not realize they are participants in the program although all PG&E customers receive a minimum of 4 "opt-out" notices over 120 days period per statute.

Councilmember Pierce asked how a consumer's PG&E imposed fee is collected when staying with the CCE? Is it a one- time fee or monthly fee? Mr. Kelly advised the PG&E residential fee currently imposed is collected and billed monthly at a rate of $12.00. He also advised the Joint Powers Agreement protects the member city from lawsuits or having to pay for a failed CCE program.

Councilmember Shuey asked for a sample of a CCE Joint Powers Agreement to review prior to City Council making a decision to join.

Councilmember Haydon is interested in the results of the study and inquired if after an initial Joint Powers Agreement has been established, can cities join into that agreement at a later date and still have voting capability? Mr. Kelly advised initially Marin Clean Energy became the first certified Community Choice Aggregation in California; initial costs were very expensive but subsequent members still have voting rights but weighted by subscribers participating.

Councilmember Haydon asked how the energy rates are determined? Mr. Kelly advised rates are regulated and controlled by California Public Utilities Commission.

Mayor Geller inquired if PG&E has expressed an interest to build or join a Community Choice Aggregation Energy program? Mr. Kelly advised PG&E and Community Choice Aggregation have established a business relationship with PG&E still providing billing and energy service to its customers. He also included there are no stockholders in the Community Choice Aggregation energy program.

City Manager Napper had a few inquiries regarding feasibility costs? Are there any foreseeable member cities in Contra Costa County? Is Contra Costa County considering joining an existing Community Choice Aggregation energy program? Mr. Kelly advised the feasibility study will cost approximately $175,000, although the preferred term to use is a "technical" study since we know Community Choice Aggregation is now feasible. If a city decides to join, a representative from each joining city will have a voting member, likely with "weighted" voting on certain matters. Mr. Crapo added at this time Contra Costa County has not indicated if it would consider joining an existing Community Choice Aggregation Energy program.

Mayor Geller asked if there are any public comments to be offered on this item.

Carol Weed, member of the Contra Costa Energy Alliance, indicated she preferred Council consider giving its residents a choice in using green/clean energy alternatives. Ms. Weed also prefers keeping energy revenues in Contra Costa County and looks forward to the increase of green employment opportunities for its residents.

Wendy Lack, resident in Dana Hills, has been following the Contra Costa Board of Supervisors' meetings regarding the Community Choice Aggregation energy and has found that it carries enormous risks; electricity is a commodity heavily regulated. Ms. Lack conducted her own independent research finding that the feasibility study will cost $1.5 to $3 million dollars. She would like the City Council to carefully review the Joint Powers Agreement before making a commitment. Ms. Lack provided the City Clerk with a couple of news articles regarding Clean/renewable energy.

Dan Hummer, 282 Stranahan Circle, inquired if the Clayton City Council decides to join a Joint Powers Agreement, what would the requirements be and costs to back-out or join another Joint Powers Agreement?

Mayor Geller asked Mr. Crapo how is the upfront funding source acquired? Mr. Crapo advised start-up costs are a considerable amount and could range from $1 to $2 million. Contra Costa County would provide the initial funding and then recoup its expense through a financing plan to be shared among the Joint Powers Agreement members.

Councilmember Pierce noted the provided staff report indicates an estimated cost of $100,000.00 to $150,000.00 to conduct the study however it does not identify the City's share.

Mr. Crapo advised upon completion of the technical study and load data obtained the consultant hired by Contra Costa County will provide an analysis of the amount of energy being used, likely energy rates, and legal costs to establish a Joint Powers Agreement for management of the

program. Mr. Crapo included this process can take 18 to 24 months to complete resulting in significant start-up costs; Contra Costa County has agreed to provide upfront monies with eventual reimbursement from participating cities.

Councilmember Pierce indicated she would like to consider the results of the feasibility study to provide the Clayton community a possible option of participation in the Contra Costa Community Choice Aggregation energy.

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt the Resolution authorizing Contra Costa County to collect the PG&E electrical load usage data for all customer classes and customers within the City of Clayton, and by letter affirm the City of Clayton's openness to participating in the costs of a feasibility /technical study to form a community choice aggregation in partnership with Contra Costa County but the City makes no funding commitment at this time until the number of interested cities is known and an expense allocation is proposed. (Passed; 4-0 vote).

(c) Consider ECORP's initial findings regarding historic significance and future of the three (3) deteriorating historic outbuildings on City-owned Keller Ranch House property, north of the Clayton Community Library.

Community Development Director Mindy Gentry summarized the staff report briefly noting the updated integrity assessment of the historical Keller Ranch outbuildings determined the outbuildings no longer are historically significant; and pursuant to the California Environmental Quality Act Guideline 15301 (l) – Existing Facilities, a demolition project decided at the local level would be "categorically exempt" under CEQA. Ms. Gentry indicated the Clayton Historical Society would likely wish to salvage some portions of the Keller Ranch outbuildings to keep for historical purposes or use for a future fundraiser.

City Manager Mr. Napper added the location of the three buildings is directly north of the Keller Ranch House, and the Keller Ranch home is not a subject for demolition.

Mayor Geller opened the item to receive public comments; no public comments were offered.

It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to instruct staff to seek three proposals for the demolition of the outbuildings, with staff returning with three demolition proposals for City Council review and consideration for approval and funding. (Passed; 4-0 vote).

(d) Consider a summary report on the City of Pittsburg's Tuscany Meadows Residential Subdivision project for up to 917 single-family homes, 365 multi-family apartments, and three parks totaling approximately 18.6 acres and possible implications to Clayton community.

Community Development Director Mindy Gentry presented the staff report noting project overview of the City of Pittsburg's Tuscany Meadows project and its Montreux residential subdivision project impacts to Clayton. Ms. Gentry provided forecasted traffic counts and potential traffic delays in both the AM and PM peak travel times at intersections along Kirker Pass Road and Ygnacio Valley Road used by Clayton residents. She also noted the project is scheduled to be heard at the February 9, 2016 meeting of the Pittsburg Planning Commission. If approved the project will go before the Pittsburg City Council for a hearing then precede to LAFCO for review of the proposed boundary changes.

ATTACHMENT 2

Agenda Date: 6-07-2016

Agenda Item: 3e

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR

DATE: JUNE 7, 2016

SUBJECT: COMMUNITY CHOICE ENERGY TECHNICAL STUDY MOU WITH CONTRA COSTA COUNTY (CDD-18-15)

RECOMMENDATION

Staff recommends the City Council approve a Resolution authorizing City participation in and approving a Memorandum of Understanding (MOU) with Contra Costa County regarding the preparation of a technical study of electrical load data for the potential formation of a Community Choice Energy program (**Attachment 1**).

BACKGROUND

In October 2015, the Board of Supervisors directed County staff to research the possibility of establishing a Community Choice Energy (CCE) program. The initial step was for County staff to request cities within the County to authorize the County to collect electrical load usage data from PG&E to determine the overall demand. The data would be utilized in a manner to investigate the feasibility of electrical procurement options through a potential CCE. The second request of cities was to determine the willingness to share in the cost of conducting a feasibility study without formal financial obligation.

In January 2016, the City Council adopted a Resolution authorizing Contra Costa County to collect PG&E electrical load usage data for all customer classes within the City and directed staff to send a letter to County affirming the City's willingness to participate in the costs of a technical study to form a Community Choice Energy program in partnership with Contra Costa County; however the City made no funding commitment at that time (**Attachment 2**).

On March 15, 2016, the Board of Supervisors directed County staff to work with interested cities within Contra Costa County to conduct a technical study of Community Choice Energy. The Board directed County staff to request that each participating city contribute financially towards the cost of the technical study in an amount proportional to the size of the city's population (**Attachment 3**).

The technical study will analyze electrical load data that the County has requested from PG&E for the unincorporated area and the 14 cities in Contra Costa County that are not currently participating in a CCE program. The study will provide participating jurisdictions information concerning the projected electricity rates that might be charged by a CCE program and the revenues that such a program might generate, the ability of a CCE program to lower greenhouse gas emissions generated from energy use within the County, and the extent to which a CCE program could stimulate economic activity in the County through implementation of local renewable energy generation projects. Similar technical studies have been performed recently in other Bay Area counties that are in the process of implementing Community Choice Energy programs, such as Alameda County, San Mateo County and Santa Clara County.

The technical study will compare 3 different CCE program models that could be implemented by participating jurisdictions in Contra Costa County. These are: forming a new joint powers authority (JPA) of interested jurisdictions within Contra Costa County, forming a similar JPA in partnership with jurisdictions in Alameda County, and joining the CCE program initiated in Marin County known as MCE Clean Energy.

The County has recently issued a Request for Proposals (RFP) to select a consultant to perform the technical study. The County and several representatives from the Funding Cities will screen the proposals submitted in response to the RFP, and the County will enter into a contract with the selected consultant. Upon completion of the technical study, the Funding Cities will each reimburse the County for their proportionate share of cost based on their population size, up to a maximum amount established in the MOU.

MEMORANDUM OF UNDERSTANDING

The County has now reached the step for a formal financial commitment from the Funding Cities. Eight cities have agreed to finically participate in the technical study ("Funding Cities"): Brentwood, Clayton, Concord, Danville, Martinez, Pittsburg, Pleasant Hill, and the County. The following jurisdictions are not participating: Antioch, Hercules, Moraga, Oakley, Orinda, Pinole, and San Ramon ("Non-Funding Cities"); however the MOU has identified September 1, 2016 as the cutoff date and a process if jurisdictions want to become a Funding City. The remaining five jurisdictions within Contra Costa County (Walnut Creek, Richmond, El Cerrito, San Pablo, and Lafayette) are either already participating in Marin Clean Energy (MCE) or are seeking approval to participate.

The MOU outlines the responsibilities of the County as well as all Funding Cities. The County's main responsibilities are to obtain the load data from PG&E; selection, with input from the Funding Cities, of the consultant for the technical study; management of the contract for the technical study; and distribution of the draft and final reports. The Final Report from the technical study will assist all of the jurisdictions covered in the study to decide whether to participate in the implementation of a CCE program.

The Funding Cities are required to provide comments on the RFP and draft report within 30 days of receipt from the County; coordinate presentations of the Final Report before

governing bodies; and to reimburse the County for costs of the technical study. The MOU contains a formula to calculate the costs each Funding City would have to absorb in order to reimburse the County, which is based on the total charges of the technical study and the respective population of each jurisdiction. The County has provided monetary caps for the maximum reimbursement amount regardless of the outcome of aforementioned formula. The City of Clayton's maximum reimbursement amount would be $5,000 based on a per capita formula.

FISCAL IMPACT

The MOU would obligate the City of Clayton to reimburse the County a maximum of $5,000; however depending on the costs of technical study and participation by other jurisdictions the total amount could be lower based off of the formula in Section 2.C.1 of the MOU. It is proposed this funding be allocated from the unassigned CIP interest earnings account, which presently has an unallocated balance of $92,800.

ATTACHMENTS

1. Resolution with Exhibit A - *Memorandum of Understanding Regarding Technical Study of Electrical Load Data for Community Choice Energy* [23 pp.]
2. Excerpt of the Staff Report and Minutes from the City Council Meeting from January 19, 2016 [8 pp.]
3. March 15, 2016 Board of Supervisors Staff Report Regarding Community Choice Energy [11 pp.]

ATTACHMENT - 3

6. **PUBLIC COMMENT ON NON - AGENDA ITEMS** – None.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

(a) Presentation and discussion of Contra Costa County's Community Choice Aggregation (CCE) Technical Study findings and the range of further options for regional alternative electrical power.
(Community Development Director; and Jason Crapo, Deputy Director of Contra Costa County Department of Community Development)

Community Development Director Mindy Gentry introduced Jason Crapo, Deputy Director for the Contra Costa County Department of Conservation and Development who presented a slideshow regarding the findings of Community Choice Energy (CCE) Technical Study commissioned by Contra Costa County.

Mr. Crapo noted Seth Baruch CCE Consultant, Local Energy Aggregation Network (LEAN) Energy US, is in attendance to provide a summary of the findings of the Community Choice Energy Technical Study enabling local governments to procure and/or develop power on behalf of their public facilities, residents and businesses from "green" or renewable energy sources not already served by Marin Clean Energy (MCE). Mr. Crapo advised the County is continuing to take comments through January 31, 2017 and then the Final Technical Study will be presented to the Board of Supervisors and various City Councils in March/April for final decisions and direction. Mr. Carpo advised the purpose of the study was to evaluate Community Choice Energy compared with current electrical service with PG&E on a number or important criteria including electricity and renewable "green energy" sources, greenhouse gas emissions, potential local solar development and potential impact of CCE on local economy. This study compared three (3) different CCE program alternatives: 1. Contra Costa form a new JPA; 2. Join the existing Marin Clean Energy (MCE) or the newly-formed Alameda County JPA, East Bay Community Energy (EBCE); or 3. Continue with existing PG&E service. Mr. Crapo added just today, the County Board of Supervisors expressed its preferred interest in joining an existing CCE program and not starting one of its own.

Mr. Baruch spoke briefly about the comparative analyses of the study looking at historical PG&E rates and forecasting future rates and growth rates and other established CCE programs. Mr. Baruch outlined the advantages of joining MCE as it is an established program that was launched in 2010 and has delivered cleaner energy at lower rates and currently has five (5) Contra Costa County jurisdictions in its membership. Mr. Baruch noted East Bay Community Energy (EBCE) based in Alameda County is a recently-formed CCE Joint Powers Authority which will be having its first meeting in a few weeks; this option may present a ground-floor opportunity for cities wishing to join. He provided some information regarding JPA board voting shares between MCE and EBCE (Simple and Weighted) noting Contra Costa County would have a 61% voting share with MCE whereas the voting share with EBCE could be 52% (Simple) or 34% (Weighted). Mr. Baruch added there are risks to CCE programs focusing on the higher risks such as legislative and regulatory risks, Power Charge Indifference Adjustment "Exit Fee" and Policy uncertainty.

Councilmember Shuey inquired if the City decides to join MCE or CCE would the "exit fee" be payable to PG&E and is it a one-time fee or an on-going fee? Mr. Baruch clarified the exit fee would be collected for as long as PG&E has procured energy on the

City's behalf until those contracts expire, at which time in theory the PCIA fees would go down.

Councilmember Shuey inquired on procured contract length through PG&E? Mr. Baruch advised programs within the CCE have short, medium and long term contracts, and it depends on the contract structure for the power that comprises the CCE customers when they depart, probably ten (10) or fifteen (15) years. The PCIA fee could be $5.00 to $10.00 per month reflected on the consumer's billing statement; even with these exit fees, CCE program rates have still been lower than current PG&E rates.

[Assistant to the City Manager Laura Hoffmeister arrived – 7:44 p.m.]

Mr. Crapo concluded the presentation by announcing upcoming Contra Costa city council presentations and a Public Workshop on January 26 in Danville.

Councilmember Pierce inquired on identifying sites for potential local solar development and if wind is potential source for consideration since the Technical Study summary did not specifically mention such? Mr. Crapo advised wind is definitely a renewable energy source; given the resources and budget for the Technical Study their attention was focused on solar energy. Councilmember Pierce also noted the Board of Supervisors expressed its preference in joining an existing CCE program; did they also express their preference for a Clean Energy Program versus going with PG&E? Mr. Crapo advised the Board of Supervisors was silent on that point and it was not explicitly discussed.

Vice Mayor Haydon inquired on the start-up costs versus forming our own CCE or joining an existing program, indicating on the footnote start-up funds provided by the County and funding cities are likely to be reimbursed by the JPA; how likely would the start-up costs be reimbursed? Mr. Crapo advised in other CCA's the counties funded the program and have been reimbursed through program revenues. The biggest risk is if the program did not launch.

Councilmember Shuey inquired if the City joins a CCE program then decided they did not like it, is there an exit fee? Mr. Baruch advised yes, there will be an exit fee; however, they have not had a jurisdiction join, then leave, to date. It is very likely there would be a fee associated if that were to happen to cover the cost of the power that would have to be sold.

Councilmember Catalano inquired on the time period in which the City needs to make a decision to join or not? Mr. Crapo advised in March/April the various city councils will be given final information to make a decision including the specific terms of membership.

City Manager Napper commented that since the Board of Supervisors has now taken itself out of the lead option, going forward what the County does is irrelevant to the rest of the cities that have not joined a CCA program. For example, the City of Clayton can decide all on its own to join the MCE or EBCE Community Choice Energy JPAs or do nothing and stay with PG&E.

Mayor Diaz opened the item for Public Comment.

Dawn Weisz, CEO of Marin Clean Energy, advised it is difficult to compare an existing program to one that has not formed yet. Currently, MCE is 75% greenhouse gas free with lower rates for its customers, and it offer programs to get local renewable development built in Contra Costa County; MCE is interested in the wind and solar opportunities in this service area and job creation in the community. MCE also offers low income solar rebates having provided about 40 of those in the Contra Costa County in the last few years which enables the projects to complete. MCE's renewable energy portfolio is about twice as large as PG&E's which keeps rates very competitive and affordable; 50% renewable product and 100% renewable products. In addition, MCE offers a Local Solar choice which option allows customers that want their electricity to

come from a solar project within their service territory. Customers can also choose to opt-out of MCE and retain getting power generation from PG&E; but if one does not opt-out, you are getting greener power and paying about the same or less. MCE will be 75% greenhouse gas free this year moving to 100% by 2025 and 80% renewable by 2025. If Clayton decides to join MCE, they will be able to choose an elected official representative to sit on the JPA Board and attend monthly board meetings. MCE has a staff of about 40 with administrative costs of 3% to 5% of its budget.

Jenna Famular, Community Affairs Coordinator, Marin Clean Energy, added a concern of Clayton having the smallest weighted vote representation on the existing JPA Board is not accurate. Clayton would be the sixth smallest member, with two communities in Napa County and three in Marin County being smaller.

Jim Moita, 8117 Marsh Creek Road, noted the frustration he has gone through as a solar developer with a storage facility in Brentwood that is ready to provide a megawatt of power. Mr. Moita has worked with PG&E and it has been very difficult and he has not been able to sell power to PG&E. However, if someone wanted to sell power to MCE you can go to their website and review the power purchase agreement with a term of twenty years. Clayton needs to offer this option to its citizens and businesses.

Dara Salour, Clayton resident, inquired if a solar installation on a residential home using MCE or CCE, would "net metering" be available? Power that is purchased by CCAs is simply purchasing the renewable energy credits or purchasing power and wheeling it through the existing PG&E lines. Ms. Weisz advised MCE has a net energy meter program and the only difference between their program and PG&E is MCE pays more and allows customers to cash-out at the end of the year if they generated more energy than they have used in that year. MCE is purchasing actual energy and there is a list of entities that MCE is purchasing power from with a small percentage bought as renewable energy credits at 0% to 3%; the reason for that flexibility is you never know exactly how much load your customers will be using in the course of the year until the year is over.

Councilmember Pierce indicated she would like to see a little more dollars and cents written down or case studies before making a recommendation.

Mr. Napper indicated the Council will have an opportunity to provide input to the County within the noted time frame. He added a letter was sent out by MCE to all city managers in the county inviting cities to become members and offering a "no-cost" membership in MCE if joining by May 31, 2017. Additionally, should the Council wish to hear more details specific to MCE, he could invite them to return at a separate public meeting and provide additional information.

No Action Taken.

Public Comments

Mayor Diaz introduced Robert Lutzow, Battalion Chief with the Contra Costa Fire Protection District, who is the new Battalion Chief of Contra Costa County Fire at Fire Station No. 11 in Clayton. Chief Lutzow advised he worked at Station No. 22 for many years and when Station 11 was closed he was the person who drove back and forth everyday between the two stations. During that time he became familiar with the City of Clayton and its community events. He advised that Station 11 has now been open full time for two years. In 2016 they ran 358 calls for service in addition to calls to other jurisdictions as needed with an average response time of five (5) minutes and two (2) seconds. Station No. 11 responds to all-risks which means structure fires, EMS, vehicle accidents, water rescue and any hazardous materials that occur in Clayton.

ATTACHMENT 4

Technical Study for Community Choice Energy Program in Contra Costa County

Prepared by:

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With

Economic
Development
Research Group
Boston, MA

Sage Renewables
San Francisco, CA

March, 2017

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List of Acronyms

AAEE	Additional Achievable Energy Efficiency
CAISO	California Independent System Operator
CBA	Collective Bargaining Agreement
CCA	Community Choice Aggregation
CCE	Community Choice Energy
CEC	California Energy Commission
CPUC	California Public Utilities Commission
EE	Energy Efficiency
EBCE	East Bay Community Energy
ESPs	Energy Service Providers
FY	Fiscal Year
GHG	Greenhouse Gas
GRP	Gross Regional Product
GWh	Gigawatt-hour (= 1,000 MWhs)
IOU	Investor-Owned Utility
I/T	Information Technology
JEDI	Jobs and Economic Impact (model)
JPA	Joint Powers Authority
kWh	Kilowatt-hour
MW	Megawatt
MWh	Megawatt-hour
NREL	National Renewable Energy Laboratory
PCIA	Power Charge Indifference Adjustment
PEIR	Programmatic Environmental Impact Report
PG&E	Pacific Gas & Electric
REC	Renewable Energy Credit
REMI	Regional Economic Modeling Inc
RPS	Renewable Portfolio Standard
SB 350	Senate Bill 350
TURN	The Utility Reform Network

Executive Summary

Main Findings

1. This study finds that the jurisdictions in Contra Costa County studied[1] in this report have several options for implementing a Community Choice Energy (CCE) program that would likely result in lower greenhouse gas (GHG) emissions, increased local renewable energy generation, and increased local job creation compared to remaining with current electricity service from the Pacific Gas and Electric Company (PG&E).

2. The electricity rates charged under various CCE scenarios available to the jurisdictions covered in this study would likely be similar or less than the rates charged by PG&E for comparable service. The degree to which CCE rates are reduced below comparable PG&E rates depends in large part on the extent to which the CCE pursues policy objectives other than rate minimization in its energy procurement practices. Competing policy objectives may include increasing the supply of locally generated renewable energy, promoting energy efficiency, and maximizing local employment generated from a CCE program.

3. This study finds that Contra Costa County includes enough technically feasible locations to meet a significant proportion of electricity demand for the area studied through locally generated renewable energy. Forty percent of the technically feasible sites fall within the Northern Waterfront Economic Development Initiative area.

4. The implementation of a CCE program within the studied area is projected to create between 500 and 700 new jobs within Contra Costa County compared to remaining with current PG&E service, depending on the CCE option implemented.

5. This study compares three CCE program alternatives to current PG&E service and identifies the tradeoffs associated with these four alternatives. The decision of which program alternative to implement will require policy makers to balance costs and potential risks and benefits of each option, which are described in detail.

Purpose of this Study

Community Choice Energy is described in State law as "Community Choice Aggregation." California Assembly Bill 117, passed in 2002, established Community Choice Aggregation in California to provide the opportunity for local governments or special jurisdictions to procure or provide electric power for their residents and businesses. On March 15, 2016, the Contra Costa County (County) Board of Supervisors directed County staff to work with cities within the County to obtain electrical load data from PG&E for conducting a technical study of options for

[1] The communities constituting the "Contra Costa CCE" throughout the report are Antioch, Brentwood, Clayton, Concord, Danville, Hercules, Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, San Ramon, and unincorporated County. They do not include those communities already being served by the Community Choice Aggregator, MCE (El Cerrito, Lafayette, Richmond, San Pablo, and Walnut Creek).

implementing CCE within the County's unincorporated area and the 14 cities within the County not currently participating in a CCE program. The Board of Supervisors further directed the CCE technical study to compare alternatives for implementing CCE (i.e., establishing a Contra Costa County-Only CCE or joining one of the neighboring CCEs – MCE, formerly Marin Clean Energy, or East Bay Community Energy) to the option of remaining with PG&E.

To assess whether a stand-alone CCE is "feasible" in Contra Costa County, the local objectives must be laid out and understood. Based on the specifications of the initial request for proposals and input from the County, this study:

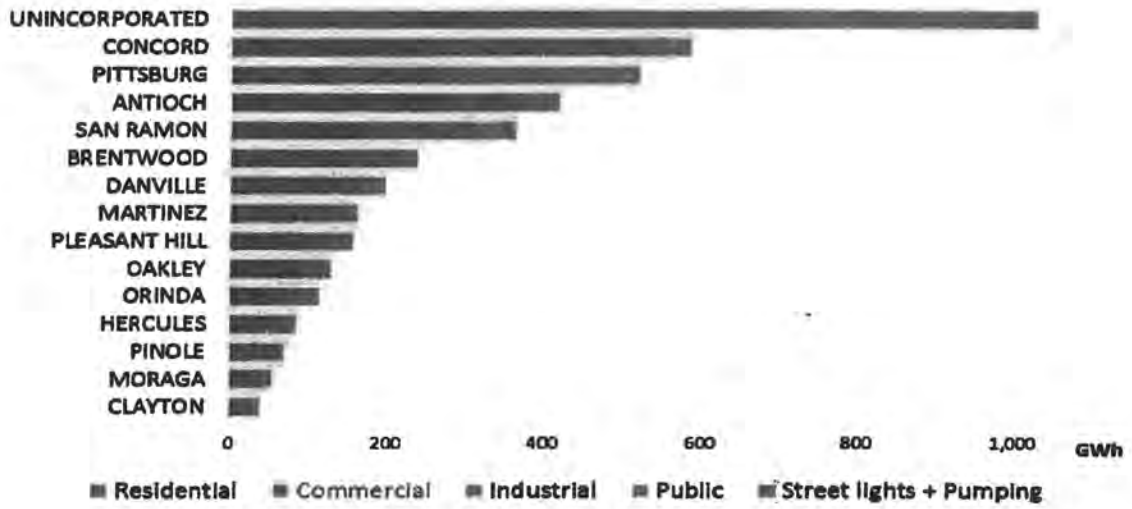
- Quantifies the electric loads that a Contra Costa County CCE would serve;
- Includes analysis of in-county renewable generation;
- Compares the rates that could be offered by the CCE to PG&E's rates;
- Calculates the macroeconomic development and employment benefits of CCE formation; and
- Compares the benefits and risks of forming a CCE or joining a neighboring CCE versus remaining on PG&E bundled service.

Loads and Forecast

Figure ES-1 provides a snapshot of Contra Costa County bundled electric load in 2015 by city and by rate class.[2] As the figure shows, total bundled electricity load in 2014 from Contra Costa County was approximately 4,000 GWh. The unincorporated areas of the County represented 25% of County load, and the cities of Concord and Pittsburg were together responsible for another 25%. Residential and commercial customers made up most the County load, with smaller contributions from the industrial and public sectors.

[2] "Bundled" load includes only load for which PG&E supplies the power; it excludes load from Direct Access customers, load in the jurisdiction of another CCE provider, and load met by customer self-generation. This excludes load originating in the cities of El Cerrito, Lafayette, Richmond, San Pablo, and Walnut Creek, which are served by MCE.

Figure ES-1. PG&E's 2015 Bundled Load in Contra Costa County



CCE Power Supplies

The CCE's primary function is to procure supplies to meet the electrical loads of its customers. By law, the CCE must also supply a certain portion of its sales to customers from eligible renewable resources. This Renewable Portfolio Standard (RPS) requires 33% renewable energy supply by 2020, increasing to 50% by 2030. The CCE may additionally choose to source a greater share of its supply from renewable sources than the minimum requirements, or may seek to otherwise reduce the environmental impact of its supply portfolio. The CCE may also use its procurement function to meet other objectives, such as sourcing a portion of its supply from local projects to promote economic development in the County. The four supply scenarios considered in this analysis are summarized in Table ES-1.

Table ES-1: Four Scenarios Modeled[3]

Scenario:	1	2	3	4
% RPS-Eligible in 2020	33%	50%	33%	50%
% RPS-Eligible in 2030	50%	80%	50%	80%
Share of RPS-Eligible from Local Resources	0%	0%	50%	50%

[3] Customer-sited solar is not considered RPS-eligible in California and is not included in the RPS procurement in these scenarios. Customer-sited solar is incorporated in this analysis as a reduction to the CCE's load.

Local Renewable Development

The CCE may choose to contract with or develop renewable projects within Contra Costa County to promote economic development or reap other benefits. This study found 1,395 parcels that met the established criteria and 1,875 individual sites within the identified parcels where either a solar shade structure, large rooftop, or ground mounted system could be developed. Table ES-2 shows the total solar PV generation capacity within the County based on the methodology and assumptions in Chapter 3.

Table ES-2. Total PV Solar Generation Potential and Build Cost

	Ground Mount	Shade Structure	Roof Mounted	Total
PV Capacity (MW)	1,891	1,320	144	3,355
PV Production (GWh)	3,025	2,113	230	5,369
Build Cost ($ Millions)	$3,417	$3,977	$371	$7,660
Build Cost ($/Watt)	$1.99	$3.10	$2.62	$2.56
No of PV Systems	845	886	144	1,875

CCE Rate Analysis Results

Scenarios 1 and 3 (Simple Renewable Compliance)

In Scenario 1, the CCE meets the mandated 33% RPS requirement in 2020 and the 50% RPS requirement in 2030, plus the 55% proposed target between 2030 and 2038. Annual GHG emissions are 50% lower on average than PG&E's forecasted annual GHG emissions by assuming a fraction of the non-RPS power is provided by large hydroelectric resources.

Figure ES-2 summarizes the results of Scenario 1. The figure shows the total average cost of the Contra Costa County CCE to serve its customers (vertical bars) and the comparable PG&E generation rate (line).[4] Of the CCE cost elements, the greatest cost is for non-renewable generation (including large hydroelectric), followed by the cost for renewable generation, which increases over the years per the RPS requirements. Another important CCE customer cost is the Power Charge Indifference Adjustment (PCIA), which is the mandated charge that State regulators require PG&E to impose on all CCE customers.[5]

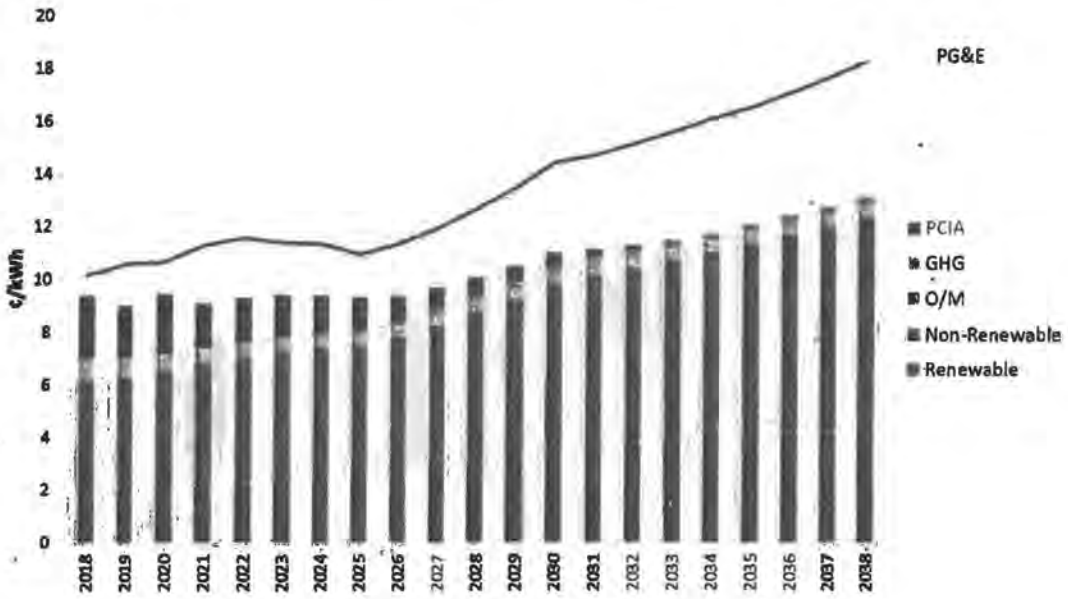
[4] All rates are in nominal dollars. Note that these are NOT the full rates shown on PG&E bills. They are only the generation portion of the rates. Other parts of the rate, such as transmission and distribution, are not included, as customers pay the same charges for these components regardless of who is providing their power.

[5] Per current regulations, the PCIA fee is expected to decrease in most years beginning in 2019 and to have less of an impact on CCE customer rates over time as resources expire from PCIA eligibility for CCE customers. However, given that PCIA regulations are subject to change, the possibility that PCIA rates may not decrease as expected is considered in the High PCIA scenario.

Under Scenario 1, the differential between PG&E generation rates and the average cost for the Contra Costa County CCE to serve its customers (*aka* the CCE rates) is positive in each year (i.e., CCE rates are lower than PG&E rates). As a result, Contra Costa County CCE customers' average generation rate (including contributions to the CCE's reserve fund) can be set at a level that is lower than PG&E's average customer generation rate in each year.

Scenario 3 is the same as Scenario 1 except that by 2028 one-half of the renewable power is provided by local resources. The differential between PG&E generation rates and Contra Costa County CCE customer rates in Scenario 3 is lower than in Scenario 1; the expected Contra Costa County CCE rates continue to be lower than the forecast PG&E generation rates for all years from 2018 to 2038.

Figure ES-2. Scenario 1 Forecast Average CCE Cost and PG&E Rates, 2018-2038



Scenarios 2 and 4 (Accelerated RPS)

Under Scenario 2, the Contra Costa County CCE starts with 50% of its load being served by renewable sources in 2017, and increases this at a quick pace to 80% renewable energy content by 2030. Scenario 4 is the same as Scenario 2 except that by 2027 one-half of the renewable power is provided by local resources.

The differential between PG&E generation rates and Contra Costa County CCE customer rates in Scenarios 2[6] and 4 is narrower than in Scenarios 1 and 3. Still, the expected Contra Costa County CCE rates continue to be lower on average than the forecast PG&E generation rates for all years from 2018 to 2038. However, for Scenario 4—very high local renewable penetration—

[6] After 2033, the Contra Costa County CCE rates are lower for Scenario 2 than Scenario 1.

the modeling suggests that the CCE might not be able to beat PG&E rates in the 2025-2030 timeframe. (See Chapter 3 for details).

Greenhouse Gas Emissions

Under Scenarios 1 and 3, we include enough GHG-free hydroelectric power so that the Contra Costa County CCE's GHG emissions rate is about half of PG&E's GHG emissions rate. This requires using large hydroelectric power for 35% of the CCE's generation portfolio, on average, from 2018 to 2038. Though this large hydroelectric power would not qualify for RPS requirements, it is considered a non-GHG emitting resource.[7] Under Scenarios 2 and 4 these additions of large hydro power are not needed once the high renewable targets are met. The result is a portfolio that averages 20% large hydro from 2018 to 2038.

Tables ES-4 shows GHG emissions from 2018-2038 for the Contra Costa County CCE in each Scenario and what PG&E's emissions would be for the same load if no CCE were formed. Overall, the CCE is projected to reduce GHG emissions from the County by about half. This result is due in large part to not only the assumed renewable generation, but also the hydroelectric power assumed to be part of the CCE's supply mix.

Note that the analysis assumes "normal" hydroelectric output for PG&E. During the drought years, PG&E's hydro output has been at about 50% of normal, and the utility has made up these lost megawatt-hours through additional gas generation. This means that the "normal" PG&E emissions shown here are lower than the "current" emissions. If, as is expected by many experts, the recent drought conditions are closer to the "new normal", then PG&E's GHG emissions in the first 8 years would be approximately 30% higher. Depending on whether the CCE were similarly affected by limited hydroelectric supply, the CCE's emissions may increase as well.

Table ES-4. Comparative GHG total emissions for PG&E and Contra Costa CCE

GHG emissions	PG&E (KTonnes)[8]	Contra Costa CCE (KTonnes)	Savings (%)
Scenario 1	5,882	2,957	50%
Scenario 2	5,882	2,693	54%
Scenario 3	5,882	2,957	50%
Scenario 4	5,882	2,693	54%

[7] While there is a limited supply of uncontracted large hydroelectric power, other operating CCEs have been successful in procuring this resource. To account for the limited supply, we added a 10% premium to the cost of this power.

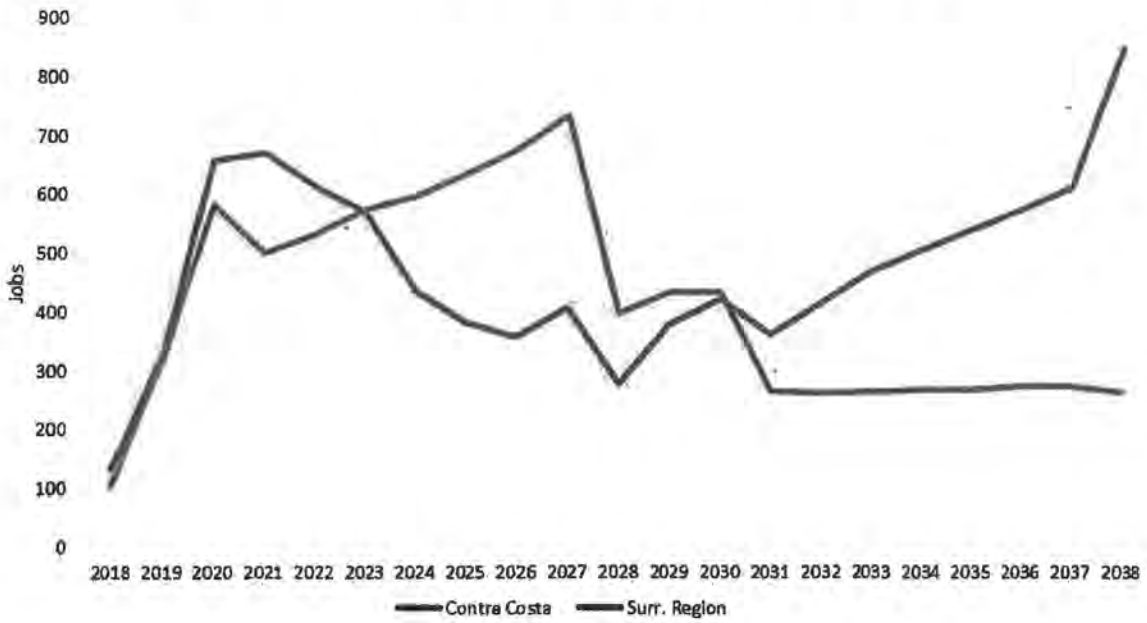
[8] Thousands of metric tons.

Macroeconomic and Job Impacts

The local economic development and jobs impacts for the four scenarios were analyzed using the dynamic input-output macroeconomic model developed by Regional Economic Models, Inc. (REMI). The model accounts for not only the impact of direct CCE activities (e.g., local project installations for two of the four scenarios, program administration), but also how the rate savings that County households and businesses might experience with a CCE ripple through the local economy, creating more jobs and regional economic growth.

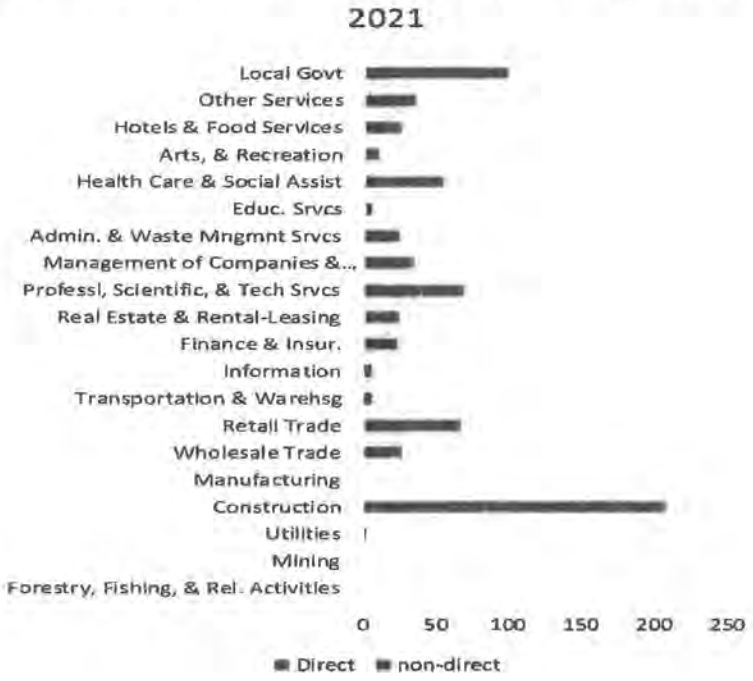
A CCE can also offer positive economic development and employment benefits to the County. The CCE could create approximately 500 to 700 additional annual jobs on average in the County plus an additional 50 to 400 jobs in the neighboring counties, depending on the scenario. The job impacts include not just the stimulus from program-related effects but jobs resulting from *multiplier effects* and *competitiveness effects.* Scenario 4 – with the smallest of *net* rate savings for the County's electric customers contains the largest investment for small solar across the local economy. Figure ES-3 illustrates this through high-level results expressed as annual job changes for the Scenario 4.

Figure ES-3. Scenario 4 Regional Annual Jobs Impacts, 2018 to 2038



The economic activity generated by the CCE results in incremental employment in a variety of sectors. Figure ES-4 shows the estimated job impacts (direct and indirect) by sector for Scenario 4 in 2021 (the year in which the CCE's assumed solar investment is maximum).

Figure ES-4. Contra Costa Job Impacts by Sector Scenario 4, 2021



Comparative Analysis of CCE Options

Having the County and cities within the County form their own Joint Powers Authority (JPA) and CCE Program is not the only possibility for CCE participation. First, the County and/or its cities may join MCE (formerly Marin Clean Energy). In fact, five cities in the County—El Cerrito, Lafayette, Richmond, San Pablo, and Walnut Creek—are already members of MCE. These cities joined between 2012 and 2016, and have full standing on MCE's board of directors. Second, the County and/or its cities could join East Bay Community Energy (Alameda County, EBCE). While this CCE has just been formed—the JPA board met for the first time in January 2017—it intends to begin delivery of power in early 2018. Furthermore, the County and each city need not join one or the other CCE *en masse*, but instead can join one or the other CCEs individually (or neither).

Table ES-5 below provides a qualitative summary of the differences and similarities among these options. While a quantitative comparison would appear to provide more rigor, in this case it would provide only false precision. First and foremost, two of the potential CCE options are with entities which, while potentially viable, do not yet exist. Without power contracts, portfolios, or procurement guidelines and policies, it would be unwise to claim that EBCE or a potential Contra Costa-only CCE would have rates or greenhouse gas emissions higher or lower than the other. Comparisons against MCE can be somewhat more reasonably asserted; however, MCE's stated goals—greater renewable energy content, lower greenhouse gas emissions, local generation, and comparable rates—are nearly identical to those stated by EBCE, making long-range rate and emissions distinctions immaterial. Thus, the qualitative comparisons provided in

the table do not provide sharp distinctions between the CCE options.[9] All these options are expected to provide similar rates and GHG emissions, with differences arising from variations in the priorities and procurement decisions of the individual governance boards. What truly distinguishes these options are primarily governance options (i.e., in-county only versus shared with other entities) and the amount of risk assumed (i.e., developing or signing on with a new CCE versus joining one with a record of satisfactory performance).

Table ES-5. Comparison of Contra Costa CCE Options

Criterion	Form CCCo JPA	Join MCE	Join EBCE	Stay with PG&E
Rates	Likely lower	Likely Lower	Likely Lower	Base
GHG Reduction Potential Over Forecast Period	Some	Some	Some	Base
Local Control/Governance	Greatest	Some	Some	None
Local Economic Benefit Potential	Greatest	Some	Some	Minimal
Start Up Costs/Cost to Join	Low, but greater risk[10]	None	None	None
Level of Effort	Greatest	Minimal	Greater	None
Program Risks	Greatest	Minimal	Some	Base
Timing (earliest)	Late-2018	Late-2017	Mid-2018	N/A

[9] Differences between the CCE options and the option to stay with PG&E are more marked and better quantifiable, given that information on PG&E's power portfolios, procurement plans, and costs are at least partially available through various filings and applications PG&E has made before the CPUC. The comparisons provided above between the CCE's rates and PG&E's rates takes advantage of this information and market data on power procurement costs to develop quantitative comparisons between the CCE and PG&E options.

[10] Start-up costs incurred by the County or others are likely to be reimbursed by the JPA.

Conclusions

Overall, a CCE in Contra Costa County appears feasible. Given current and expected market and regulatory conditions, a Contra Costa County CCE should be able to offer its residents and businesses electric rates that are less than those available from PG&E.

Sensitivity analyses suggest that these results are relatively robust. Only when very high amounts of local renewable energy are assumed in the CCE portfolio, combined with other negative factors such as higher PCIA rates, higher prices for local renewable power, or lower PG&E costs, do PG&E's rates become consistently more favorable than the CCE's.

A Contra Costa County CCE would also be well positioned to help facilitate greater amounts of renewable generation to be installed in the County. Because the CCE would have a much greater interest in developing local solar than PG&E, it is much more likely that such development would occur with a CCE in the County than without it.

The CCE can also reduce the amount of greenhouse gases emitted in the County if the CCE prioritizes this goal. Because PG&E's supply portfolio has significant carbon-free generation (from large hydroelectric and nuclear generators), the CCE would need to contract for significant amounts of hydroelectric or other carbon-free power above and beyond the required qualifying renewables to reduce the County's GHG footprint from electricity use. This analysis assumes that the CCE procures enough GHG-free generation to halve PG&E's GHG emissions rate, subject to constraints on the minimum share of market supplies in the CCE portfolio.

A CCE can also offer positive economic development and employment benefits to the County. At the peak, the CCE could create approximately 500 to 700 new jobs in the County plus additional jobs in neighboring counties. What may be surprising is that many of the economic benefits can come from reduced rates: residents and, more importantly, businesses can spend and reinvest their bill savings, and thus generate greater economic impacts.

While the analytical focus of this report has been on a stand-alone Contra Costa County CCE, that is not the only choice for Contra Costa communities (not already in MCE). Overall, there is insufficient data to suggest that a stand-alone Contra Costa CCE would offer lower rates or greater GHG savings than joining MCE or EBCE. Either forming or joining a CCE would likely offer modestly lower rates, more local economic development, and similar or lower GHG emissions than remaining with PG&E. Joining MCE would likely result in the quickest and least risky path to CCE implementation, however at a loss of local input into CCE policy formation. Because it has yet to be formed, joining with EBCE would take longer than joining the already-established MCE, but would offer greater input into the CCE's policies and formation.

Although all the CCE program options available to the jurisdictions studied would likely provide both environmental and economic benefits compared to PG&E, continuing service from PG&E remains an option for not only a community but also for any individual or business whose community has selected CCE service. PG&E is an experienced power provider and is regulated by the State. Furthermore, remaining with PG&E does not require the jurisdiction to take any action. Lastly, simply because a Contra Costa community does not join a CCE in 2017 or 2018 does not necessarily preclude it from doing so in the future, although waiting may result in an "entry fee" or perhaps a higher PCIA rate.

Chapter 1: Introduction

On March 15, 2016, the Contra Costa County (County) Board of Supervisors directed County staff to work with cities within the County to obtain electrical load data from the Pacific Gas and Electric Company (PG&E) for the purpose of conducting a technical study of options for implementing Community Choice Energy (CCE) within the County's unincorporated area and the 14 cities within the County not currently participating in a CCE program. The Board of Supervisors further directed the CCE technical study to compare the following alternatives for implementing CCE to the option of remaining with current electrical service from PG&E:

1. Form a new Joint Powers Authority (JPA) of the County and interested cities within Contra Costa County for the purpose of CCE;

2. Form a new JPA in partnership with Alameda County and interested cities in both counties; and

3. Join the existing CCE program initiated in Marin County, known as Marin Clean Energy (MCE).

The County and the 14 Contra Costa cities not currently participating in a CCE program all authorized the collection of load data from PG&E for this technical study. In addition, the County and the cities of Brentwood, Clayton, Concord, Martinez, Pleasant Hill, Pittsburg, and San Ramon, and the Towns of Danville and Moraga, contributed funding for the completion of this study.

What is a CCE?

California Assembly Bill 117, passed in 2002, established Community Choice Aggregation (also known as Community Choice Energy or "CCE") in California, for the purpose of providing the opportunity for local governments or special jurisdictions to procure or provide electric power for their residents and businesses.

Under existing rules administered by the California Public Utilities Commission (CPUC), PG&E must use its transmission and distribution system to deliver the electricity supplied by a CCE in a non-discriminatory manner. That is, it must provide these delivery services at the same price and at the same level of reliability to customers taking their power from a CCE as it does for its own full-service customers. By state law, PG&E also must provide all metering and billing services such that customers receive a single electric bill each month from PG&E, which would differentiate the charges for generation services provided by the CCE from the charges for PG&E delivery services. Money collected by PG&E on behalf of the CCE must be remitted in a timely fashion (e.g., within 3 business days).

As a power provider, the CCE must abide by the rules and regulations placed on it by the State and its regulating agencies, such as maintaining demonstrably reliable supplies, fully cooperating with the State's power grid operator, and meeting renewable procurement requirements. However, the State has no rate-setting authority over the CCE; the CCE may set rates as it sees fit so as to best serve its constituent customers.

Per California law, when a CCE is formed all the electric customers within its boundaries will be placed, by default, onto CCE service. However, customers retain the right to return to PG&E service at will, subject to whatever administrative fees the CCE may choose to impose.

California currently has five active CCE Programs: MCE, serving Marin County and selected neighboring jurisdictions, including five cities in Contra Costa County; Sonoma Clean Power, serving Sonoma County; CleanPowerSF, serving San Francisco City and County; Peninsula Clean Energy, serving San Mateo County; and Lancaster Choice Energy, serving the City of Lancaster (Los Angeles County). Numerous other local governments are also investigating CCE formation, including Alameda County; Los Angeles County; Monterey Bay region; Santa Barbara, San Luis Obispo and Ventura Counties; ; the City of Davis and Yolo County; and Humboldt County to name a few.

Assessing CCE Feasibility

In order to assess whether a CCE is "feasible" in Contra Costa County, the local objectives must be laid out and understood. Based on the specifications of the initial request for proposals and input from the County, this study:

- Quantifies the electric loads that a Contra Costa County CCE would serve;
- Estimates the costs to start-up and operate the CCE;
- Considers four scenarios with differing assumptions concerning the amount of GHG-free power and local renewable power being supplied to the CCE so as to assess the costs, greenhouse gas emissions reductions, and local economic development opportunities possible with the CCE;
- Includes analysis of in-county renewable generation;
- Compares the rates that could be offered by the CCE to PG&E's rates;
- Quantitatively explores the rate competitiveness of the four scenarios to key input variables, such as the cost of natural gas;
- Calculates the macroeconomic development and employment benefits of CCE formation; and
- Compares the benefits and risks of forming a CCE or joining a neighboring CCE versus remaining on PG&E bundled service.

For comparison, the differences in the results between this study and that conducted for Alameda County will be described and underlying reasons explained.

The communities constituting the "Contra Costa CCE" in this study are: Antioch, Brentwood, Clayton, Concord, Danville, Hercules, Martinez, Moraga, Oakley, Orinda, Pinole, Pittsburg, Pleasant Hill, San Ramon, and unincorporated County. They do not include the communities already being served by the Community Choice Energy provider MCE (El Cerrito, Lafayette, San Pablo, Richmond and Walnut Creek).

This study was conducted by MRW & Associates, LLC (MRW). MRW was assisted by Sage Renewables, which conducted the local renewable energy potential study, and by Economic Development Research Group, which conducted the macroeconomic and jobs analysis contained in the study.

This study is based on the best information available at the time of its preparation, using publicly available sources for all assumptions to provide an objective assessment regarding the prospects of CCE operation in the County. It is important to keep in mind that the findings and recommendations reflected herein are substantially influenced by current market conditions within the electric utility industry, which are subject to sudden and significant changes.

Chapter 2: Economic Study Methodology and Key Inputs

This Chapter summarizes the key inputs and methodologies used to evaluate the cost-effectiveness and cost-competitiveness of a Contra Costa CCE relative to PG&E under different scenarios.[11] It considers the regulatory requirements that a Contra Costa County CCE would need to meet (e.g., compliance with renewable portfolio standard (RPS) requirements), the resources that the County has available or could obtain to meet these requirements, and the PG&E rates against which the CCE would compete. It also describes the pro forma analysis methodology that is used to evaluate the financial feasibility of the CCE.

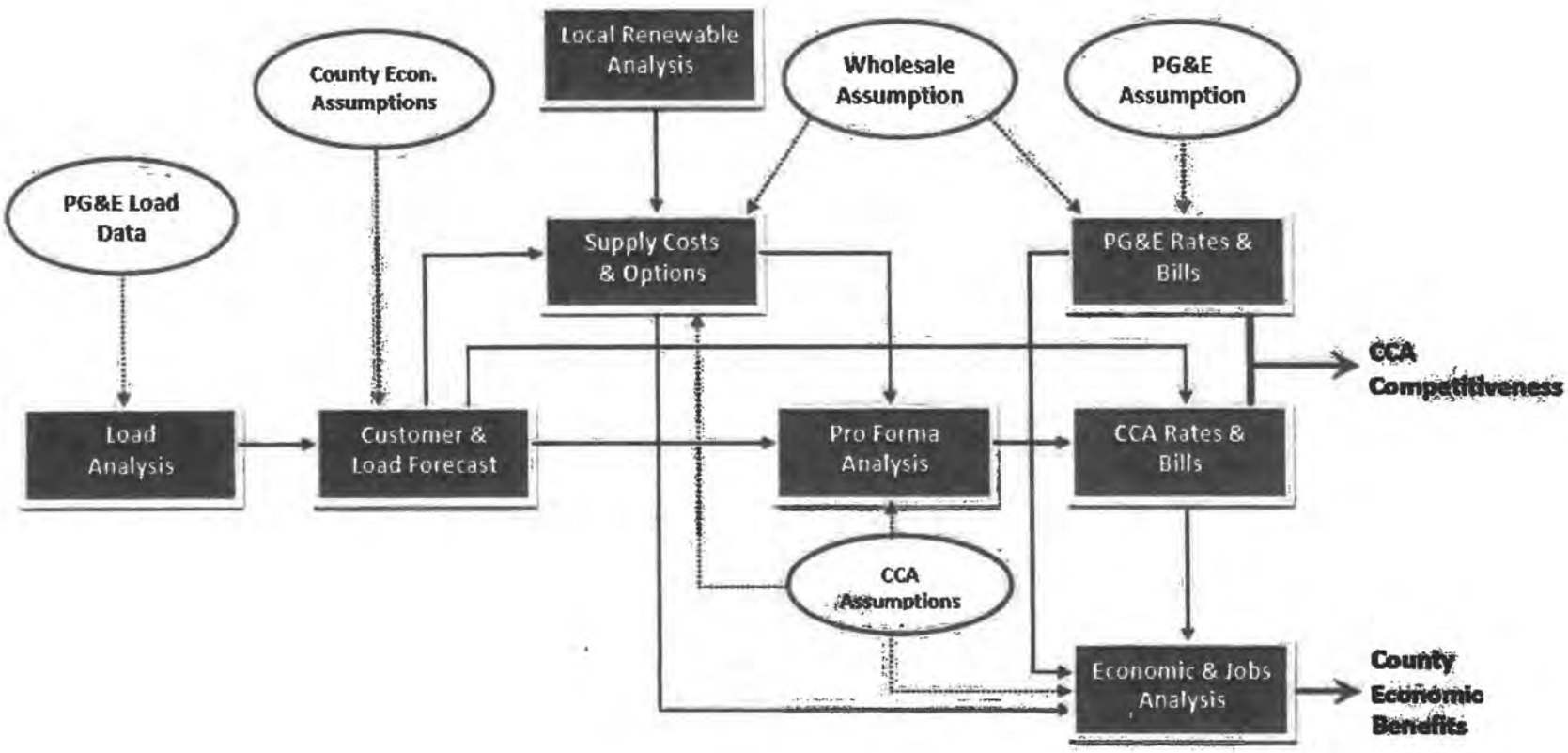
The load and rate forecasts go out twenty years—through 2038. While all forecasting contains an element of uncertainty, the years beyond 2030 are particularly uncertain and should be seen as broadly indicative and not predictive.

Understanding the interrelationships of all the tasks and using consistent and coherent assumptions throughout are critical to developing a meaningful analysis. Figure 1 shows the analysis elements (blue boxes) and major assumptions (red ovals) and how they relate to each other. As the figure illustrates, there are numerous interrelationships between the tasks. For example, the load forecast is a function of not only the load analysis, but also of projections of economic activity in the County.

Two important points are highlighted in this figure. First, it is critical that wholesale power market assumptions are consistent between the CCE and PG&E. While there are reasons that one might have lower or higher costs than the other for a particular product (e.g., CCEs can use tax-free debt to finance generation projects while PG&E cannot), both will participate in the wider Western U.S. gas and power markets and therefore will be subject to the same underlying market forces. Applying different power cost assumptions to the CCE than to PG&E, such as simply escalating PG&E rates while deriving the CCE rates using a bottom-up approach, would produce erroneous results. Second, virtually all elements of the analysis feed into the economic and jobs assessment. As is described in detail in Chapter 5, this Study uses a state-of-the art macroeconomic model that can account for numerous activities in the economy, which allows for a much more comprehensive—and accurate—assessment than a simple input-output model.

[11] The relative costs and merits of joining CCEs in neighboring counties are addressed in Chapter 7.)

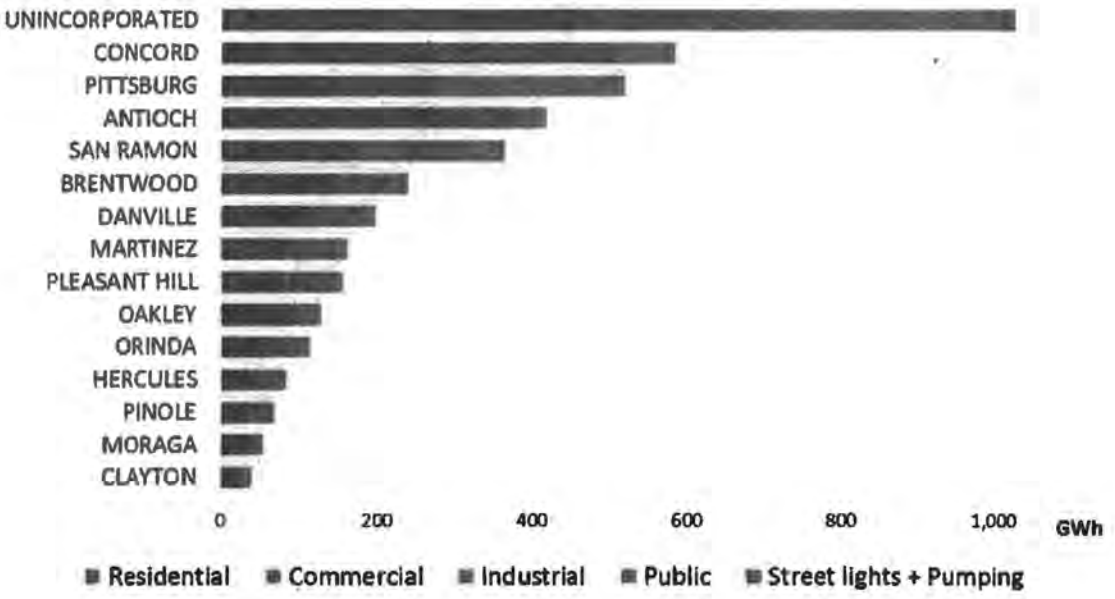
Figure 1. Task Map



Contra Costa County Loads and CCE Load Forecasts

MRW used PG&E bills from 2015 for all PG&E bundled service customers within the Contra Costa County region as the starting point for developing electrical load and peak demand forecasts for the Contra Costa County CCE program.[12] Figure 2 provides a snapshot of Contra Costa County bundled load in 2015 by city and by rate class. PG&E's total electricity load in 2015 from these customers was approximately 4,000 GWh.[13] The unincorporated areas of the County represented 25% of County load, and the cities of Concord and Pittsburg were together responsible for another 25%. Residential and commercial customers made up most of the County load, with smaller contributions from the industrial and public sectors (Figure 3). This same sector-level distribution of load is also apparent at the jurisdictional level for most cities (Figure 2), except for the City of Pittsburg, which has a significant industrial-sector footprint.

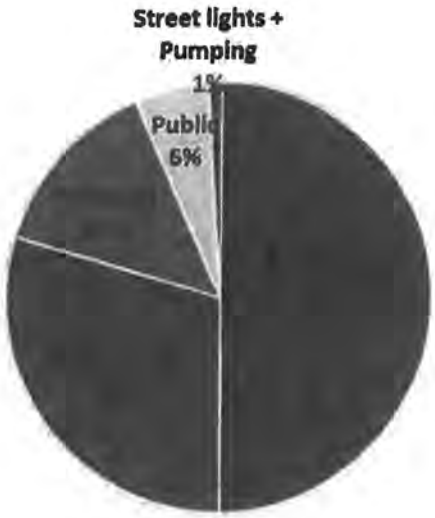
Figure 2. PG&E's 2015 Bundled Load in Contra Costa County by Jurisdiction and Rate Class



[12] Detailed monthly usage data provided by PG&E to Contra Costa County. "Bundled" load includes only load for which PG&E supplies the power; it excludes load from Direct Access customers, load in the jurisdiction of another CCE provider, and load met by customer self-generation. This excludes load originating in the cities of El Cerrito, Lafayette, Richmond, San Pablo, and Walnut Creek, which are served by MCE.

[13] As determined from bill data provided by PG&E.

Figure 3. PG&E's 2015 Bundled Load in Contra Costa County by Rate Class



To estimate CCE loads from PG&E's 2015 bundled loads, MRW assumed a CCE participation rate of 85% (i.e., 15% of customers opt to stay with PG&E) and a three-year phase in period from 2018 to 2020, with 33% of potential CCE load included in the CCE in 2018, 67% in 2019, and 100% in 2020. To forecast CCE loads through 2038, MRW used a 0.4% annual average growth rate, consistent with the California Energy Commission's most recent electricity demand forecast for PG&E's planning area.[14] The CCE load forecast is summarized in Figure 4, which shows annual projected CCE loads by class.

To estimate the CCE's peak demand in 2015,[15] MRW multiplied the load forecast for each customer class by PG&E's 2015 hourly ratio of peak demand to load for that customer class.[16] MRW extended the peak demand forecast to 2038 using the same growth rates used for the load forecast. The peak demand forecast is summarized in Figure 5.

[14] California Energy Commission. Form 1.1c California Energy Demand Updated Forecast, 2015 - 2025, Mid Demand Baseline Case, Mid AAEE Savings. January 20, 2015 http://www.energy.ca.gov/2014_energypolicy/documents/demand_forecast_cmf/LSE_and_BA/

[15] Peak demand is the maximum amount of power the CCE would use at any time during the year. It is measured in megawatts (MW). The CCE must have enough power plants on (or contracted with) at all times to meet 115% of the expected peak demand.

[16] Data obtained from PG&E's dynamic load profiles for Public, Industrial, Commercial, and Residential customers (https://www.pge.com/nots/rates/tariffs/energy_use_prices.shtml) and static load profiles for Pumping and Streetlight customers (https://www.pge.com/nots/rates/2016_static.shtml#topic2).

Figure 4: CCE Load Forecast by Class, 2018-2038[17]

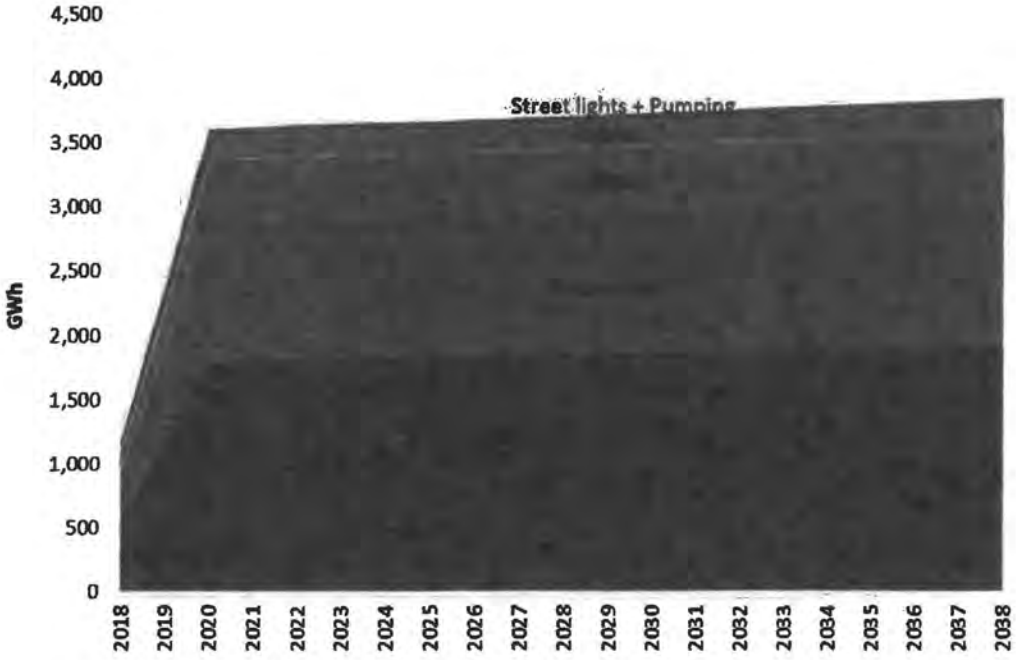
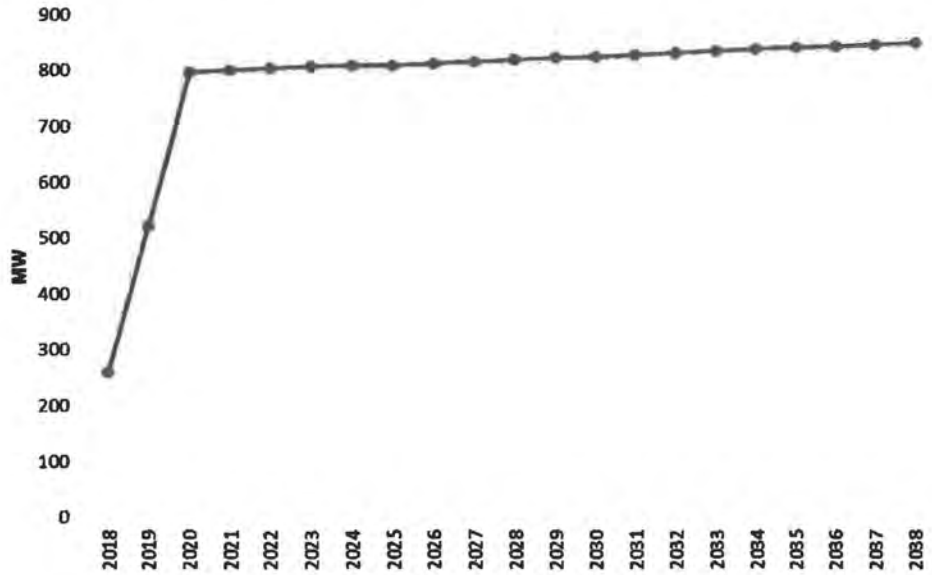


Figure 5. CCE Peak Demand Forecast, 2017-2038



[17] Load forecasted assumes 85% participation and three-year phase-in.

CCE Supplies

The CCE's primary function is to procure supplies to meet the electrical loads of its customers. This requires balancing energy supply and demand on an hourly basis. It also requires procuring generating capacity (i.e., the ability to provide energy when needed) to ensure that customer loads can be met reliably.[18] In addition to meeting the energy and capacity needs of its customers, the CCE must meet other procurement objectives. By law, the CCE must supply a certain portion of its sales to customers from eligible renewable resources. This Renewable Portfolio Standard (RPS) requires 33% renewable energy supply by 2020, increasing incrementally to 50% by 2030. According to PG&E's Diablo Canyon nuclear plant retirement application, PG&E may commit to purchasing additional renewable supply, targeting up to 55% of the total generation between 2030 and 2038, which the CCE would presumably at least match. The CCE may additionally choose to source a greater share of its supply from renewable sources than the minimum requirements, or may seek to otherwise reduce the environmental impact of its supply portfolio. The CCE may also use its procurement function to meet other objectives, such as sourcing a portion of its supply from local projects to promote economic development in the County.

The Contra Costa County CCE would be taking over these procurement responsibilities from PG&E for those customers who do not opt out of the CCE to remain bundled customers of PG&E. To retain customers, the CCE's offerings and rates must compete favorably with those of PG&E.

The CCE's specific procurement objectives, and its strategy for meeting those objectives, will be determined by the CCE through an implementation plan, startup activities, and ongoing management of the CCE. A primary purpose of this portion of the study is to assess the feasibility of establishing a CCE to serve Contra Costa County based on a forecast of costs and benefits. This forecast requires making certain assumptions about how the CCE will operate and the objectives it will pursue. To address the uncertainty associated with these assumptions, we have evaluated four different supply scenarios and have generally made conservative assumptions about the ways in which the CCE would meet the objectives discussed above. In no way does this study prescribe actions to be taken by the CCE should one be established.

The four supply scenarios that we considered in this analysis are summarized in Table 1 and are described as follows:

1. **Minimum RPS Compliance:** The CCE meets the mandated 33% RPS requirement in 2020 and the 50% RPS requirement in 2030, plus the 55% RPS target after 2030. Annual GHG emissions from the CCE portfolio are halved relative to PG&E's bundled portfolio

[18] The California Public Utilities Commission requires that CCEs and other load serving entities demonstrate that they have procured resource adequacy capacity to meet at least 115% of their expected peak load. Because Contra Costa County falls within the Greater Bay Area Local Reliability Area, the Contra Costa County CCE must also meet its share of local resource adequacy requirements.

through the addition of large hydroelectric power purchases, subject to a constraint that 5% of the CCE supply come from non-renewable market sources.[19,20]

2. **Accelerated RPS:** The CCE's supply portfolio is set at 50% RPS in the first year and increases to 80% RPS by 2030. As in Scenario 1, the remaining supply is a mix of hydroelectric power and market purchases aimed at halving PG&E's annual emissions subject to a 5% minimum supply from market purchases.

3. **Minimum RPS Compliance plus Local:** The CCE meets the mandated 33% RPS requirement in 2020 and the 50% RPS requirement in 2030, plus the 55% RPS target after 2030. In addition, 50% of the total RPS generation is provided by local resources by 2030. Large hydroelectric and market supplies, and thus GHG emissions, are the same as in Scenario 1.

4. **Accelerated RPS plus Local:** The CCE's supply portfolio is set at 50% RPS in the first year and increases to 80% RPS by 2030. In addition, 50% of the total RPS generation is provided by local resources by 2030. Large hydroelectric and market supplies, and thus GHG emissions, are the same as in Scenario 2.

Table 1: RPS-Eligible Procurement and GHG Emissions in Each Scenario[21]

	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Percent RPS-Eligible in 2020	**33%**	50%	**33%**	50%
Percent RPS-Eligible in 2030	**50%**	80%	50%	80%
Share of RPS-Eligible from Local Resources	0%	0%	50%	50%
GHG Emissions compared to PG&E	50% Lower	54% Lower	50% Lower	54% Lower

[19] For all scenarios we assume a minimum 5% non-renewable market supply to reflect operating constraints that require flexible, dispatchable generation on the system and in local areas. The CCE may be able to reduce emissions further through the use of energy storage or other measures to reduce the need for non-renewable power supplies, likely at additional cost.

[20] The availability and cost risks of large hydropower are discussed in Chapter 6, Impact of High CCE Penetration on Low-Carbon (Hydro) Resources.

[21] Customer-sited solar is not considered RPS-eligible in California and is not included in the RPS procurement in these scenarios. Customer-sited solar is incorporated in this analysis as a reduction to the CCE's load.

To evaluate these scenarios, we assumed a simple portfolio consisting of RPS-eligible resources and additional GHG-free resources in an amount dictated by the particular scenario, with the balance of supply provided by non-renewable wholesale market purchases. In each case, we assumed that the RPS portfolio was predominately supplied with solar and wind resources, which are currently the low-cost sources of renewable energy. We assumed that solar and wind each contribute 45% of the renewable energy supply on an annual basis. To provide resource diversity and partly address the need for supply at times when solar and wind production are low, we assumed the remaining 10% of renewable supply would be provided by higher-cost baseload renewable resources, such as geothermal or biomass.

In the early years, the CCE would have to purchase its required renewable power from the market and existing resources. However, the study assumes that the CCE would contract with new renewable resources, such that by 2030 most of its renewable power would come from new resources. Figures 6 and 7 show the assumed build-out of these new resources under the first (Minimum RPS Compliance) and the fourth (Accelerated RPS plus Local) scenarios described above.

Figure 6. Scenario 1 CCE Build-Out

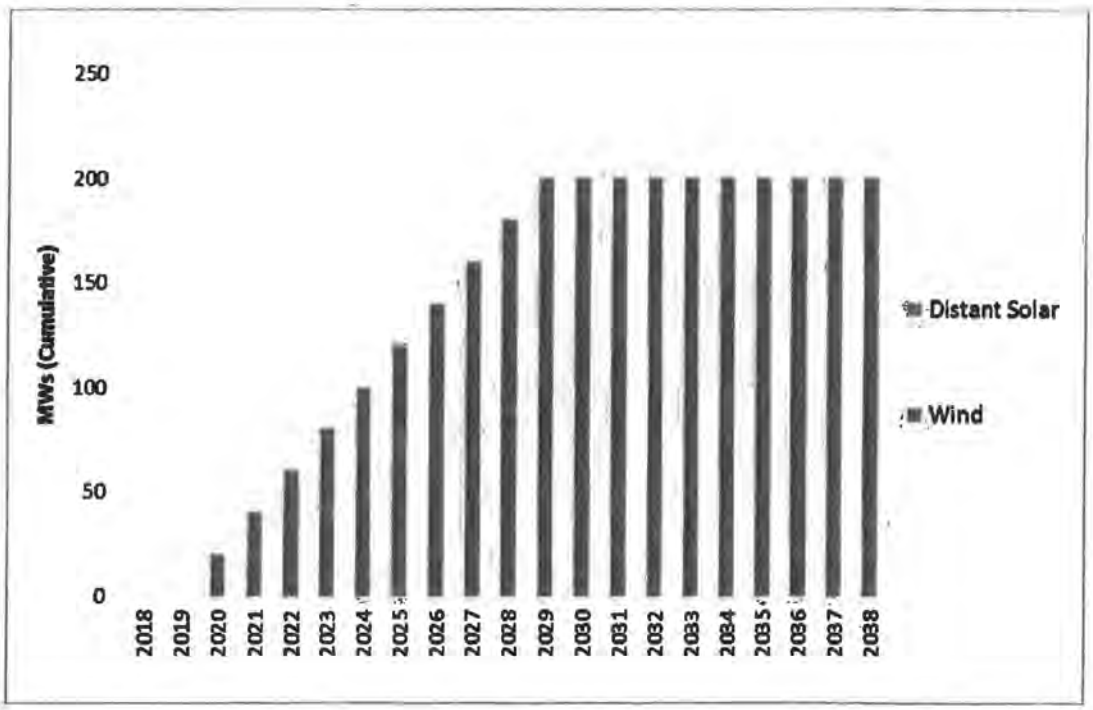
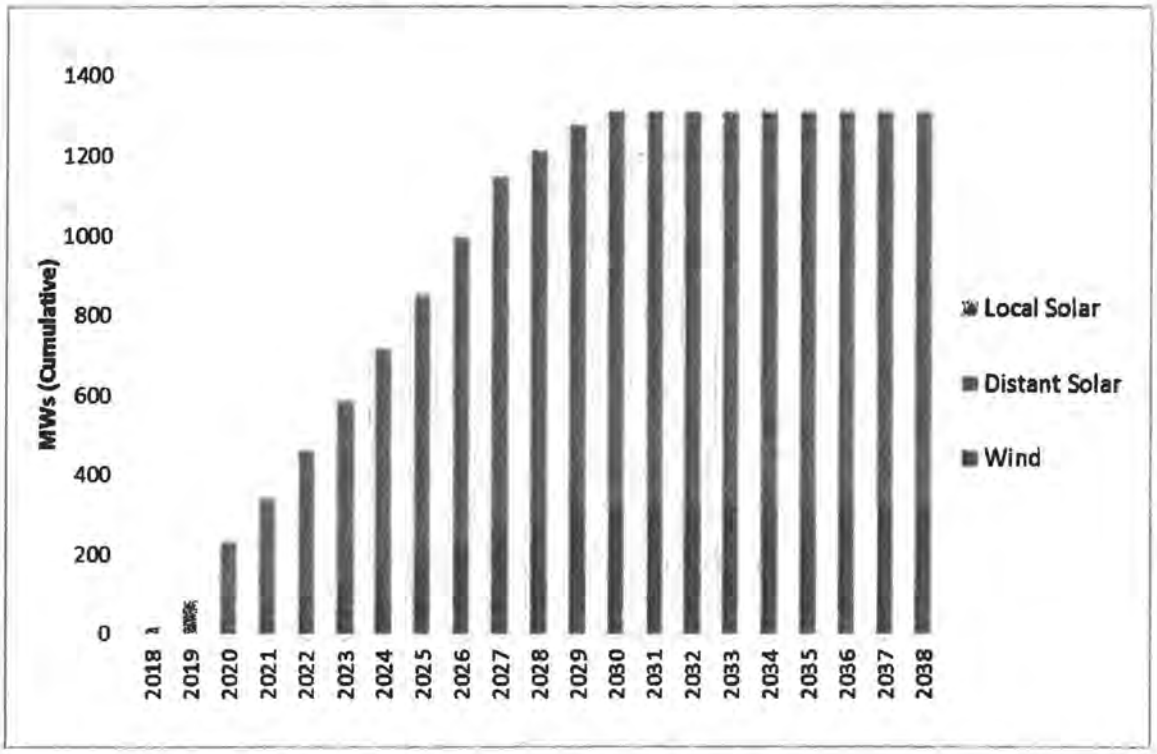


Figure 7. Scenario 4 CCE Build-Out

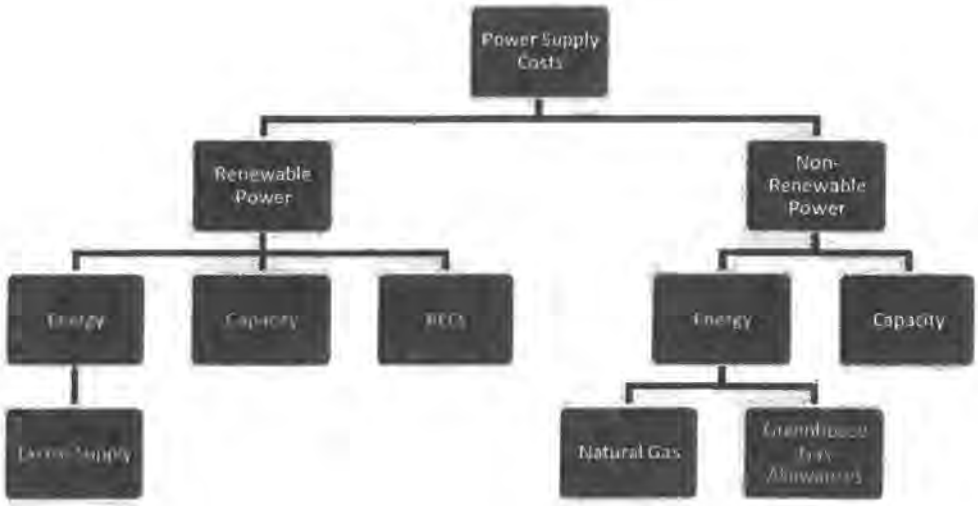


Power Supply Cost Assumptions

As discussed above, the CCE would procure a portfolio of resources to meet its customers' needs, which would consist of a mix of renewable and non-renewable (i.e., wholesale market) resources. As shown in Figure 8, the products to be purchased by the CCE consist generally of energy, capacity, and renewable attributes (which for counting purposes take the form of renewable energy credits, or Category 1 RECs).[22]

[22] RECs are typically bundled with energy deliveries from renewable energy projects, with each REC representing 1 MWh of renewable energy. A limited number of unbundled RECs may be used to meet RPS requirements. For the purpose of this study we have not considered unbundled RECs and have rather estimated costs based on renewable energy contracts where the RECs are bundled.

Figure 8. Power Supply Cost Elements



The CCE will procure supplies from the same competitive market for resources as PG&E. Thus, we assume that the costs for renewable and non-renewable energy and for resource adequacy (RA) capacity for the CCE are the same as for new purchases made by PG&E (discussed further in our forecast of PG&E rates). Wholesale market prices for electricity in California are largely driven by the cost of operating natural gas power plants, as these plants typically have the highest operating costs and are the marginal units. Market prices are a function of the efficiency of the marginal generators, the price of natural gas, and the cost of GHG allowances. MRW developed forecasts of these elements to derive a power price forecast to determine costs for the CCE and PG&E. Large hydroelectric power prices are based on the market price forecast with a 10% premium to reflect the value of GHG benefits, flexibility, and increasing demand from load serving entities seeking clean power like the CCE. Capacity prices are based on prices for RA contracts reported by the CPUC and on the cost to build a new combustion turbine power plant.

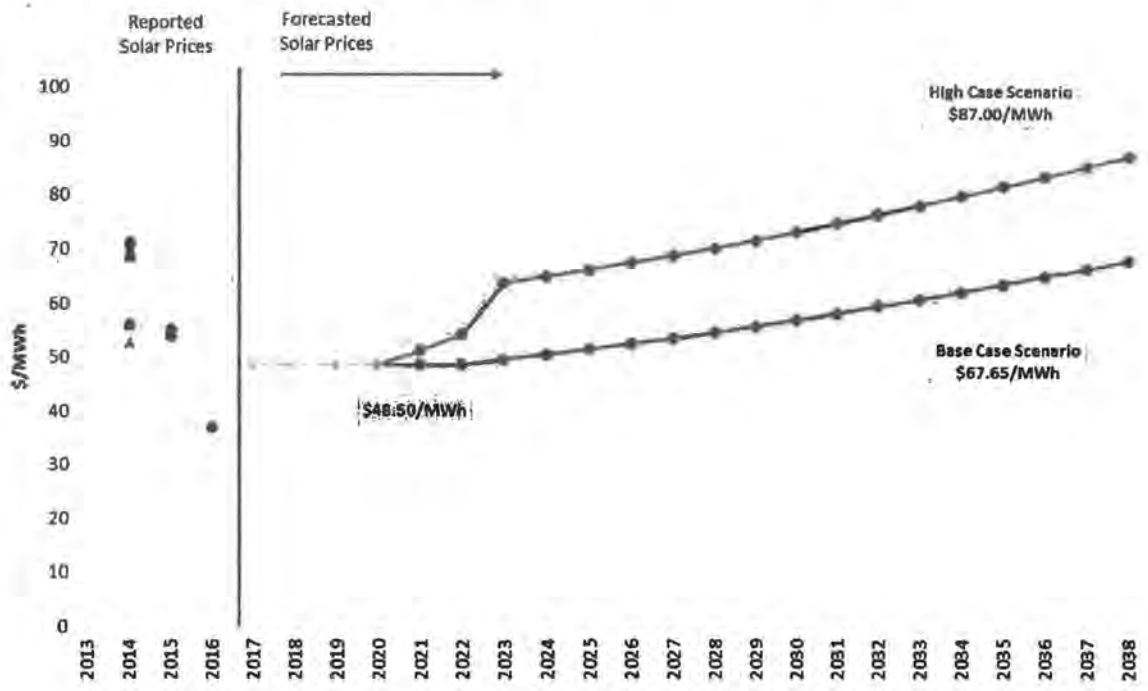
MRW developed a forecast of non-local utility scale renewable generation prices starting from an assessment of the current market price for renewable power. For the current market price, MRW relied on wind and solar contract prices reported by California municipal utilities and CCEs in 2015 and early 2016, finding an average price of $49/MWh for the solar contracts, $55/MWh for wind power and $80/MWh for geothermal.[23] We used these prices as the starting point for our forecast of CCE renewable energy procurement costs. For geothermal, which is a

[23] MRW relied exclusively on prices from municipal utilities and CCEs because investor-owned utility contract prices from this period are not yet public. We included all reported wind and solar power purchase agreements, excluding local builds (which generally come at a price premium), as reported in *California Energy Markets*, an independent news service from Energy Newsdata, from January 2015-January 2016 (see issues dated July 31, August 14, October 16, October 30, 2015, and January 15, 2016).

relatively mature technology, we assumed that new contract prices would simply escalate with inflation.

Solar and wind prices are a function of technology costs, which have generally been declining over time; financing costs, which have been very low in recent years; and tax incentives, which significantly reduce project costs, but phase out over time. In the near-term we would not expect prices to increase as technology costs and continued tax incentives provide downward pressure and likely offset any increase in financing costs or other competitive pressure from an increasing demand for renewable energy in California. For utility scale wind prices, we relied on an expert elicitation survey[24] developed by Lawrence Berkeley National Laboratory (LBNL). According to this survey, wind prices will decrease 24% by 2030 and 35% by 2050.[25] For solar, we held prices constant in nominal dollars through 2020. Beyond 2020, with increasing competitive pressure due to the drive to a 50% RPS and the anticipated phase-out of federal tax incentives (offset in part by declining technology costs), we would expect prices to increase somewhat and have assumed they escalate at the rate of inflation. In addition, we also considered a high solar cost scenario based on work performed by LBNL on the value of tax incentives. In the high scenario, we assume that costs increase with the phase-out of federal tax incentives, without being offset by declining technology costs. Figure 9 shows the resulting solar price forecasts for the two scenarios.

Figure 9. Large-Scale Non-Local Solar Price Forecast



[24] "Expert Elicitation Survey of Future Wind and Energy Costs," *Nature Energy*, September 12, 2016.
[25] Relative to the 2014 wind prices. MRW also added the annual inflation increase.

Local Solar Analysis

Pivotal to the evaluation of the local economic impacts of a Contra Costa CCE is an understanding of how much renewable energy can be developed within the County. This assessment focused on identifying local solar photovoltaic (PV) siting potential. Wind and biomass energy were also evaluated, but were determined to be less feasible for Contra Costa County.

The solar PV assessment is based on a comprehensive desktop review of countywide parcel data, geographic features, and solar energy potential. Table 2 shows the total solar PV generation capacity within the County based on the methodology and assumptions described below.

Table 2. Total PV Solar Generation Potential and Build Cost

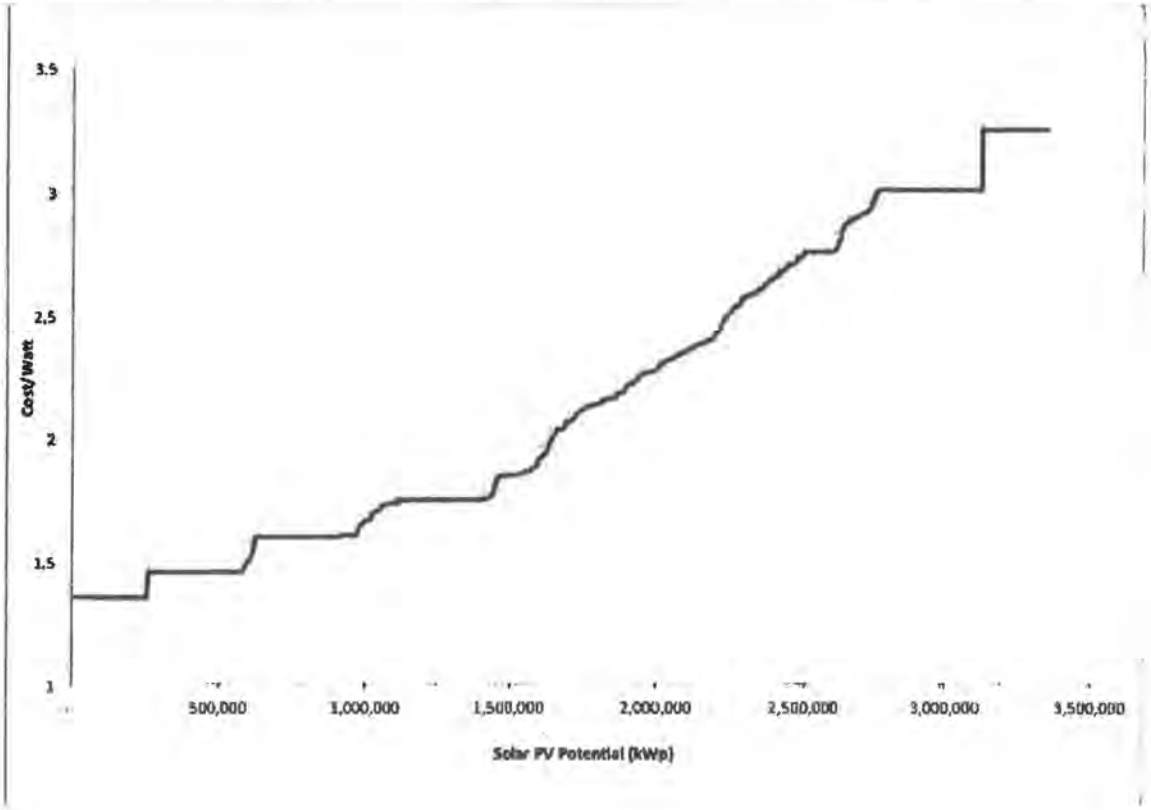
	Ground Mount	Shade Structure	Roof Mounted	Total
PV Capacity (MW[26])	1,891	1,320	144	3,355
PV Production (GWh)	3,025	2,113	230	5,369
Build Cost ($ Millions)	$3,417	$3,977	$371	$7,660
Build Cost ($/Watt)	$1.99	$3.10	$2.62	$2.56
No. of PV Systems	845	886	144	1,875

Generation capacity was determined for the three types of possible solar PV installations: Ground-Mount, Shade Structure/Carport, and Roof Mount. The findings show that the County has a solar PV generation capacity of 3,355 MW and annual solar electricity production potential of 5,369 GWh. Figure 10 shows the aggregate Solar PV supply curve for all County jurisdictions.

Note that the costs shown in Table 2 and Figure 10 are "build costs." Additional soft costs, particularly the acquisition or opportunity cost of the land upon which the ground-mount solar is located, are highly site-specific and not included in these values. These can add up to 50% to the cost of local solar projects, and are accounted for in the CCE scenario modeling.

[26] Local solar PV capacity measured at the panel (i.e., pre-inverter).

Figure 10. Aggregate Solar PV Supply Build Cost Curve, All County



Siting Analysis

To assess the potential locations in Contra Costa County where solar PV could be developed, this study utilized a Geographic Information System (GIS)-based desktop review, incorporating aerial imagery and land-based data. The collected data was analyzed and potential solar PV development sites were identified from criteria established through industry knowledge and input from County stakeholders.

The agreed upon criteria are as follows:

- The minimum acceptable parcel size is three acres. Smaller parcels will not be able to hold an economically viable project. If a potential solar PV system size is below 500 kW it was excluded from the list of potentially feasible sites and overall solar energy capacity.[27] Again, this measure ensures only realistic and economically feasible sites are identified.

- Based on input from the County, only specific tax codes and zoning areas were evaluated. For example, areas such as Open Space or Parks have sufficient land area for solar PV

[27] Residential and other small rooftop solar are accounted for in the California Energy Commission sales forecast used to develop the CCE's demand forecast.

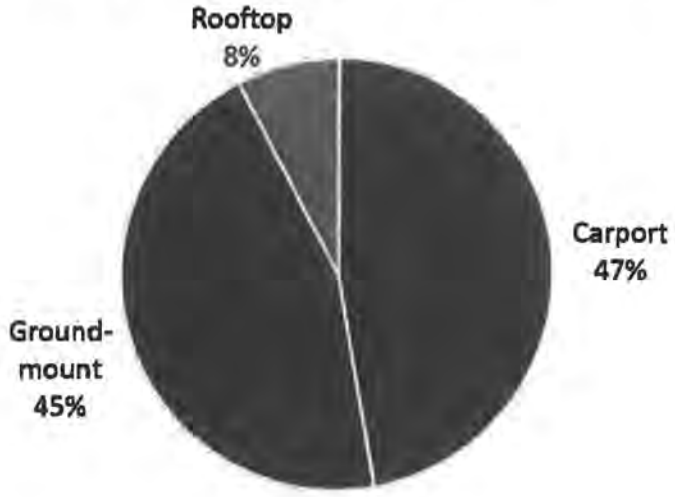
projects, but zoning restrictions would not allow for the development of these projects, and these areas were removed from the approved scope.

- In addition to size and tax/zoning code designations, areas with poor ground quality (marshland), excessive tree density, or excessive sloping would prohibit cost-effective solar PV development and were removed from the analysis.

- Lastly, sites with existing solar were removed from the pool of potential parcels/sites.

Within each identified parcel is the potential for three different types of solar PV development. On impervious land, such as a parking lot, it was assumed that solar PV carports would be installed. On grassland or bare land areas, this analysis assumed a ground-mounted solar PV system would be installed. Lastly, roof-mounted solar PV was assumed for any buildings found in the parcel data that matched the approved criteria. Countywide, 92% of potential installation sites were found to be either carport or ground-mount sites, with only 8% of the sites amenable to roof-mounted PV (Figure 11). The size of the estimated solar PV system was found by analyzing the total land area against the needed land required for solar PV development.

Figure 11. Potential Solar PV Sites by Installation Type



This study found 1,395 parcels that met the established criteria and 1,875 individual sites within the identified parcels where either a solar shade structure, rooftop, or ground-mounted system could be developed. Table 3 shows the individual sites organized by type of solar PV system for each jurisdiction in Contra Costa County.[28]

This assessment also calculated the amount of solar energy production for each of the potential sites identified. The amount of energy production was found by multiplying the estimated system size by an average solar yield. The average solar energy yield was created by designing sample projects that matched the estimated system size in the solar software platform Helioscope. Because Contra Costa County has a variety of solar exposure, multiple sites across the County were designed/tested to find an average yield. Based on our testing, the average yield for Contra Costa County is 1,600 (kWh/kW). The resulting amount of potential PV production per jurisdiction is also provided in Table 3.

[28] For maps, please see https://www.dropbox.com/s/cb3rig66shny68j/Contra%20Costa%20CCE%20Solar%20Siting%20DRAFT%20Report%20SA%202016-11-15%20Reduced%20Size.pdf?dl=0.

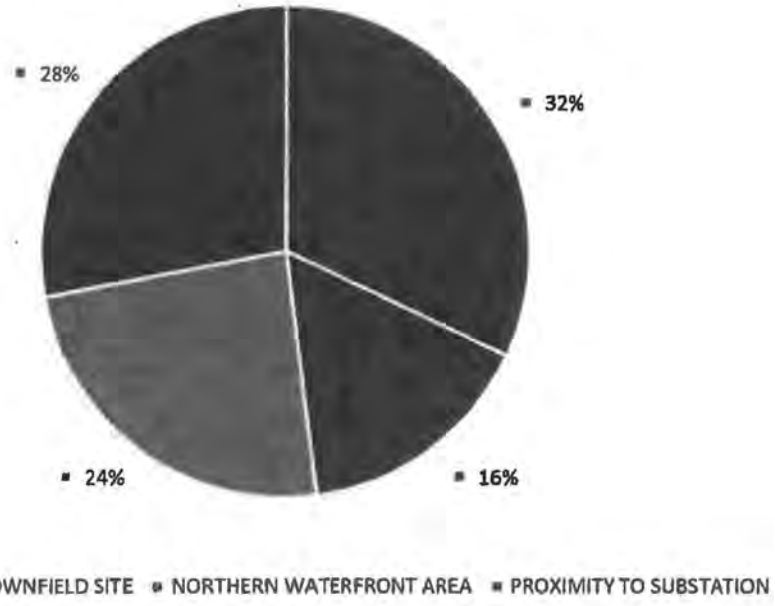
Table 3. Potential PV Production and Build Cost by Location

Jurisdiction	PV Potential (MW)	PV Production (GWh)	Build Cost ($ Millions)
Alamo	14	23	$30,779,000
Antioch	462	739	$1,010,374,000
Brentwood	287	460	$599,685,000
Clayton	38	62	$71,171,000
Concord	370	593	$900,603,000
Crockett	58	93	$125,187,000
Danville	80	129	$177,801,000
El Cerrito	29	48	$73,161,000
El Sobrante	19	31	$42,020,000
Hercules	90	144	$200,511,000
Lafayette	8	13	$23,641,000
Martinez	313	502	$654,701,000
Moraga	24	39	$55,957,000
Oakley	121	194	$285,786,000
Orinda	22	36	$43,554,000
Pinole	47	77	$126,870,000
Pittsburg	314	502	$705,202,000
Pleasant Hill	60	96	$164,364,000
Port Costa	8	13	$13,501,000
Richmond	502	804	$1,261,541,000
Rodeo	35	57	$85,874,000
San Pablo	191	307	$459,784,000
San Ramon	158	254	$384,634,000
Walnut Creek	95	152	$269,795,000
Grand Total	3,355	5,369	$7,766,496,000

Ranking

After the feasible solar sites and the corresponding solar PV capacity were identified, each site was ranked. The ranking was weighted based on how important it was to the actual feasibility of developing the site for solar PV and based on input from County stakeholders. The ranking consisted of the following measures as shown in the figure below.

Figure 12. Weighted Ranking Categories



An overall ranking score was then applied to each individual site to illustrate the best and worst sites for solar PV development. Sites were then grouped in tiers one through five, with one being the best. In addition to the ranking score, industry knowledge indicates the best sites to develop a feasible solar PV project will be larger than 1 MW, located on government land, and will be a ground-mounted solar array, the most cost-effective installation type. The table below shows the key characteristics of the ranking analysis.

Table 4. Ranking Values for All Sites

Ranking Tier	Sum of PV Production (GWh)	Sum of Total Price	Average Build Price per Watt
1	1,309	$1,591,810,000	$2.13
2	1,167	$1,578,770,000	$2.37
3	1,105	$1,622,236,000	$2.57
4	868	$1,251,547,000	$2.56
5	919	$1,722,142,000	$3.07

Local Solar Modeled in the CCE Scenarios

To estimate the contribution of local solar to a Contra Costa CCE's supply costs, we used the supply curve shown in Figure 10. To translate the $/kW costs in the figure to $/MWh generation costs, we used the pro forma model contained in the CPUC's RPS Calculator and the cost and performance assumptions provided by Sage for the County. For example, the lowest-cost projects at $1,350/kW were estimated to have a generation cost of $98/MWh ($68/MWh for build costs and $30/MWh for soft and land acquisition/opportunity costs).

The generation cost was assumed to scale with installed cost. Because it is unlikely that all the identified sites would be developed in order of their increasing cost (and some sites may never be developed regardless of economics), we assumed that 50% of the capacity identified in the cost curve would be developed for the purpose of conservatively estimating average costs at each level of local solar penetration. We calculated the average price for the cumulative developed capacity forecast for each year (again, counting only 50% of the capacity of each developed project towards the cumulative total). For Scenarios 3 and 4, we assumed that 50% of the CCA's RPS supply would be provided by local solar by 2027, adding 620 MW of local solar under Scenario 3 and 990 MW under Scenario 4 by 2030. (Scenarios 1 and 2 do not include any local solar.)

Greenhouse Gas Costs

MRW estimated that the price of GHG allowances would equal the auction floor price stipulated by the California Air Resources Board's cap-and-trade regulations, consistent with recent auction outcomes.[29]

Table 5. GHG Allowances price[30]

	2017	2018	2019	2025	2030	2035	2038
$/tonne	13.2	14.7	15.9	24.4	34.7	49.8	61.8

Total GHG costs were calculated by multiplying the allowance price by the amount of carbon emitted per megawatt-hour for each assumed resource. For "system" purchases, MRW assumed that the GHG emissions corresponded to a natural gas generator operating at the market heat rate. This worked out to be, on average over 2018-2038, approximately $1.5/MWh delivered.[31]

Other CCE Supply Costs

The CCE is expected to incur additional costs associated with its procurement function. For example, if the CCE relies on a third-party energy marketing company to manage its portfolio it will likely incur broker fees or other expenses equal to roughly 5% of the forecasted contract costs. The CCE would also incur costs charged by the California Independent System Operator

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[29] California Code of Regulations, Title 17, Article 5, Section 95911. Auction results available at http://www.arb.ca.gov/cc/capandtrade/auction/results_summary.pdf.

[30] For 2017, the amount listed corresponds to the GHG allowance price for PG&E according to the most recent ERRA 2017 update. Pacific Gas & Electric ERRA 2017, A.16-06-003, Testimony November 2, 2016, Table 12-1.

[31] The amount of GHG emissions will depend on the generation portfolio. $1.50/MWh corresponds to the GHG emissions costs under Scenario 1.

(CAISO) for ancillary services (activities required to ensure reliability) and other expenses. MRW added 5.5% to the CCE's power supply cost to cover these CAISO costs. Finally, we added an expense associated with managing the CCE's renewable supply portfolio. Based on an analysis of the expected CCE load shape and the typical generation profile of California solar and wind resources, we observed that there will be hours in which the expected deliveries from renewable contracts will be greater than the CCE's load in that hour. This results from the amount of renewable capacity that must be contracted to meet annual RPS targets and the variability in renewable generation that leads to higher deliveries in some hours and lower deliveries in other hours. When high renewable energy deliveries coincide with low loads, the CCE will need to sell the excess energy, likely at a loss, or curtail deliveries, and will potentially have to make up those renewable energy purchases during higher load hours to comply with the RPS. The result is that the procurement costs will be somewhat higher than simply contracting with sufficient capacity to meet the annual RPS.

PG&E Rate and Exit Fee Forecasts

MRW developed a forecast of PG&E's bundled generation rates and CCE exit fees in order to compare the projected rates that customers would pay as Contra Costa County CCE customers to the projected rates and fees they would pay as bundled PG&E customers.

PG&E Bundled Generation Rates

To ensure a consistent and reliable financial analysis, MRW developed a 20-year forecast of PG&E's bundled generation rates using market prices for renewable energy purchases, market power purchases, greenhouse gas allowances, and capacity that are consistent with those used in the forecast of Contra Costa County CCE's supply costs. MRW additionally forecast the cost of PG&E's existing resource portfolio, adding in market purchases only when necessary to meet projected demand. MRW assumed that near-term changes to PG&E's generation portfolio would be driven primarily by increases to the Renewable Portfolio Standard requirement in the years leading up to 2030 and by the retirement of the Diablo Canyon nuclear units at the end of their current license periods in 2024 and 2025. More information about this forecast is provided in Appendix B.

MRW forecasts that, on average, PG&E's generation rates will increase faster than inflation through 2038, with 2038 rates more than 20% higher than today's rates when considered on a constant dollar basis (i.e., assuming zero inflation). Underlying this result are three distinct rate periods:

1. An initial period of faster rate growth from 2018 to 2022 (1% annually above inflation);
2. A period of rate decline from 2023 to 2025 (3.5% annually below inflation), primarily due to the retirement of Diablo Canyon[32]; and
3. A period of steeper rate growth between 2026 and 2030 (3.5% annually above inflation), primarily due to the replacement of Diablo Canyon with more expensive resources: energy efficiency, renewable generation, and fuel-fired generation. In addition, the retirement of Diablo Canyon increases the demand in capacity with a consequent increase

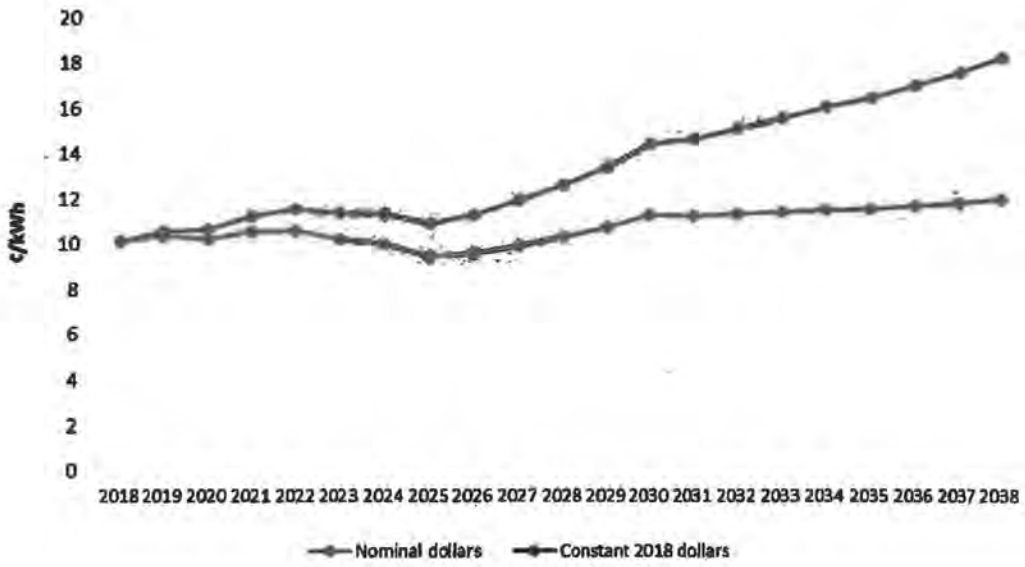
[32] More information can be found in Appendix C

in capacity prices.

4. A final period of moderate rate growth through 2038 (1% annually above inflation), primarily due to the replacement of high-cost renewable power contracts currently in PG&E's portfolio with new lower-priced contracts (reflecting the significant fall in renewable power prices in recent years).

PG&E's bundled generation rates in each year of MRW's forecast are shown in Figure 13, on both a nominal and constant-dollar basis.

Figure 13: PG&E Bundled Generation Rates, nominal and constant-dollar forecasts



PG&E Exit Fee Forecast

In addition to the bundled rate forecast, MRW developed a forecast of the Power Charge Indifference Adjustment ("PCIA"), which is a PG&E exit fee that is charged to CCE customers. The PCIA is intended to pay for the above-market costs of PG&E generation resources that were acquired, or which PG&E committed to acquire, prior to the customer's departure to CCE. The total cost of these resources is compared to a market-based price benchmark to calculate the "stranded costs" associated with these resources, and CCE customers are charged what is determined to be their fair share of the stranded costs through the PCIA.

MRW forecasted the PCIA charge by modeling expected changes to PCIA-eligible resources and to the market-based price benchmark through 2038, using assumptions consistent with those used in the PG&E rate model. Based on our modelling, we expect the PCIA to decline in most years until it drops off completely around 2034. MRW's forecast of the residential PCIA charge through 2038 is summarized in Table 6.

Table 6. PG&E Residential PCIA Charges

	2018	2019	2020	2025	2030	2035	2038
¢/kWh	2.4	1.9	2.3	1.3	0.5	0.0	0.0

In its Diablo Canyon retirement application, PG&E proposed an additional exit fee, dubbed the "Clean Energy Charge" (CEC) which CCE customers would pay to offset some of the incremental costs PG&E would incur for developing its greener portfolio. This proposal was later withdrawn. Furthermore, no party participating in the proceeding supported this charge. Because of the lack of support for the "CEC," and the fact that PG&E's application would have allowed CCEs to get out of the charge by procuring renewable power above and beyond the RPS requirement, we do not quantify or include this hypothetical charge in the analysis.

Pro Forma Elements and CCE Costs of Service

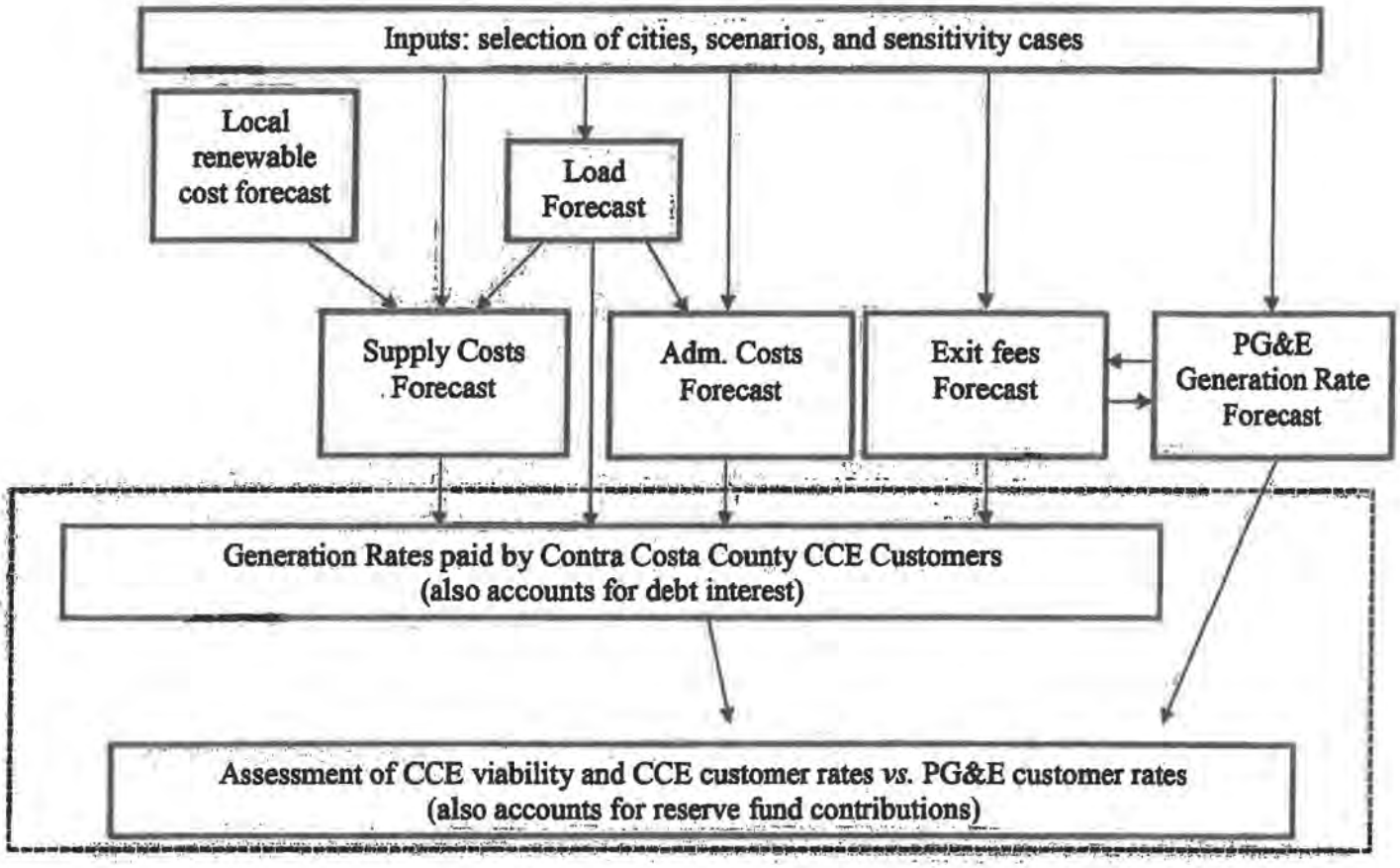
MRW conducted a pro forma analysis to evaluate the expected financial performance of the CCE and the CCE's competitive position *vis a vis* PG&E. The analysis was conducted on a forward-looking basis from the expected start of CCE operations in 2018 through the year 2038, with several cases considered to address uncertainty in future circumstances.

Pro Forma Elements

Figure 14 provides a schematic of the pro forma analysis, outlining the input elements of the analysis and the output results. The analysis involves a comparison between the generation-related costs that would be paid by Contra Costa County CCE customers and the generation-related costs that would be paid by PG&E bundled service customers. Costs paid by CCE customers include all CCE-related costs (i.e., supply portfolio costs and administrative and general costs) and exit fee payments that CCE customers will be required to make to PG&E.

As discussed in previous sections, supply portfolio costs are informed and affected by CCE loads, by the requirements the CCE will need to meet (or will choose to meet) such as with respect to renewable procurement, and by CCE participation levels, which can vary depending on whether or not all cities in the County choose to join the CCE. Administrative and general costs are discussed further below.

Figure 14. Pro forma Analysis



Startup Costs

Table 7 shows the estimated CCE startup costs. They are based on the experience of existing CCEs as well as other CCE technical and feasibility assessments. Working capital is set to equal one hundred days of CCE revenue[33], or approximately $22 million. This amount would cover the timing lag between when invoices for power purchases (and other account payables) must be remitted and when income is received from the customers. Initially, the working capital is provided to the CCE on credit from a bank. Typical power purchase contracts require payment for the prior month's purchases by the 20th of the current month. Customers' payments are typically received 60 to 90 days from when the power is delivered.

These startup costs are assumed to be financed over 5 years at 5% interest.

[33] The working capital has been calculated in base to Scenario 1.

Table 7. Estimated Start-Up Costs

Item	Cost
Technical Study	$200,000
JPA Formation/Development	$100,000
Implementation Plan Development	$50,000
Power Supplier Solicitation & Contracting	$75,000
Staffing	$700,000
Consultants and Legal Counsel	$400,000
Marketing & Communications	$250,000
PG&E Service Fees	$75,000
CCA Bond	$100,000
Miscellaneous	$300,000
Total	**$2,250,000**
Working Capital	$21,500,000
Total	**$23,750,000**

Administrative and General Cost Inputs

Administrative and general costs cover the everyday operations of the CCE, including costs for billing, data management, customer service, employee salaries, contractor payments, and fees paid to PG&E. MRW conducted a survey of the financial reports of existing CCEs to develop estimates of the costs that would be faced by a Contra Costa County CCE. Administrative and general costs are phased in from 2018 to 2020, as the CCE operations expand to cover the entire territory of the County; after that, costs are escalated by 2% each year to account for the effects of inflation.

Administrative and general costs are unchanged under the three renewable level scenarios, but do vary based on how many cities join the CCE and the number of participating customer accounts. As previously mentioned, a 15% opt-out rate has been assumed for customer participation.

Cost of Service Analysis and Reserve Fund

To determine annual CCE costs and the rates that would need to be charged to CCE customers to cover these costs, MRW summed the two categories of CCE costs (i.e., supply portfolio costs, and administrative and general costs) and added in debt financing to cover start-up costs and initial working capital. Financing was assumed to be for a five-year period at an interest rate of 5%. These costs were divided by projected CCE loads to develop the average rate the CCE would need to charge customers to cover its costs ("minimum CCE rate").

To establish the Contra Costa County CCE rate, MRW adjusted the minimum CCE rate, if needed, based on the competitive position of the CCE. In particular, when the total CCE

customer rate (i.e., the minimum CCE rate plus the PG&E exit fee) was below the projected PG&E generation rate,[34] MRW increased the minimum CCE rate up to the amount needed to meet the reserve refund targets while still maintaining a discount. MRW used the surplus CCE revenue from these rate increases ("Reserve Fund") in order to maintain Contra Costa County CCE competitiveness with PG&E rates in years in which total CCE customer rates would otherwise be higher than PG&E generation rates.[35]

[34] For this analysis, MRW used the average of the projected PG&E generation rates across all rate classes, weighted by the projected Contra Costa County CCE load in each rate class.

[35] MRW applied a Reserve Fund cap of 15% of the annual operating cost. After this cap was reached, no further rate increases were applied for the purpose of Reserve Fund contributions.

Chapter 3: Cost and Benefit Analysis

As described in the prior chapter, as part of the pro forma analysis, MRW calculated Contra Costa County CCE rates that would, where feasible, cover CCE costs and maintain long-term competitiveness with PG&E. This chapter uses those rates to compare the costs and benefits of the Contra Costa County CCE across four scenarios: (1) Minimum RPS Compliance, (2) Accelerated RPS, (3) Minimum RPS Compliance plus Local Procurement, and (4) Accelerated RPS plus Local Procurement. Costs and benefits are evaluated by comparing total CCE customer rates (including PG&E exit fees) to PG&E generation.

Scenario 1 (Minimum RPS Compliance)

Under Scenario 1, the Contra Costa County CCE meets all RPS requirements (including California State Senate Bill 350 and Diablo Canyon retirement proposal requirements), and 35% of the total load over the 20-year period is met through large hydroelectricity.[36]

CCE Average Costs

Figure 15 summarizes the results of this scenario. The vertical bars represent the total Contra Costa County CCE customer rate and the green line represents a comparable PG&E generation rate.[37] Non-renewable generation (including large hydroelectric) is responsible for the bulk of the CCE's costs. Renewable generation costs will continue to increase throughout the forecast period due to the increasing RPS standards. Regarding customer costs, the PCIA exit fee is expected to decrease after 2020. Finally, the GHG allowance purchases represent a small portion of the total costs because 60% of the non-renewable generation is met by hydroelectricity. This non-carbon emitting resource therefore limits the need to purchase GHG allowances.

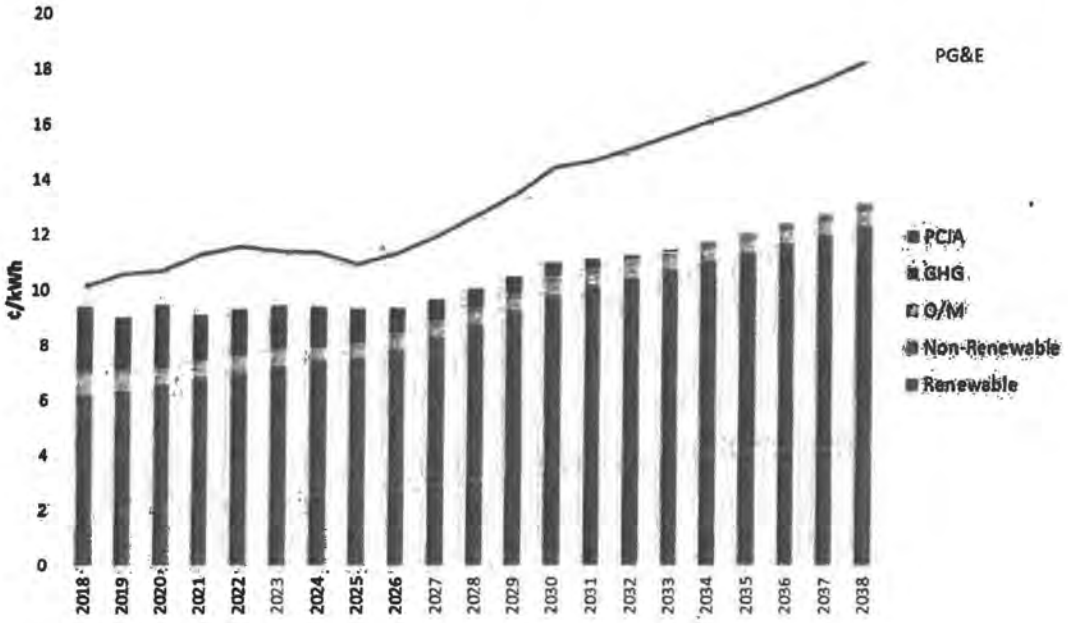
Note that this figure and the analogous ones to follow do not account for contributions to a rate reserve fund or other potential CCE activities such as energy efficiency or other community programs.

Under Scenario 1, the differential between PG&E generation rates and Contra Costa County CCE customer rates is positive in each year (i.e., CCE rates are lower than PG&E rates). As a result, Contra Costa County CCE customers' average generation rates (including contributions to the reserve fund) can be set at a level that is lower than PG&E's average customer generation rate in each year. The annual differential between the PG&E rate and the total CCE customer rate is expected to vary significantly over the course of this period (Figure 15). During the initial period from 2018-2022, the differential between the two rates increases (i.e., the CCE becomes more cost-competitive) as PG&E's rates rise, and the exit fees charged to Contra Costa County CCE customers fall as PG&E-owned gas plants expire from PCIA eligibility. Beginning in 2024, the rate differential narrows due to a decrease in PG&E generation rates stemming from the closure of the Diablo Canyon nuclear plant. After 2026, the difference between the two rates is

[36] 60% of the non-RPS generation in average for 2018-2038.
[37] All rates are in nominal dollars.

expected to increase as PG&E's generation rates continue to increase and exit fees decline with the expiration of additional resources from PCIA eligibility.

Figure 15. Scenario 1 Forecast Average CCE Cost and PG&E Rates, 2018-2038[38]



Residential Bill Impacts

Table 8 shows the average annual savings for residential customers under Scenario 1. The average annual bill for the residential customer on the Contra Costa County CCE program will be on average 8% lower than the same bill on PG&E rates. Note that these rate impacts assume that a rate stabilization reserve is funded during the first few years of the CCE's existence.

Table 8. Scenario 1 Savings for Residential CCE Customers

Residential	Monthly Consumption (kWh)	Bill with PG&E ($)	Bill with Contra Costa County CCA ($)	Savings ($)	Savings (%)
2018	500	121	121	0	0%
2020	500	129	124	5	4%
2030	500	189	171	18	10%
2038	500	254	227	27	11%

[38] This chart does not include the reserve fund.

Greenhouse Gas Emissions

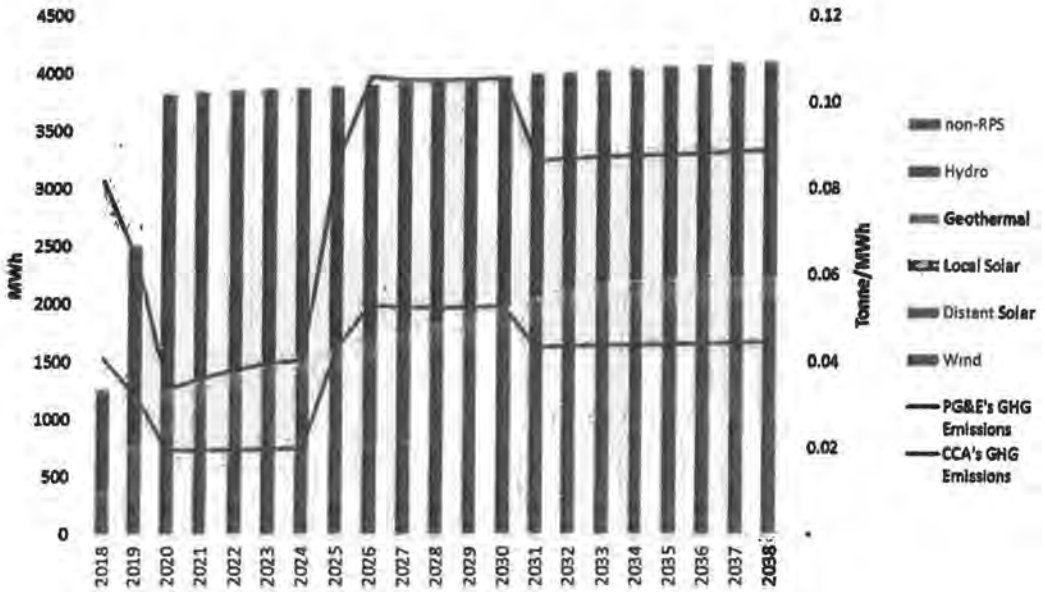
Under Scenario 1, we model the Contra Costa County CCE to be 50% below PG&E's GHG emission rate. It can meet this goal by using large hydroelectric power to meet 35% of its resource needs (60% of the non-RPS load). Though this large hydro power would not qualify for RPS requirements, it is nevertheless a non-carbon emitting resource.

Figure 16 shows the Contra Costa CCE's generation portfolio mix (vertical bars) and GHG emissions rate (brown line) under Scenario 1, along with PG&E's GHG emissions rate for comparison (blue line). Additional GHG savings can occur if additional renewables are added to the portfolio (see Scenarios 2 and 4) or if a greater fraction of GHG-free resources (like large hydro) is used.

PG&E GHG emissions are relatively low due to the diversity in PG&E's electric mix. In addition to renewable generation, over 40% of PG&E's supply portfolio is made up of nuclear and large hydroelectric generation, both of which are considered GHG-free generation technologies. PG&E's GHG emissions rate is expected to fall between 2018 and 2020 due to increases in RPS procurement. In 2025, the retirement of the Diablo Canyon nuclear generation plant is expected to more than double PG&E's GHG emission rate as the utility increases its gas-fired generation to make up for a share of the loss.[39] In the following years PG&E's GHG emissions are expected to decrease as PG&E ramps up renewable procurement to meet its mandated RPS goals and the additional RPS procurement required under the Diablo Canyon retirement proposal.[40] In this scenario, the CCE's emissions rate is set to be approximately 50% of PG&E's in each year, subject to a 5% minimum supply from market purchases.

[39] Even if PG&E replaces the nuclear generation with renewable power and other GHG-free resources, as proposed, the new renewable resources will need to be balanced by flexible resources, which are likely to be at least in part provided by fossil-fueled power and which will therefore increase PG&E's GHG emissions.
[40] Starting in 2030, the required RPS increases from 50% to 55% under PG&E's proposal.

Figure 16. Scenario 1 Contra Costa County CCE Supply Portfolio (vertical bars) and GHG Emissions (lines) ("Normal" PG&E Hydro Conditions)



Scenario 2 (Accelerated RPS)

Scenario 2, from a renewable procurement perspective, is a more aggressive scenario. Under this scenario, the Contra Costa County CCE starts with 50% of its load served by renewable sources in 2018, and rapidly increases to 80% of its load served by renewable sources in 2030. In addition, between 2018 and 2038 Contra Costa County will provide an average of 20% of its supply though large hydroelectric sources[41].

CCE Average Costs

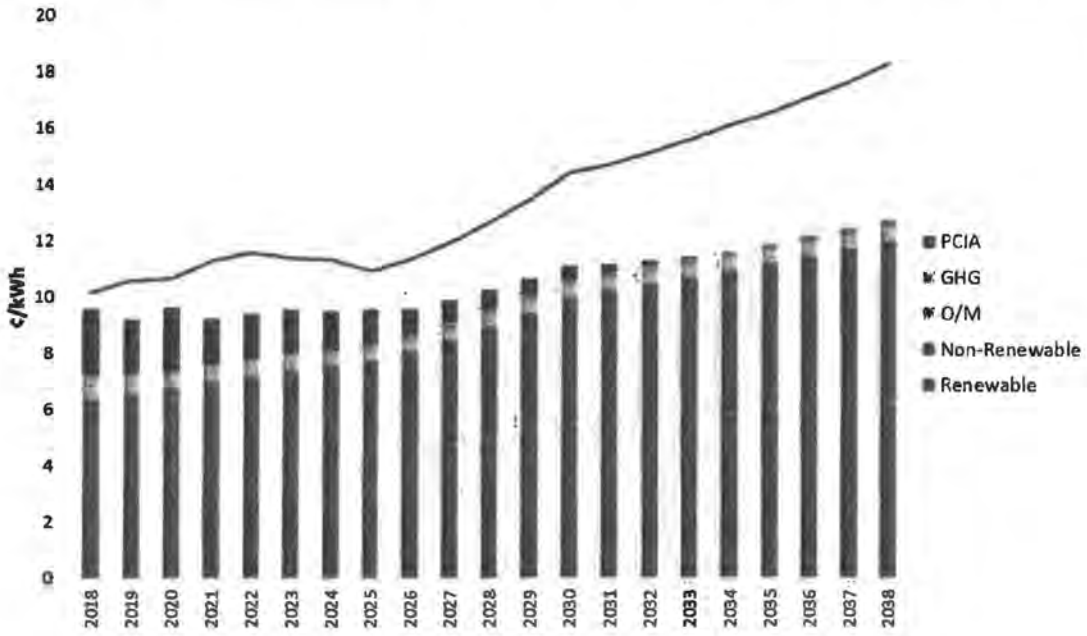
Figure 17 summarizes the results for this scenario. The vertical bars represent the Contra Costa County CCE customer rate, and the green line represents the PG&E generation rate. In this scenario, the renewable power cost is the single largest element of the CCE rate, reflecting the higher renewable content of this scenario. Non-renewable generation and the PCIA exit fee are the second and third most expensive components, respectively. As in Scenario 1, the PCIA exit fee is expected to decrease in most years beginning in 2020. Because of this scenario's larger share of GHG-free generation between 2028 and 2038, the GHG allowance purchases are an even lower portion of the total costs.

Compared to Scenario 1, Scenario 2 exhibits a lower differential between PG&E's and the CCE's customer generation rates between 2018 and 2033. After 2033, the price of renewable generation is expected to undercut the wholesale electricity market for non-RPS supplies, rendering a higher

[41] 50% of the non-RPS generation for 2018-2028.

differential in Scenario 2 than in Scenario 1. With respect to PG&E's rates, this differential will continue to follow a similar pattern: positive for all years from 2018 to 2038. And as was the case in Scenario 1, Scenario 2 enables the CCE to reliably price its average generation rates lower than those of PG&E.

Figure 17. Scenario 2 Forecast Average CCE Cost and PG&E Rates, 2018-2038[42]



Residential Bill Impacts

Table 9 summarizes the average annual savings for residential customers under Scenario 2. For the 2018-2038 period, the average annual bill for a residential customer of the Contra Costa County CCE program will be 8% lower than the same bill under PG&E rates. This is a little less than, but close to, the bill savings under Scenario 1. Note that these rate impacts assume that a rate stabilization reserve is funded during the first few years of the CCE's existence. Thus, even though a "gap" between the CCE costs and PG&E rates can be seen in Figure 17, the bill savings in 2018 is zero, as the additional CCE funds are assume to go to the reserve rather than as a customer bill savings.

[42] This chart does not include the reserve fund.

Table 9. Scenario 2 Savings for Residential CCE Customers

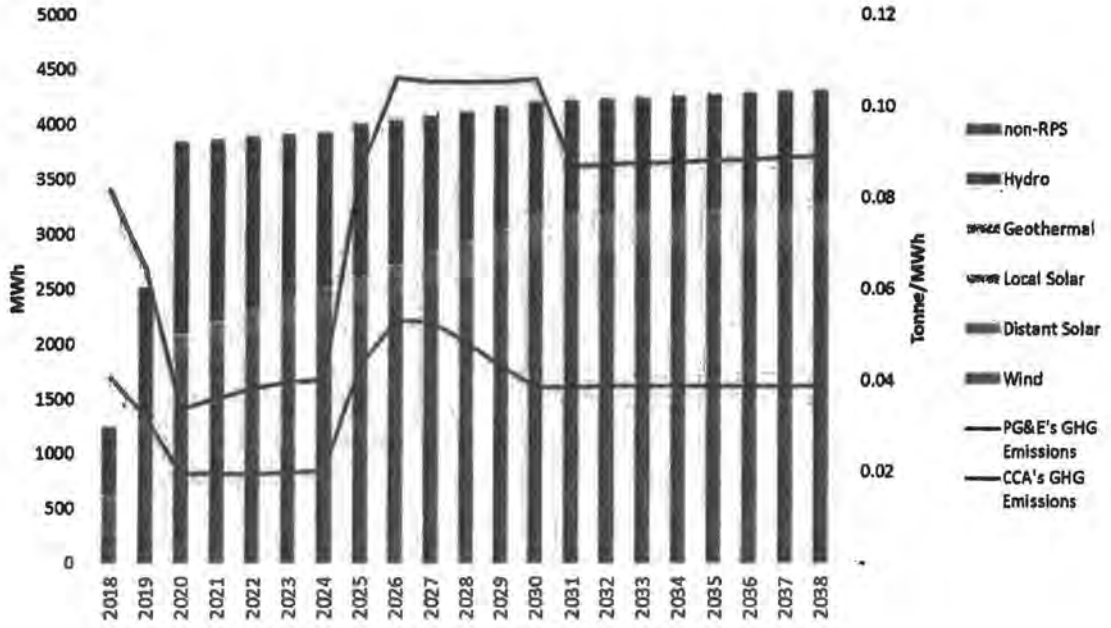
Residential	Monthly Consumption (kWh)	Bill with PG&E ($)	Bill with Contra Costa County CCE ($)	Savings ($)	Savings (%)
2018	500	121	121	0	0%
2020	500	129	125	4	3%
2030	500	189	172	17	9%
2038	500	254	225	29	11%

GHG Emissions

Under Scenario 2, we model the Contra Costa County CCE to at least as much carbon-free generation as PG&E. As in Scenario 1, in years where the assumed renewables would not result in the CCE halving PG&E's GHG emissions, we add large hydroelectric generation to the CCE's resource portfolio to make up the difference, subject to a 5% minimum supply from market purchases. In other years when the CCE's RPS targets are sufficient to provide GHG savings relative to PG&E, we assume that emissions are further reduced by sourcing 50% of the non-RPS supply from large hydro. The result is a portfolio that averages 20% large hydro.

Figure 18 compares the Scenario 2 GHG emissions from 2018-2038 for the Contra Costa County CCE with what PG&E's emissions would be for the same load if no CCE were formed. Because Scenario 2 has a higher renewable generation target (80% by 2030), the hydroelectric generation necessary to achieve the same GHG emissions reduction is lower. As a result of trading off large hydro for RPS-eligible energy, GHG emissions in Scenario 2 are the same as Scenario 1 through 2027, after which the CCE's portfolio will produce less than half the GHG emissions compared to PG&E.

Figure 18. Scenario 2 Contra Costa County CCE Supply Portfolio (vertical bars) and GHG Emissions (lines) ("Normal" PG&E Hydro Conditions)



Scenario 3 (Minimum RPS Compliance plus Local Procurement)

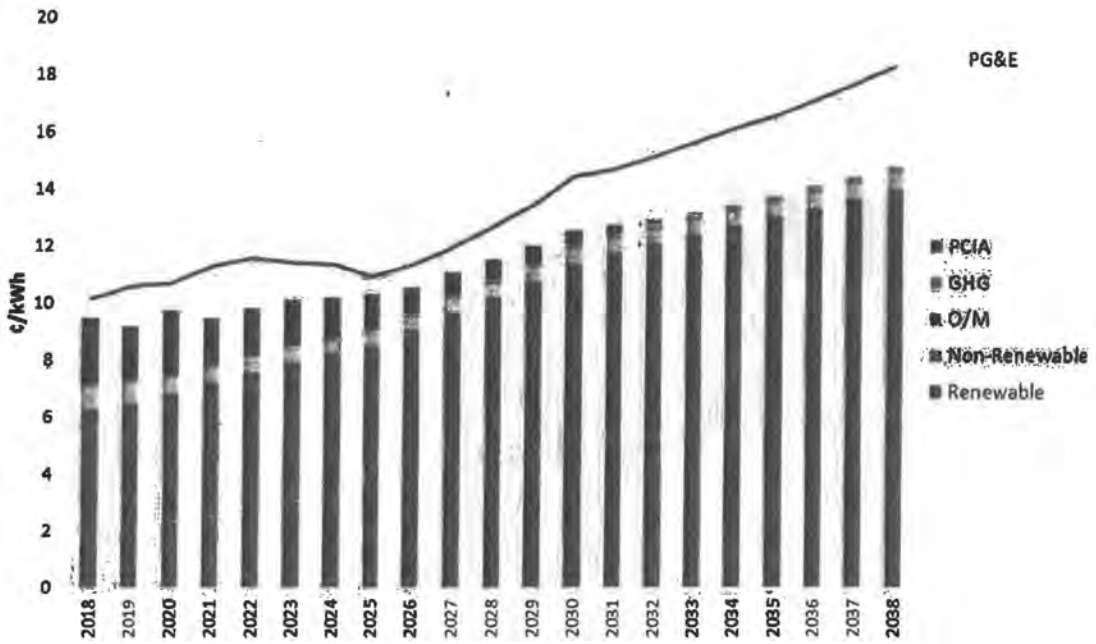
Scenario 3 is identical to Scenario 1, save for a greater portion of locally sourced renewables. Under Scenario 3, local renewables increase annually, reaching 50% of the renewable supply by 2027 and continues at 50% through 2038.

CCE Costs

Figure 19 summarizes the results for this scenario. The vertical bars represent the Contra Costa County CCE customer rate, and the green line represents the PG&E generation rate. As with Scenario 1, the non-renewable cost is the largest component of the CCE's rates, followed by renewable generation costs. The latter are greater than in Scenario 1 due to the higher prices of local generation resources. As with previous scenarios, the PCIA exit fee is the third largest expenditure and it is expected to decrease most years after 2020. As with Scenario 1, the costs associated with GHG allowance purchases are responsible for a marginally larger percentage of the CCE's total costs between 2028 and 2038. This is mostly due to the lower share of GHG-free emissions.

The Scenario 3 differential between PG&E generation rates and Contra Costa County CCE rates falls below the differential in Scenarios 1 and 2. However, the CCE rates are expected to be lower than PG&E's generation rates for the entire forecast period, which will allow the CCE to collect reserve fund contributions annually from 2018 to 2038.

Figure 19. Scenario 3: Forecast Average CCE Cost and PG&E Rates, 2018-2038



Residential Bill Impacts

Table 10 summarizes the average residential bill impacts under Scenario 3. Between 2018 and 2038, the annual bill for a residential customer of the Contra Costa County CCE program will be, on average, 4.5% lower than a corresponding PG&E bill.

Table 10. Scenario 3 Savings for Residential CCE Customers

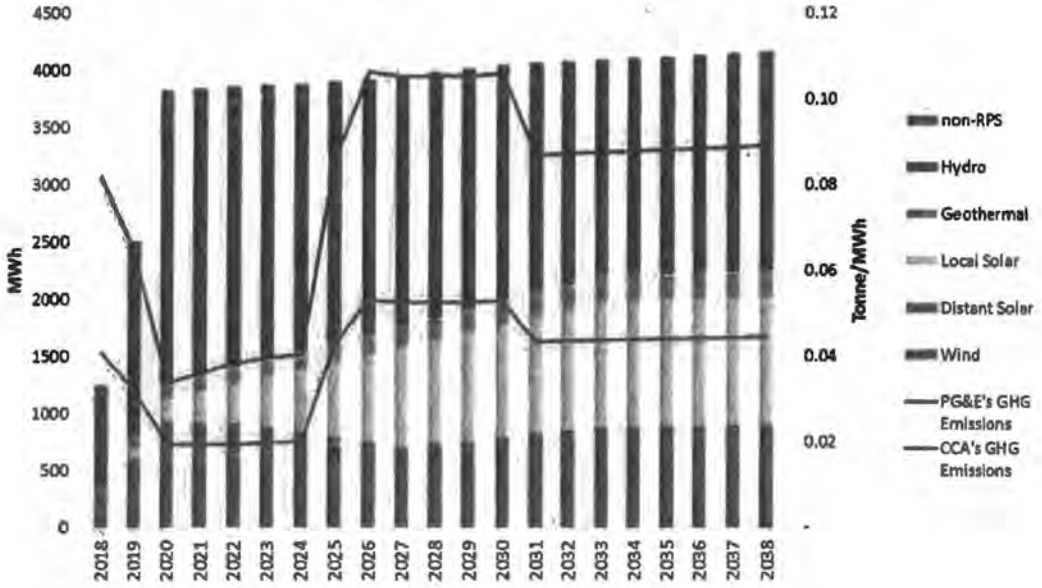
Residential	Monthly Consumption (kWh)	Bill with PG&E ($)	Bill with Contra Costa County CCA ($)	Savings ($)	Savings (%)
2018	500	121	121	0	0%
2020	500	129	126	3	2%
2030	500	189	179	10	5%
2038	500	254	236	18	7%

GHG Emissions

The emissions pattern for Scenario 3 is identical to Scenario 1 due to the equal GHG-free generation proportion. The only difference is that part of this generation is provided by local sources. Figure 20 shows the GHG emissions from 2018-2038 for the Contra Costa County CCE

under Scenario 3. Note that GHG emissions from the Contra Costa CCE supply and PG&E supply are the same as in Scenario 1.

Figure 20. Scenario 3 Contra Costa County CCE Supply Portfolio (vertical bars) and GHG Emissions (lines) ("Normal" PG&E Hydro Conditions)



Scenario 4 (Accelerated RPS plus Local Procurement)

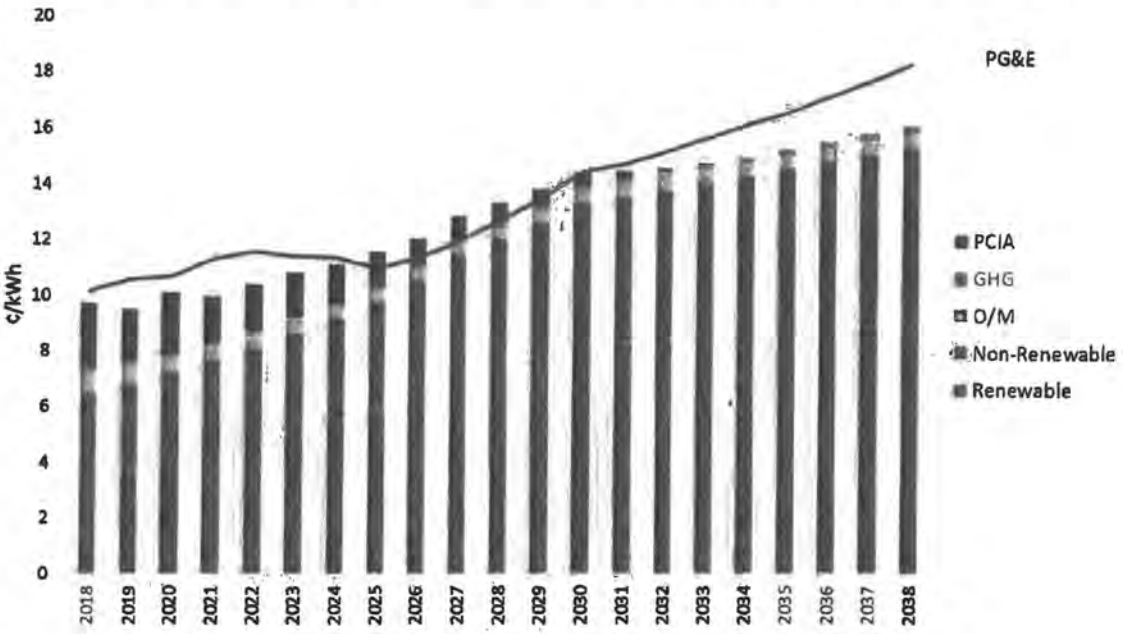
Scenario 4 is the same scenario as Scenario 2 but with a more substantial portion of the generation sourced from local renewable sources: increasing annually and achieving 50% of the total RPS supply by 2027 through 2038.

CCE Average Costs

Figure 21 summarizes the results for this scenario. The vertical bars represent the Contra Costa County CCE customer rate, and the green line represents the PG&E generation rate. Under Scenario 4, the cost for renewables forms the largest component of the CCE's rates and grows steadily to account for nearly 60% of the total CCE rate in 2030. Non-renewable generation is the next largest cost component of the rate, followed by the PCIA exit fee, which is expected to decrease in most years beginning 2020. As with Scenario 2, the costs for GHG allowance purchases in Scenario 4 are a smaller portion of total costs because of more RPS power.

The differential between PG&E generation rates and Contra Costa County CCE customer rates from 2018 to 2038 in Scenario 4 is the lowest of the four scenarios. This is because Scenario 4 has the most expensive supply portfolio, comprised of more locally sources renewables. Similar to the other scenarios, in Scenario 4 the collection of the reserve fund contributions at the end of 2038 is positive. Contra Costa County CCE rates in Scenario 4 are forecasted to be lower than expected PG&E generation rates for all years from 2018 to 2038, except from 2025 to 2030.

Figure 21. Scenario 4: Forecast Average CCE Cost and PG&E Rates, 2017-2038



Residential Bill Impacts

Table 11 summarizes the average residential bill impacts under Scenario 4. Over the study period, the annual bill for a residential customer of the Contra Costa County CCE program will be, on average, 1% lower than the same bill under PG&E rates under Scenario 4. However, the higher local renewable costs coupled with their assumed high usage cause the CCE's rates to exceed PG&E's in some years. In particular, from 2025 through 2030, the total CCE rates (CCE rate plus PCIA) is projected to be higher than the PG&E generation rate. This implies that very aggressive pursuit of local renewables must be carefully weighed against their additional costs.

However, it should also be noted that the study assumed a conservative $30/MWh adder on top of the build costs of local solar projects to account for costs of land acquisition/ opportunity costs. If a significant fraction of the local projects does not have these higher soft costs, then this higher level of local renewables can be developed at competitive rates.

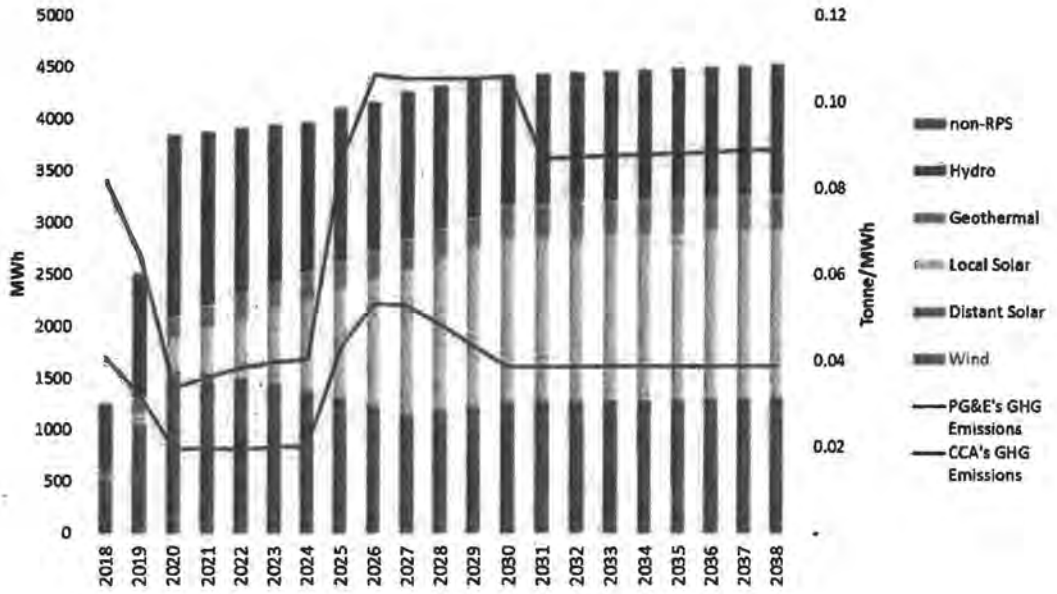
Table 11. Scenario 4 Savings for Residential CCE Customers

Residential	Monthly Consumption (kWh)	Bill with PG&E ($)	Bill with Contra Costa County CCA $)	Savings ($)	Savings (%)
2018	500	121	121	0	0%
2020	500	129	128	1	0.7%
2030	500	189	199	-10	-5%
2038	500	254	242	12	5%

GHG Emissions

The GHG emissions pattern for Scenario 4 is the same as Scenario 2 due to the scenarios having the same shares of GHG-free generation; the only difference being that local solar generation is assumed to replace solar supplies from more distant locations. Figure 22 compares the GHG emissions from 2018-2038 for the Contra Costa County CCE under Scenario 4 with what PG&E's emissions would be for the same load were no CCE formed.

Figure 22. Scenario 4 Contra Costa County CCE Supply Portfolio (vertical bars) and GHG Emissions (lines) ("Normal" PG&E Hydro Conditions)



Chapter 4: Sensitivity of Results to Key Inputs

In addition to the base case forecast described above, MRW has assessed alternative cases to evaluate the sensitivity of the results to possible conditions that would have an impact on Contra Costa County CCE's technical study. The metric considered to compare the alternative sensitivity cases to the base case is the differential between the annual average generation rates for PG&E bundled customers and for Contra Costa County CCE customers over the first ten years (2018-2028).[43] The latter 10 years were not included as they are both uncertain and skew the average results due to the widening gap between modeled PG&E's rates and the CCE's average cost.

The base-case analysis (Chapter 3 –Scenario 1) was developed as a reasonable and conservative assessment of the Contra Costa County CCE. In addition to the base case analysis, MRW analyzed alternative cases to address seven risks: (1) low participation, (2) higher local renewable power prices, (3) higher renewable power prices, (4) higher natural gas prices, (5) lower PG&E portfolio costs, (6) higher PCIA charges, and (7) a combination of these six risks (stress scenario).

Lower Participation Sensitivity

This sensitivity case evaluates the impact of lower participation on the CCE program. Lower participation could be due to a higher customer opt-out rates, or if some of the cities included in the study choose not to participate in the CCE program. If fewer customers join, CCE rates will generally be higher because about $7 million of annual CCE costs are invariant to the amount of CCE load. In the Lower Participation sensitivity, we assume that the load for the Contra Costa County CCE is 70% of the potential load.[44] Average administration costs in this scenario are 12% higher than in the base case scenario. These higher administration costs do not have a big impact on the CCE rates because administration costs are a small part of the total CCE rate (5% on average). The impact of this sensitivity case is to reduce the 2018-2028 average rate differential by 0.07¢/kWh relative to the base case.

Table 12. Lower Participation Sensitivity Results, 2018-2028

Period 2018-2028	Average Admin costs (¢/kWh)	Average rate differential (¢/kWh)
Base	0.45	1.86
Low participation	0.51	1.79

[43]The Contra Costa County CCE rate includes the PG&E exit fees (PCIA charges) that will be charged to CCE customers but does not include the rate adjustment for the reserve fund or other possible CCE activities.
[44] In the base case we considered 85% of the potential load.

Higher Local Renewable Power Prices Sensitivity

This sensitivity case evaluates the impact of higher local renewable power prices on the CCE's financial viability. As discussed in Appendix B, in the base case, the solar local renewable power price starts at $98/MWh in 2018 and it increases following the price curve. In the Higher Local Renewable Power Prices sensitivity, we assume that local renewable prices would be 20% higher than the base case prices. These higher prices affect only CCE rates for Scenario 3 and Scenario 4 (Scenario 1 and Scenario 2 do not include local generation), reducing the 2018-2028 average rate differential by 0.3¢/kWh relative to the base case.

Table 13. Higher Local Renewable Power Prices Sensitivity Results, 2018-2028[45]

Period 2018-2028	Average local renewable prices ($/MWh)	Average rate differential (¢/kWh)
Scenario 3	114.30	1.14
High local renewable prices	137.20	0.85

Higher Renewable Power Prices Sensitivity

This sensitivity case evaluates the impact of higher renewable power prices on the CCE's financial viability. As discussed in Appendix B, in the base case, renewable power prices are flat in nominal dollars through 2022, based on the assumption that projected declines in renewable development costs will offset increases associated with the expected expiration of federal renewable tax credits.[46,47] In the Higher Renewable Power Prices sensitivity, we assume that renewable prices would be flat in nominal dollars through 2022 if it were not for the tax credit expirations and add the impact of the tax credit expirations to the base case prices. Average renewable power prices in this scenario are 0-10% higher than in the base case scenario through 2021, about 20% higher in 2021 and 2022, and 30% higher after 2022 when the solar investment tax credit is reduced to 10%. These higher prices affect both the CCE and PG&E, but they have a greater effect on the CCE because PG&E has significant amounts of renewable resources under long-term contract. The impact of this sensitivity case is to reduce the 2018-2028 average rate differential by 0.35¢/kWh relative to the base case.

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[45] Results for Scenario 3.

[46] The Investment Tax Credit (ITC) which is commonly used by solar developers, is scheduled to remain at its current level of 30% through 2019 and then to fall over three years to 10%, where it is to remain. The federal Production Tax Credit (PTC), which is commonly used by wind developers, is scheduled to be reduced for facilities commencing construction in 2017-2019 and eliminated for subsequent construction.
U.S. Department of Energy. Business Energy Investment Tax Credit (ITC). http://energy.gov/savings/business-energy-investment-tax-credit-itc; U.S. Department of Energy. Electricity Production Tax Credit (PTC). http://energy.gov/savings/renewable-electricity-production-tax-credit-ptc

[47] The base case forecast would also be consistent with a scenario in which the tax credit expirations are delayed.

Table 14. Higher Renewable Power Prices Sensitivity Results, 2018-2028

	Average RPS prices ($/MWh)	Resulting average rate differential (¢/kWh)
Base	53.2	1.86
High renewable prices	65.1	1.51

Higher Exit Fee (PCIA) Sensitivity

PG&E's PCIA exit fees are subject to considerable uncertainty. Under the current methodology, PCIA rates can swing dramatically from one year to the next, and this methodology is currently under review and may be adjusted in the coming years. MRW therefore evaluated a stress case in which PCIA rates do not fall after 2018, as anticipated in the base case, but instead remain at 2018 levels through 2028. This increases the 2028 PCIA by more than 300% of its base case value. The impact of this sensitivity case is to reduce the 2018-2028 average rate differential by 0.86¢/kWh relative to the base case.

Table 15. Higher PCIA Exit Fee Sensitivity Results, 2018-2028

	Average PCIA prices (¢/kWh)	Resulting average rate differential (¢/kWh)
Base	1.5	1.86
High PCIA	2.4	1.00

Lower PG&E Portfolio Cost Sensitivity

While changes to natural gas prices and renewable power prices affect both the CCE and PG&E, dampening the impact on the CCE's cost competitiveness, reductions to the costs to operate and maintain PG&E's nuclear and hydroelectric facilities would provide cost savings to PG&E that would not be offset by cost savings to the CCE. MRW considered a case in which PG&E's overall generation rates are 10% below the base case, driven by reductions to PG&E's nuclear and hydroelectric portfolio costs. Under such a scenario, the 2018-2028 average rate differential would be reduced by 1.12¢/kWh relative to the base case scenario.

Table 16. Lower PG&E Portfolio Sensitivity Results, 2018-2038

	Average PG&E Rate (¢/kWh)	Resulting average rate differential (¢/kWh)
Base	**11.2**	**1.86**
Low PG&E portfolio costs	**10.1**	**0.74**

Higher Natural Gas Prices Sensitivity

Natural gas prices have been low and relatively steady over the last few years, but they have historically been quite volatile and subject to significant swings from local supply disruptions (e.g., Hurricanes Katrina and Rita in 2005). MRW analyzed a gas price sensitivity case using the U.S. Energy Information Administration's High Scenario natural gas prices forecast,[48] which is on average 50% higher than MRW's base case forecast for the period 2018-2028. Natural gas price increases affect power supply costs for both a Contra Costa County CCE and PG&E; however, the nuclear and hydroelectric capacity in PG&E's resource mix makes PG&E less sensitive than a Contra Costa County CCE to changes in natural gas prices. The net effect of higher natural gas prices is therefore to increase CCE rates relative to PG&E rates[49] (i.e., reduce the average rate differential). Under the sensitivity conditions considered, the 2018-2038 average rate differential decreases relative to the base case by 1.68¢/kWh.

Table 17. Higher Natural Gas Prices Sensitivity Results, 2018-2028

	Average PG&E Rate (¢/kWh)	Resulting average rate differential (¢/kWh)
Base	**11.2**	**1.86**
Low PG&E portfolio costs	**10.1**	**0.18**

Stress Case and Sensitivity Comparisons

All rate differentials (i.e., the CCE's competitive positions) are lower in the sensitivity cases than in the base case scenario for all years from 2018 to 2028 (**Table 18**). To evaluate a more extreme scenario, MRW developed a stress case that combines all the sensitivity cases: (1) low

[48] U.S. Energy Information Administration. "2015 Annual Energy Outlook," Table 13

[49] For Scenarios 2 and 4 the high gas natural prices case has less negative impact due to the high proportion of renewable generation.

participation, (2) higher local renewable power prices, (3) higher renewable power prices, (4) higher natural gas prices, (5) lower PG&E portfolio costs, and (6) higher PCIA charges. The 2018-2028 average rate differential for this stress case is negative, at -4.08¢/kWh, meaning that CCE customer costs would exceed PG&E customer costs under this scenario.

Table 18. Stress Test Results, 2018-2028

	Resulting average rate differential (¢/kWh)
Base	1.86
Stress Scenario	-2.3

Figure 23. Difference Between PG&E Customer Rates and CCE Customer Rates Under Each Sensitivity Case, 2018-2028[50]

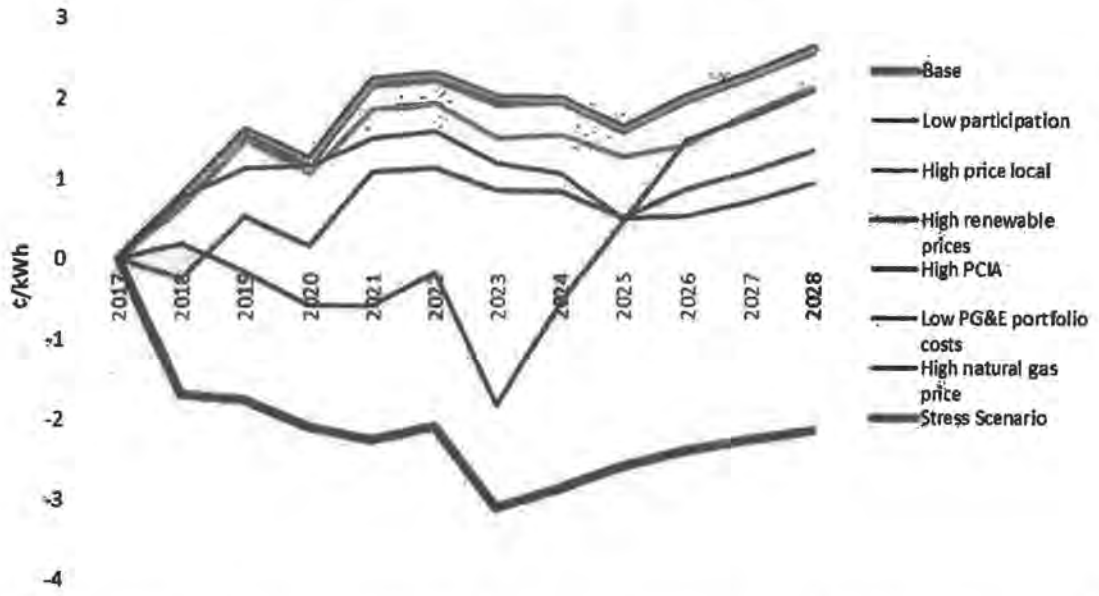


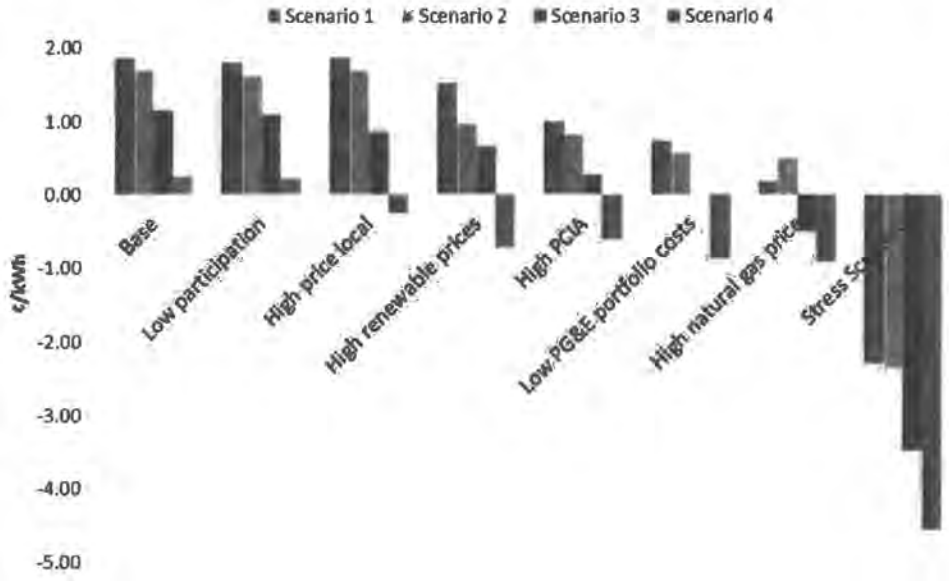
Figure 23 shows the difference between the PG&E customer rates and the Contra Costa County CCE customer rates (including exit fees) in the base case, and in each of the sensitivity scenarios, for each year from 2018 to 2028. As Figure 23 illustrates, CCE customer rates are lower than PG&E customer rates in each of the individual sensitivity cases in each year. For the High Natural Gas Price sensitivity case, in 2023 the rate differential drops due to an increase on the

[50] The chart plots the sensitivity cases for Scenario 1, therefore it does not reflect the effect of the High Price Local sensitivity (it only applies to Scenario 3 and 4).

PCIA, as the PCIA is highly sensitive to the natural gas prices. Under the Stress Scenario case, the rate differential is negative for each year (i.e., CCE rates are higher than PG&E generation rates).

The results shown above reflect the Minimum RPS Compliance supply scenario (Scenario 1). MRW additionally evaluated each sensitivity scenario under the four alternative supply scenarios: (1) Minimum RPS Compliance, (2) Accelerated RPS, (3) Minimum RPS Compliance plus Local Procurement, and (4) Accelerated RPS plus Local Procurement. Figure 24 depicts the average rate differentials for 2018-2028 for each sensitivity case under the four supply scenarios.

Figure 24. Difference Between PG&E Customer Rates and CCE Customer Rates Under Each Sensitivity Case and Supply Scenario, 2018-2028 Average



Looking at 2018-2028, Scenario 1 (Minimum RPS Compliance) is the least costly scenario for the CCE, and therefore has the best rate differential under most of the sensitivity cases considered.[51] Scenario 2 (Accelerated RPS), though still quite competitive with PG&E, fares slightly worse, with a rate differential approximately 10-20% lower than in Scenario 1 for most of the sensitivity cases considered. The one exception is the High Natural Gas Price sensitivity case, in which Scenario 1 has worse results than Scenario 2. This is due to the higher gas-fired generation content in Scenario 1, which makes the supply portfolio more susceptible to volatility in natural gas prices than Scenario 2. For most of the sensitivity cases, rate differentials for

[51] This is only looking at the period 2018-2028. From 2028-2033 the rates show the same pattern between the four scenarios. If we consider the period 2033-2038, Scenario 2 would be the least costly scenario. After 2033 the prices of renewable generation are expected to be lower than the wholesale electric market, which makes Scenario 2 less costly than Scenario 1 in the period 2033-2038.

Scenario 3 are lower than Scenario 1 and Scenario 2. Scenario 4 is the costliest scenario, with rate differentials much lower than the other three scenarios.

In the stress case, Contra Costa County CCE customer rates exceed PG&E customer rates on average over the 2018-2028 period for all four scenarios, with the negative rate differential being highest in Scenario 4 at -4.5¢/kWh.

Conclusions

Under Scenarios 1, 2 and 3, Contra Costa County CCE customer rates compare favorably to PG&E rates in all years from 2018 to 2038. As modeled, in Scenario 4 Contra Costa County CCE customer rates would be higher than PG&E rates from about 2025 and 2030. Under Scenarios 1 and 2 (simple RPS compliance), Contra Costa County CCE customer rates remain below PG&E rates under all but the most extreme sensitivity case considered. Scenario 3 rates could meet or beat PG&E's under all but the high natural gas and stress cases. Under the stress case, irrespective of the supply scenario considered, CCE rates are higher than PG&E rates. While the stress case may appear extreme given that it involves seven adverse sensitivities simultaneously occurring, cost volatility in the power industry is well established, and the possibility of adverse conditions arising in an isolated year should be understood and planned for in any CCE venture.

Chapter 5: Macroeconomic Impacts

This chapter discusses the job impacts within Contra Costa County for each of the four scenarios. All four scenarios modeled showed positive economic and job impacts. The mix and amount of jobs created would depend upon policy decisions made by the CCE board, primarily trading off the economic stimulus from lower electricity bills versus the direct jobs created by local (higher cost) renewable energy projects sponsored by the CCE.

To understand just how job impacts can come about, and the extent of those changes (positive or negative), a brief description of elements associated with the CCE and how they influence the existing economy is provided.

How a CCE interacts with the Surrounding Economy

The establishment and operation of a CCE creates a new set of spending elements (also referred to as "demands") as a community changes the type of electricity generation they want to purchase, where the new mix of generation is to be located, adjustments necessary for existing generating assets of the provider utility, and implications on customers' bills because of retail rate differentials. Some of these new elements have temporary effects, while others have long-term effects. Investment in locally sited solar will result in temporary direct creation of jobs whereas subsequent *maintenance* will support some on-going direct jobs. Regardless of the duration, when a direct job is created in a sector, there will be a multiplier response on "backwardly-linked" jobs with supplier businesses if the supplier is present in the economy. The new elements include:

- **Administration** – direct jobs, long-term effect. County staffing, professional-technical services and I/T-database services
- **Net Rate Savings (or bill savings)** – long-term effect. County households have an increase in their spending ability, County commercial and industrial energy customers experience a reduction in their costs-of-doing business which makes them each more competitive, garnering more business that requires more employees, and municipal energy customers can provide more local services which require more local government staff.
- **New Renewable Capacity Investment within County & Surrounding counties** – direct jobs, short-term, two of the four scenarios.
- **New Renewable Operations within County & Surrounding counties** – direct jobs, long-term, two of the four scenarios.
- **Net Generating Capacity and Operations offsets for PG&E outside of county** – direct jobs, short and long-term, none because we are not focused on the *rest of California* economy.

To frame expectations around how many direct jobs can be created in the County from the above CCE elements, consideration must be given to (a) how much of the spending associated with the CCE scenario is fulfilled by a within-county business or resident workforce, and (b) what do these locally-fulfilled dollars represent in terms of current annual County business activity (e.g., is this a large spending event?).

Job Impacts of Proposed CCE Scenarios

We examine each of the four scenarios for their influence on the County economy and the economy of the four surrounding counties combined (a ring region comprised of Alameda, Sacramento, San Joaquin, and Solano counties). The basis for including the surrounding counties is (i) interdependence of the economies in terms of business-to-business transactions (in part due to proximity) and labor commuting flows (both in and out), as well as (ii) the siting of 50 percent of the proposed CCE funded small-scale solar projects beyond Contra Costa County. The scenario structures assume no electric customer participation from beyond Contra Costa County therefore the proposed *bill savings* are allocated across customer segments solely within Contra Costa County.

The possible sources of *initial* job change in any of the scenarios include:

- CCE Administration *spending* 2018 to 2038 (within Contra Costa County)
- Bill Savings *less* Customer's expense for on-site solar deployed 2018 to 2038 (within Contra Costa County)
- Investment in small-scale Solar 2018 to 2030 (Contra Costa and the 4-county ring region)
- O&M spending on small-scale Solar 2018 to 2038 (Contra Costa and the 4-county ring region)

Only scenarios 3 and 4 include investment for small-solar projects in Contra Costa County and the surrounding region of counties. Once each regional economy experiences its initial change related to any of the above scenario elements, a macroeconomic forecasting tool (the REMI model[52]) captures impacts from inter-regional transactions (of commuters, of business sales), and impacts from changes in Contra Costa County's relative *cost-of-living* and *cost-of-doing business* resulting from bill savings, and impacts associated with *multiplier effects*.

Overview of Scenario Effects

It is helpful to understand how the various scenarios "stack up" in terms of the four sources that will exert an influence on the local economies. Table 19 presents the cumulative (2018 to 2038) stimuli - bill savings, administrative spending, and where relevant, demands related to investment, O&M. The amounts are a roll-up of nominal values. Scenario 1 poses the greatest amount of Rate Savings for County CCE customers ($2,390 million), and Scenario 4 poses the largest amount of solar investment *demand* ($827 million) for in-county installations. Ensuing O&M spending (Scenarios 3 and 4) will increase as the investment *demand* increases. None of the displaced renewable capacity by PG&E (investments under the "business-as-usual" or "without CCE" case) occurs in either Contra Costa or the surrounding 4 counties.

[52] Regional Economic Models, Inc. of Amherst, MA. www.remi.com

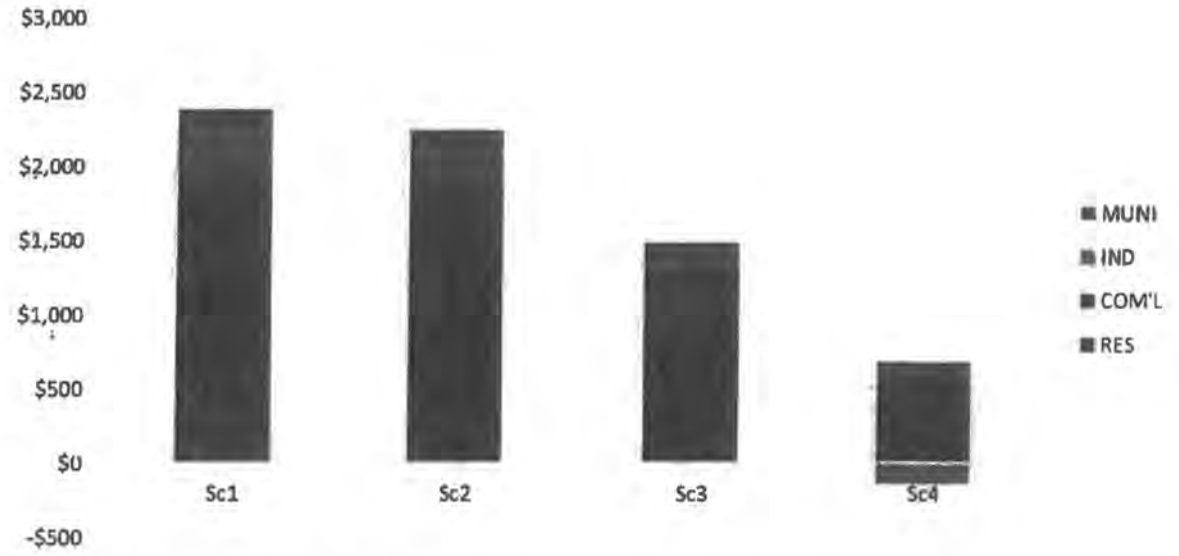
Table 19. CCE Scenario Economic Characteristics (2018-2038, Millions of nominal dollars)[53]

Scen.	Net Rate savings County customers	CCE Small Solar Investment		CCE Small Solar O&M	
		Contra Costa County	Neighboring Counties	Contra Costa County	Neighboring Counties
1	$2,390	$0	$0	$0	$0
2	$2,251	$0	$0	$0	$0
3	$1,485	$456	$456	$234	$234
4	$542	$827	$827	$375	$375

Figure 25 presents the estimated *net* rate savings for various customer-segments in the County by CCE scenario. The rate savings benefit accrues foremost to the residential segment, followed by the commercial segment. The municipal segment has fairly constant rate savings regardless of scenario. In addition to the magnitude of overall net rate savings and local solar-related business opportunities, this segment distribution across customer segments influences part of the job impact response (amidst solar investments). Households spend money saved on electric bills on other consumer basket items, which would include a mix of goods and services, some local, some imported, which all rely on different jobs at different wages. Commercial or industrial electric customers experience a savings as making their operations more cost competitive, which returns some positive (though not equal across all type of activities) market share growth (e.g., more sales which means more jobs and other inputs to their operations). Municipal segment savings allow the state/local government entity to redirect dollars into other forms of public spending.

[53] *Net* Rate Savings are net of customer out-of-pocket for on-site solar additions under Scenarios 3 and 4. For the County projects, 25 percent of the investment is paid by *Industrial* customers, 25 percent by *Commercial* customers, with the balance funded by outside investors. Small-solar projects in the surrounding counties are assumed to be funded by outside investors. Under scenarios 1 and 2 *net* is equal to gross rate savings.

Figure 25. Cumulative net Rate Savings in Contra Costa County, Proposed CCE structures



The opportunity for the small-solar investment episode (2018 through 2030), for scenarios 3 and 4, to generate "within region" job requirements is determined by how much of the investment dollars connect with (procure from) 'within region' construction labor and businesses that provide project components. The allocations of small-solar investment dollars into these two major types of purchases (with additional breakdown on non-labor expenditures) is done using the National Renewable Energy Laboratory (NREL) Jobs and Economic Development Impact (JEDI) small-solar PV JEDI model[54] (CA) allocation. As shown in Table 20 for scenarios 3 and 4, no less than 50 percent of the various budgets enlists local workforce, and firms that provide supplies or services.

[54] The Jobs and Economic Development Impact (JEDI) models are user-friendly screening tools that estimate the economic impacts of constructing and operating power plants, fuel production facilities, and other projects at the local (usually state) level. JEDI results are intended to be estimates, not precise predictions. See: http://www.nrel.gov/analysis/jedi/about_jedi.html

Table 20. Local Fulfillment of CCE Budgets (millions of nominal dollars)

	CCA Admin	Solar Invest	Solar O&M	CCA Admin	Solar Invest	Solar O&M
	Scenario 1			**Scenario 3**		
Budget	$316	*N/A*	*N/A*	$316	$456	$233
In-County						
locally procured	$189	*N/A*	*N/A*	$189	$234	$146
% capture local	60%	*N/A*	*N/A*	60%	51%	63%
Surrounding Counties						
locally procured	*N/A*	*N/A*	*N/A*	*N/A*	$234	$146
% capture local	*N/A*	*N/A*	*N/A*	*N/A*	51%	63%
	Scenario 2			**Scenario 4**		
Budget	$316	*N/A*	*N/A*	$316	$ 827	$375
In-County						
locally procured	$189	*N/A*	*N/A*	$189	$425	$235
% capture local	60%	*N/A*	*N/A*	60%	51%	63%
Surrounding Counties						
locally procured	*N/A*	*N/A*	*N/A*	*N/A*	$450	$219
% capture local	*N/A*	*N/A*	*N/A*	*N/A*	51%	63%

Resulting Impacts on Jobs

This section will present several views of the job impacts by scenario. As shown in Table 21, Scenario 1 yields the largest annual job impact for the County over the interval – the result of the maximum rate savings under the CCE program. Job impacts are not limited to the direct job requirements from a CCE but include jobs resulting from *multiplier effects* and *competitiveness effects*. Scenario 4 – with the smallest of *net* rate savings for the County's electric customers poses the largest investment for small -solar across the 5-county economy. This compensates for the reduced role of the rate savings and thus Scenario 4 yields an annual job gain for the 5-county economy, 886 jobs (compared to Scenario 1 with 731). The largest absolute job gain is in Scenario 3, with a total of 922 annual average jobs. As the amount of small solar investment increases (with subsequent O&M spending to follow), the percent of job impact that occurs within the surrounding multi-county region increases (Scenario 4 has 44%). The County's annual job increase under Scenario 4 however is moderated when compared to Scenario 1. This is understood by (i) all CCE customers' realizing smaller rate savings when the CCE attempts to invest in *local* solar, combined with (ii) commercial/industrial businesses in the County picking up 50 percent of the solar investment cost. Also, influencing the "surrounding county region" job impact is the fact that a neighboring economy (the County) is experiencing lower electric bills (regardless of the magnitude) and a solar installation "boom" – namely, economic stimulating events. This can create a positive bounce for the surrounding counties on some of the

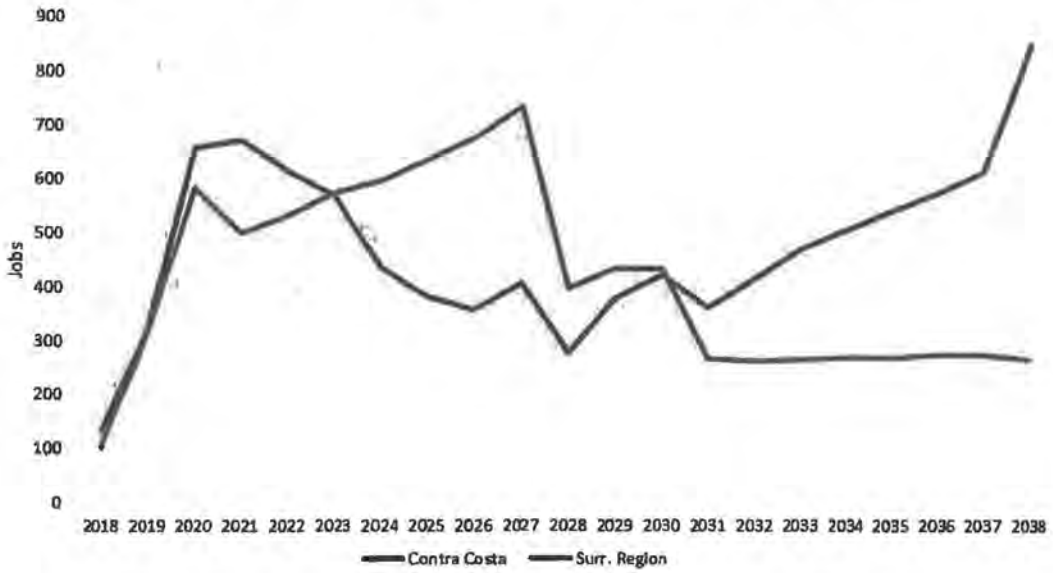
background business (supplier) transactions as well as with working-age households who commute into the County (this point is illustrated in Figure 26). And when the surrounding region is host to its own solar installation boom, this will engage the Contra Costa County economy as well.

Table 21. Average Annual Employment Impacts 2018 through 2038 (Jobs)

Scenario	Contra Costa	Surrounding 4 Counties	All 5 counties	% in Region
1	681	50	731	7%
2	571	48	619	7%
3	654	268	922	29%
4	474	412	886	44%

For Scenario 4 (with the smallest *net* rate savings and the highest local solar-investment/O&M spend) a time-path of the resulting job impacts is shown in Figure 26. To be clear, the results are not depicting *cumulative* job impacts, simply a plot of each year's resulting impact. After 2030, no more solar installations occur in either region.[55] The surrounding region remains slightly buoyed with job impacts due to some continued O&M spending and feedback from the Contra Costa economy that is still benefitting now from *gross* rate savings (no more project expenses) and some O&M spending.

Figure 26. Scenario 4 – Annual Job Impacts, 2018 to 2038



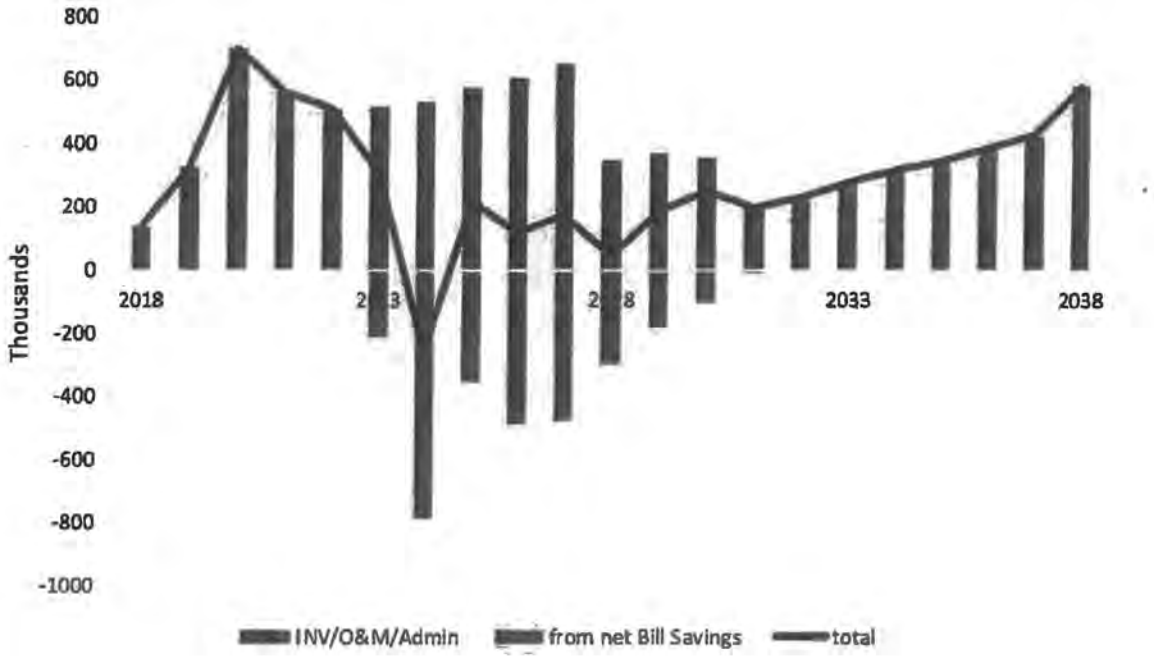
[55] This is because the targeted renewable penetration was met and no new generation is needed by the CCE. If the study looked further out, then replacement solar would begin to have an effect and generate jobs.

Figure 27 helps explain 'the dip' in the above *blue* series of positive job impacts *(for Contra Costa)* between 2024 and 2030. The estimated forecast of *net* rate savings follows such a trajectory (becoming *negative* between 2023 and 2030, when some customers bear a portion of the investment cost plus CCE rates are slightly higher than PG&E's) and even the *local* capture on the solar investment comes off a local maximum in 2020 and a global maximum in 2027 (the latter occurs in the surrounding region as well).

Figure 27. Scenario 4 – Contra Costa's "Local" Benefit

Figure 28 shows what contributes to Contra Costa's job impact under Scenario 4. The dark blue line is the line from Figure 26. Through 2030, the largest influence on the County's *positive* job impacts is the stimulus of solar project investment. Afterwards it is the role of *net* Rate Savings exerted through the customers' roles in the local economy that creates local jobs.

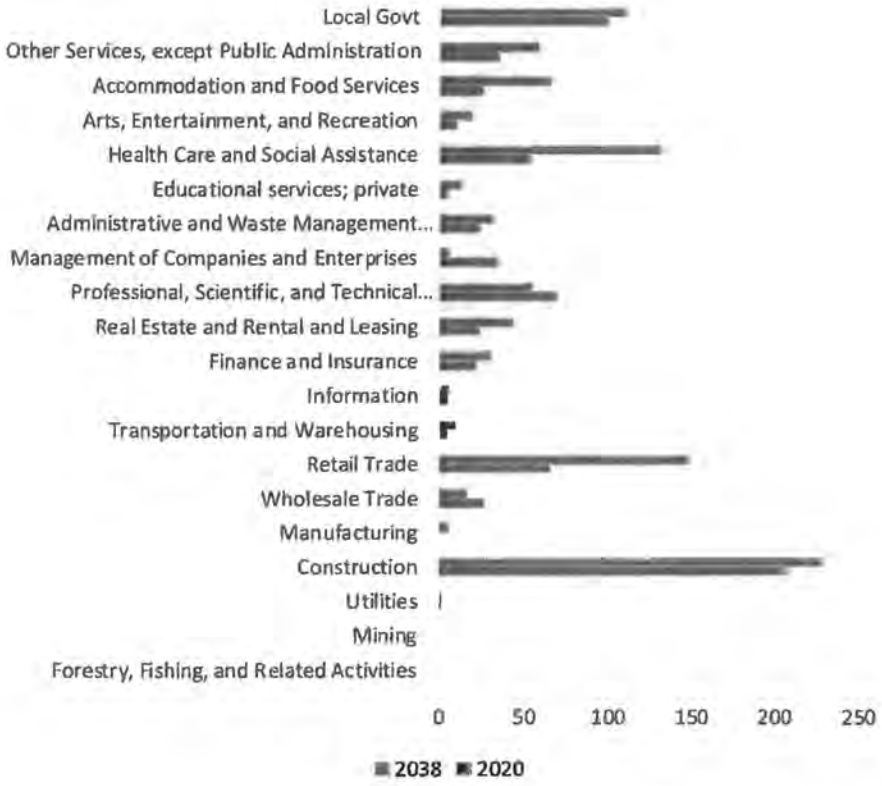
Figure 28. Scenario 4 – Contra Costa Job Impact by Source



A look at two points in the policy interval illustrates the types of jobs that comprise the impact results. In 2020 there are about 700 additional jobs (when solar investment is at a maximum with little of the *net rate savings* realized) and in 2038, about 600 additional jobs in the County (after the investment hang-over is past and only a small influence is exerted through O&M and administrative spending, and the County economy is still experiencing a ramp up of rate savings).

Figure 29 shows a pattern and an order of magnitude for each of the *snapshot* years that is indicative of the major CCE influence on the County's industry base. In 2020, County job additions are explained foremost by the predominant effect emanating from the CCE scenario – namely solar project investment and program administration (net rate savings are *negative* at this point as a result of C/I customers paying for part of the solar investment cost). So, jobs occur in *Construction,* in State/Local *Government,* in *Professional Technical Services,* and with *Wholesale suppliers.* Project developer overhead payments (part of the investment cost) is why job additions are showing for *Management of Companies and Enterprises*. But not all of the job additions in these sectors are directly related to solar installations. Some of these – as well as jobs gains in other non-investment sectors like health care, and food establishments, and retail – are the result of the initial labor income gains (construction paychecks) which drives added household spending (the *induced* stage of economic multiplier effects), and some are the result of increases in "within county" business-to-business transactions and elevated business needs from the adjacent region (the *indirect* stage of multiplier effects.)

Figure 29. Scenario 4 - Jobs added Among Contra Costa Sectors, 2020 and 2038



In 2038, (the orange series) the predominant 'economy' effect from the CCE is the *net* rate savings with a majority benefitting the *residential segment*. Households will redirect these savings into additional household spending (e.g., health care, retail, food establishments). But the municipal segment receives savings as well which drives additional public spending and requires some growth in staff in addition to the local government staff to administer the CCE (an average of 23 *administrative* staff). Commercial and industrial sectors also experience some job increases as their bill savings improve their bottom lines and grow their respective market shares for business. The pronounced gain in local government jobs is more than the (averaged) 23 staff mentioned above. By 2038 the County will have retained a significant number of its working-age residents that would otherwise have out-migrated (under the business-as-usual case) due to a combination of *relative* employment opportunities and inflation adjusted wages. The CCE activity creates job opportunity, mitigates in-county inflation (vis a vis bill savings) so there is real wage appreciation, and helps stem the tide of out-migration of key working-age cohorts. This further bolsters the positive population growth the County was forecast to have (under the BAU case), and local government spending (and staffing) increase on a *per capita* basis. In addition, the S/L government activity increases as the productive capacity of the County grows (in terms of dollars of gross regional product). The *Construction* sector posts strong job increases but now it is more the response to growth in the County (due to CCE influences) and this sector is key during investment (for both residential and non-residential structures) responses to close the gap between actual and optimal capital requirements in a growing economy.

Allocation of Earned Income Gains

A majority but not all jobs added in Contra Costa County will be held by the County's working-age resident households. The same is true for jobs added in the 4-county surrounding region. Which means the household spending effects from the take-home pay on the above impacted jobs occur where the worker *resides*. The above job impacts are measured by *place-of-work*. The commuter from another county registers the induced effects of their earned income on a *place-of-residence* basis.

Again, we focus on Scenario 4 in the year 2020 (year of maximum investment activity that is split 50:50 across both regions). Before we even allocate the impacts across the County boundary, it is helpful to reveal the broad commuting propensity (this is not industry-specific but rather across all activities within an economy) for these two interconnected regions. These relationships are captured in County data on personal (earned) income flows and the journey-to-work data – both federally collected. Table 22 shows the extent of *linkage* on earned income generated in one region and where its workers reside.

Table 22. Earnings-Commuter Reliance between Contra Costa County and the Surrounding region

		Earnings Place-of-Work	
		Contra Costa	Surrounding region
Worker resides	Contra Costa	79%	8.5%
	Surrounding Counties	15%	73%
	Elsewhere	6%	18%
		100%	**100%**

Based on each of the model region's reliance on jobs situated beyond their border there will be "earned income" imported for both Contra Costa and the surrounding region since both economies experience job increases under the CCE activity. For workplace earnings generated in Contra Costa County, 15 percent is earned by residents of the surrounding counties (we ignore the *elsewhere* because it is not part of our macroeconomic consideration). Likewise, of workplace earnings generated in the surrounding counties region, 8.5 percent is by commuters from Contra Costa County. Table 23 shows for 2020 the extent of extra jobs and earnings that will be held by a worker who resides in the other region. Of the 700 jobs added in Contra Costa County in 2020, 83 of these jobs (and $7 million of earnings) belong to commuters from the adjacent region. Of the 584 jobs added in the surrounding region in 2020, 41 of these jobs (and $4 million of earnings) belong to commuters from Contra Costa County.

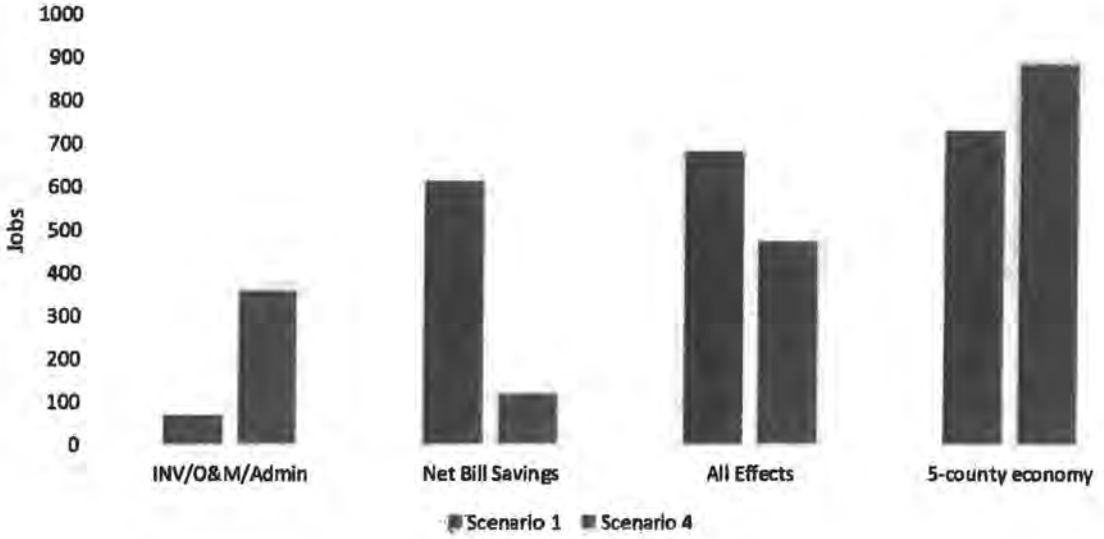
Table 23. Scenario 4 - Earnings Impact by Place-of-Residence, 2020[56]

Scenario 4, Year 2020	Place-of-Work	
	Contra Costa County	**Surrounding region**
Job impact	700	580
Earnings impact	$48 million	$42 million
Earnings per Job	$86,000	$87,500
% Commuter earnings (Surrounding counties)	15%	na
% Commuter earnings (Contra Costa)	Na	8.5%
Impact Commuter earnings for Surrounding counties	$7 million	na
Impact Commuter earnings for Contra Costa	Na	$4 million
Equiv. # of Surrounding County Commuters	83	na
Equiv. # of Contra Costa Commuters	Na	41

Last, a high-level decomposition of the job impact result in the County is shown in Figure 30 for Scenario 1 (the highest customer savings, no investment in local solar capacity) and Scenario 4. Under Scenario 1 the County realizes most job creation through the effects of rate savings on the County's economy. This response is 5-fold of what Scenario 4 would show as a job impact from rate savings. On the other hand, Scenario 4 exhibits a 5-fold job creation impact from the combined *investment/O&M/administration* effects. Including job creation impacts in the adjacent region of the four surrounding counties, Scenario 4 produces over 100 more jobs (average annual) than Scenario 1. This is predominantly explained by the surrounding region being the location for 50 percent of the small-solar investment that the CCE might choose to fund.

[56] Earnings per job are weighted estimates.

Figure 30. Average Annual Job Impact in Contra Costa County by Source



Conclusion

A CCE can also offer positive economic development and employment benefits to the County. At the peak, the CCE could create approximately 500 to 700 new jobs in the County plus additional jobs in neighboring counties. For Scenarios 1 and 2, the main driver behind the job growth is the general economic stimulus from injecting more dollars into the local economy via reduced electric rates. When costlier, locally-built renewable projects are emphasized, like in Scenarios 3 and 4, the general economic stimulus driver is replaced by the direct jobs and stimulus created by locally-sited and sourced renewable projects.

Because Contra Costa County's economy is not isolated, CCE formation can have positive effects in neighboring counties, too. This is particularly for the Scenarios emphasizing locally-built renewables, where workers would commute to jobsites in Contra Costa County.

Chapter 6: Other Risks

Aside from the risks identified above, the CCE or the political jurisdictions that are part of the CCE could be at risk for several other reasons. This section addresses some of those risks, which are summarized in Table 24.[57]

Table 24. Summary of CCE Risks

Risk	Magnitude	Mitigation
Financial Risks to CCE Members	Low	Keep CCE JPA's financial obligations separate from jurisdiction's
Procurement-Related Risks (i.e., can't meet rate or GHG targets)	Medium-low	Enter into balanced portfolio of power contracts
Legislative and Regulatory Risks	High	Monitor and advocate at Legislature and CPUC
PCIA Uncertainty	High	Establish rate-stabilization fund to account for volatile PCIA
PCIA Policy Uncertainty	High	Monitor and advocate at Legislature and CPUC
Availability/price of low-carbon resources	Medium	Enter into balanced portfolio of power contracts
Bonding Risk	Low	Monitor and advocate at CPUC

Financial Risks to CCE Members

A CCE is effectively an association of various political subdivisions. The formation documents for the CCE define the rights and responsibilities of each member of the CCE. Given the large number of political subdivisions that might participate in a Contra Costa County CCE, MRW assumes that the Contra Costa County CCE would be formed under a Joint Powers Authority, in much the same way as MCE and Sonoma Clean Power.

The CCE will ultimately take on various financial obligations. These include obtaining start-up financing, establishing lines of credit, and entering into contracts with suppliers. Because a CCE will take on such financial obligations, it is likely very important to the prospective member political subdivisions that the financial obligations of the CCE cannot be assigned to the members.

[57] Note that this section does not provide legal opinion regarding specific risks, especially those related to the formation or the structure of the Joint Powers Authority under which MRW assumes the CCE will be established.

Thus, it is critical that the Joint Powers Authority and any other structuring documents are carefully drafted to ensure that the member agencies are not jointly obligated on behalf of the CCE (unless a member agency chooses to bear such obligations). The CCE should obtain competent legal assistance when developing the formation documents.[58]

Nonetheless, starting up a CCE often requires a credit-worthy entity to backstop its initial financing. Some, such as CleanPowerSF, use the balance sheet from its existing power enterprise to backstop initial financing. Others have relied upon their host county as a backstop to initial financing. For example, MCE's initial bank loans for working capital were guaranteed by Marin County and the Town of Fairfax. After approximately six years, the CCE had demonstrated its creditworthiness and the guarantees were lifted. Still, the JPA cannot place any financial obligations or risks onto any of its members without that member's approval.

Procurement-Related Risks

Because a CCE is responsible for procurement of supply for its customers, the CCE must develop a portfolio of supply that meets the resource preferences of its customers (e.g., ratio of renewable versus non-renewable supply) while controlling risks (e.g., ratio of short-term versus long-term purchase agreements) and meeting regulatory mandates (e.g., resource adequacy and RPS requirements). Thus, it is tempting to assume that customers would prefer a fully hedged supply portfolio. However, such insurance comes at a cost and a CCE must be mindful of the potential competition from PG&E. Thus, the CCE's portfolio must be flexible while meeting the needs of its customers.

The CCE will likely need to negotiate a flexible supply arrangement with its initial set of suppliers. Such an arrangement is important because the CCE's loads are highly uncertain during CCE ramp-up. Without such an arrangement, the CCE faces the risk of either under- or over-procuring renewable or non-renewable supplies. Excessive mismatches between supply and demand of these different products could expose the CCE's customers to significant purchases or sales in the spot markets. These spot purchases could have a large impact on the CCE's financials.

The CCE will by necessity have to procure a certain amount of short-term supplies. These short-term supplies bring with them price volatility for that element of the supply portfolio. While this volatility is not unexpected, the CCE must be mindful that such volatility could increase the need for reserve funds to help buffer rate volatility for the CCE's customers. Funding such reserve funds could be challenging in this time of low gas prices (resulting in high PCIA charges).

The CCE will be entering the renewable market at an interesting time. While all LSEs must meet the expanded RPS targets by 2030, at least the IOUs are currently over-procured relative to their 2020 RPS targets. Whether the IOUs will attempt to sell off some of their near-term renewable supplies is unknown. However, if the IOUs believe that this is a good time to acquire additional

[58] Cities such as El Cerrito and Benicia conducted legal analyses when they were considering joining MCE, which should also be consulted.

renewables, the CCE could face stiff competition for renewable supplies, meaning that the green portfolio costs for the CCE might be higher than expected.

Finally, it should be noted that as greater levels of renewables are developed to meet the State's very aggressive RPS goals, it is possible that the traditional peak period will change. Adding significant amounts of solar could depress prices during the middle of the day. This could result in the need to try to sell power to out-of-state market participants during the middle of the day, possibly even at a loss. It could also result in the curtailment of renewable resources (even resources owned or controlled by the CCE). This could force the CCE to acquire greater levels of renewable supplies, thereby increasing costs.

Legislative and Regulatory Risks

As noted above, the CCE must meet various procurement requirements established by the State and implemented by the CPUC or other agencies. These include procuring sufficient resource adequacy capacity of the proper type and meeting RPS requirements that are evolving.[59] Additional rules and requirements might be established. These could affect the bottom line of the CCE.

PCIA Uncertainty

Assembly Bill 117, which established the CCE program in California, included a provision that states that customers that remain with the utility should be "indifferent" to the departure of customers from utility service to CCE service. This has been broadly interpreted by the CPUC to mean that the departure of customers to CCE service cannot cause the rates of the remaining utility "bundled" customers to go up. To maintain bundled customer rates, the CPUC has instituted an exit fee, known as the "Power Charge Indifference Adjustment" or "PCIA" that is charged to all CCE customers. The PCIA is intended to ensure that generation costs incurred by PG&E before a customer transitions to CCE service are not shifted to remaining PG&E bundled service customers.

Even though there is an explicit formula for calculating the PCIA, forecasting the PCIA is difficult, because many of the key inputs to the calculation are not publicly available, and the results are very sensitive to these key assumptions. For PG&E, the PCIA has varied widely; for example, at one time the PCIA was negative.

Current CCEs have chosen to have customers bear the financial risk associated with the level of exit fees they will pay to PG&E. Thus, for a customer taking CCE service to be economically better off (i.e., pay less for electricity), the sum of the CCE charges plus the PCIA must be lower than PG&E's generation rate.

This risk can be mitigated in two ways. First, as discussed in more detail elsewhere, a rate stabilization fund can be created. Second, the CCE can actively monitor and vigorously participate in CPUC proceedings that impact cost recovery and the PCIA.

[59] Rules to establish RPS requirements under the new 50% RPS mandate are currently being debated at the CPUC.

Impact of High CCE Penetration on the PCIA

Currently, the PCIA calculation is based on the cost and value of a utility's portfolio, without regard to how much of that portfolio is to be paid for by bundled customers and how much by Direct Access (DA) and CCE customers. As such, the PCIA is not affected by the number of DA/CCE customers.

Currently, for bundled customers the rate impacts associated with fluctuating PCIAs are relatively small, but this will change as the number of DA/CCE customers grows. At some point, 'bundled customers' rates may experience marked volatility as the impacts of the annual PCIA rate swings reverberate to bundled rates. This may be unacceptable to ratepayer advocates and the Commission.

The PCIA rate volatility in part reflects changes to the utilities' generation costs, which are appropriately reflected in bundled customers' rates. But, often to a large degree, it reflects changes to the market price benchmark, which should not be relevant to bundled customer rates. For example, for a utility with flat RPS costs, a reduction to the market price benchmark for renewable power would increase the RPS-related PCIA, which would reduce bundled rates, even though there was no change in RPS costs. This could also happen in the reverse direction, increasing bundled rates when there is no increase in underlying generation costs.

Once DA/CCE load gets large enough that there are real stranded contracts, we suspect that the Commission is going to look much more closely at the value of these stranded contracts (and how to get the most value for them).

Impact of High CCE Penetration on Low-Carbon (Hydro) Resources

Virtually all the CCEs forming in California include carbon reduction as a goal. As the analysis has shown, CCEs will likely need to purchase both RPS-eligible power and other carbon-free power to meet their goals, namely large hydropower. This has been the approach used by MCE, Peninsula Clean Power, and Silicon Valley Clean Power, who all beat PG&E's GHG emissions rate through contracts for hydropower. This increased demand for carbon-free hydropower can change the "supply-demand" balance and in theory increase the cost of these resources. However, to put this in perspective, the amount of hydropower assumed in the technical study is very modest compared to its availability. For example, in the Pacific Northwest, hydroelectric facilities generated approximately 128,000 GWh of electricity, and over the past 5 (drought) years, California hydroelectric resources generated 25,000 GWhs of electricity. In contrast, the technical study assumed only 0.4-1.5 GWh/year of hydropower—well under one percent of the available resource. Furthermore, the assumed hydro premium, $10/MWh over standard market power, is much higher than the current $1.50-$2.50/MWh premiums being seen. Thus, a certain amount of market tightening is already built into the study.

Nonetheless, to address this risk, the Contra Costa County CCE should consider locking in longer-term contracts for non-RPS eligible resources early in the process so as to guarantee their availability at a reasonable price in the longer term when there could be greater demand for them.

Bonding Risk

Pursuant to CPUC Decision 05-12-041, a new CCE must include in its registration packet evidence of insurance or bond that will cover such costs as potential re-entry fees, specifically, the cost to PG&E if the CCE were to suddenly fail and be forced to return all its customers back to PG&E bundled service. Currently, a bond amount for CCEs is set at $100,000.

This $100,000 is an interim amount. In 2009, a Settlement was reached in CPUC Docket 03-10-003 between the three major California electric utilities (including PG&E), two potential CCEs (San Joaquin Valley Power Authority and the City of Victorville), and The Utility Reform Network (TURN) concerning how a bonding amount would be calculated. The settlement was vigorously opposed by MCE and San Francisco and never adopted.

Since then, the issue of CCE bond requirements has not been revisited by the CPUC.[60] If it is, the bonding requirement will likely follow that set for Energy Service Providers (ESPs) serving direct access customers. This ESP bond amount covers PG&E's administrative cost to reintegrate a failed ESP's customers back into bundled service, plus any positive difference between market-based costs for PG&E to serve the unexpected load and PG&E's retail generation rates. Because the ESP bonding requirement has been in place, retail rates have always exceeded wholesale market prices, and thus the ESP's bond requirement has been simply equal to a modest administrative cost.

If the ESP bond protocol is adopted for CCEs, during normal conditions, the CCE Bond amount will not be a concern. However, during a wholesale market price spike, the bond amount could potentially increase to millions of dollars. But the high bond amount would likely be only short term, until more stable market conditions prevailed. Also, it is important to note that high power prices (that would cause a high bond requirement) would also depress PG&E's exit fee and would also raise PG&E rates, which would in turn likely provide the CCE sufficient headroom to handle the higher bonding requirement and keep its customers' overall costs competitive with what they would have paid had they remained with PG&E. As discussed above, JPA member entities would not be individually liable for any increase in the bond amount.

[60] On January 30, 2017 the CPUC set a pre-hearing Conference to begin a process to address CCE bonding requirements.

Chapter 7: Comparative Analysis of CCE Options

Having the County and cities within the County form their own JPA and CCE Program is not the only possibility for CCE participation. First, the Counties and/or its cities may join Marin Clean Energy (MCE). In fact, 5 cities in the County—El Cerrito, Lafayette, Richmond, San Pablo, Walnut Creek—are already members of MCE. These cities joined between 2013 and 2016, and have full standing on MCE's Board of Directors. Second, the County and/or its cities could join the East Bay Community Energy (Alameda County) CCE. While this CCE has just been formed, with its JPA board having been seated in January 2017, it aims to begin power delivery in late 2017. Furthermore, the County and each city need not joint one or the other CCE *en masse*, but instead can join one or the other CCEs individually (or neither).

This chapter presents the benefits and drawbacks of joining either MCE or EBCE, forming a new CCE with the County and the cities not currently in MCE (which has been the focus of most of the analysis in this report), or remaining with PG&E. To the extent possible, this chapter considers the rate-competitiveness, GHG reduction, local economic development, local control and governance, cost risks, and CCE formation timing of each option. Some of the benefits may depend upon how much of the County chooses which path. Each community chooses for itself; thus, it is possible to have some join MCE, some join EBCE, and others remain on PG&E service. To the extent that it matters, this will be highlighted in the sections that follow.

Note that MRW & Associates are not attorneys, and that the MCE and EBCE JPA agreements are legal documents. Therefore, nothing herein should be interpreted as a legal opinion – only an informed lay-reading of the documents. MRW would strongly recommend that Contra Costa County and any city considering becoming a member of MCE or EBCE have its counsel conduct a thorough review of the respective JPA and related documents prior to committing to a CCE.

Table 25 below summarizes our results. While it is desirable to quantify some (or all) of the criteria, to do so would be an exercise in false precision. First and foremost, two of the potential CCE options are with entities which, while potentially viable, do not exist. Without power contracts, portfolios, or procurement guidelines and policies, it would be unwise to claim that EBCE or a potential Contra Costa-only CCE would have rates or greenhouse gas emissions higher or lower than the other. Comparisons against MCE can be somewhat more reasonably asserted; however, its stated goals—greater renewable energy content, lower greenhouse gas emissions, local generation, and comparable rates—are nearly identical to those stated by EBCE, so as to make long-range rate and emissions distinctions immaterial. This contrasts with PG&E, whose power portfolios, procurement plans, and costs are readily available through various filings and applications it has made before the CPUC. Thus, the qualitative comparisons provided in the table do not provide sharp distinctions between the CCE options. All these options are expected to provide similar rates and GHG emissions, with differences arising from variations in the priorities and procurement decisions of the individual governance boards. What truly distinguishes these options are primarily governance options (i.e., in-county only versus shared with other entities) and the amount of risk assumed (i.e., developing or signing on with a new CCE versus joining one with a record of satisfactory performance).

Each of the lines on the table are discussed in greater detail in the sections that follow.

Table 25. Comparison of Contra Costa CCE Options

Criterion	Form CCCo JPA	Join MCE	Join EBCE	Stay with PG&E
Rates	**Likely lower**	**Likely Lower**	**Likely Lower**	**Base**
GHG Reduction Potential Over Forecast Period	Some	Some	Some	Base
Local Control/Governance	Most	Some	Some	None
Local Economic Benefit Potential	Greatest	Some	Some	Minimal
Start Up Costs/Cost to Join	Low, but greater risk[61]	None[62]	None[62]	None
Level of Effort	Greatest	Minimal	Greater	None
Program Risks	Greatest	Minimal	Some	Base
Timing (earliest)	Late-2018	Late-2017	Mid-2018	N/A

Rates

In general, any of the three CCE options can result, in the long run, with rates that are at or slightly below those of PG&E. This is not to say that in some years PG&E's rates may be lower, or that one CCE option would consistently have rates that are lower than the others. Rather, given that a CCE's rates are a function if its communities' values—amount of local renewable generation, promotion of energy efficiency or distributed generation, overall rate minimization—and that two of the three CCEs being compared do not yet exist, let alone have rate or procurement policies, MRW cannot assert that one CCE option will have lower rates than the other two. Both MCE and EBCE have commitments to higher-cost local renewable development, which suggests that they are willing to trade off somewhat lower rates for other benefits. A

[61] Start-up costs provided by the County or others are likely to be reimbursed by the JPA.
[62] Costs already spent for consulting/technical study will likely not be reimbursed.

Contra Costa CCE that focuses more on rate reduction could in principle offer marginally lower rates than the other two.

GHG Reduction

For climate action planning and reporting purposes, the amount of GHG reduction that can be attributed to a CCE formation is a function of the difference between the average GHG emissions from PG&E and that of the CCE. PG&E's power portfolio is already relatively "clean," with large fractions coming from not only qualifying renewables but also nuclear power (through 2024) and large hydroelectric generators. As Table 26 shows, 59% of PG&E's 2015 power came from GHG-free resources. This number would be closer to 67% GHG-free but for the poor hydroelectric generation due to the ongoing drought.[63] Therefore, for any CCE to have a reduced average carbon footprint requires not only the same or greater amount of qualifying renewable generation, but additional sources of GHG-free generation.

Table 26. PG&E and MCE Power Content (2015)

	PG&E 2015	MCE 2015
Eligible renewable	30%	56%
Large Hydro	6%	12%
Nuclear	23%	0%
GHG-Free subtotal	59%	68%
Unspecified/Market	17%	25%
Natural Gas	25%	12%
Fossil subtotal	41%	32%

An approach taken by some of the currently operating Northern California CCEs is to (a) use more qualifying renewable generation than PG&E, and (b) contract with and use power from large hydroelectric resources. This is shown in MCE's power content mix, and to the extent possible, what was modeled here for Contra Costa County and for MRW's study of an Alameda County CCE.

Given that both MCE and EBCE have made GHG reductions a very high priority, one can reasonably assume that either will have some GHG-emissions benefit relative to PG&E, but there is no concrete rationale to assume that either MCE or EBCE will have a significantly-lower GHG emissions rate than the other.

Local Economic Benefits

As noted earlier in the report, the amount of local economic benefits is a function of rate reduction and local construction and CCE staffing. The number of local renewable energy projects will be a function of at least two factors. The first is any cost competitiveness advantage of renewable resources in the County; i.e., others will want to build renewable generation in the County because of cost advantages (including interconnection ease). Second, local generation

[63] However given climate change, one can sensibly argue that the lower-than-historic-average hydroelectric output in California seen over the past few years may be more predictive than the historical average.

development will be fostered by a preference for local generation by the CCE serving Contra Costa County. While all three CCE options have expressed a preference for "local" renewables, the extent to which these three programs might develop local renewable generation facilities within the County remains uncertain. MCE has already invested in Contra Costa County, with a new utility-scale solar project in Richmond and numerous individuals taking advantage of its rooftop solar program. Nonetheless, in the long run MRW would expect that a Contra Costa CCE would have the greatest interest in developing in-county renewables and thus could potentially have the greatest positive economic impact. Teaming with either of the other CCEs would dilute the interest, as the CCE would have to consider economic development in its non-Contra Costa communities as well. Given the particularly strong interest of the EBCE group in local renewables, the notion that "local" might encompass the whole "East Bay," and the fact that Contra Costa cities might have greater say in the formation of generation polities with a new group like EBCE than a more established one like MCE all suggest that EBCE might be more responsive in developing in-county renewables than MCE. On the other hand, MCE has a commanding head start, having already developed renewable projects in the County.

Contra Costa County makes up but a small fraction of PG&E's service area. While PG&E's local community engagement is admirable, it cannot focus on the County in a way that a smaller CCE can. As such, any of the three CCE scenarios will likely result in greater local economic benefits than remaining with PG&E.

CCE Governance: Voting

How each community is represented on a CCE's governing board (generally a board of directors) is laid out in its JPA agreement. Per its current JPA agreement, EBCE will have a two-stage vote: under most circumstances, each board member (each representing a single entity) would have one vote, regardless of his or her entity's size. That is, both Oakland and Piedmont would have an equal vote. In the event of a non-unanimous affirmative vote, three cities can call for a weighted vote. In that case, each Representative Board Member's vote would be weighted according to the size (in kilowatt-hours) of the entity being represented. These two voting shares are shown in Table 27.

As noted in Table 28 if EBCE consisted of Alameda County alone, the combination of the three largest entities (Oakland, Fremont, plus Hayward or Berkeley) could carry the weighted vote. If all of Contra Costa County joined EBCE, then it would take the five largest entities (Oakland, Fremont, Hayward, Unincorporated Contra Costa County plus Berkeley or Concord) to carry the vote.

Table 27. EBCE Voting Shares, With and Without Contra Costa[64]

	Simple Voting		Load-Weighted Voting*	
Oakland	8.3%	3.7%	24.8%	17.5%
Fremont	8.3%	3.7%	16.2%	11.4%
Hayward	8.3%	3.7%	10.1%	7.1%
Berkeley	8.3%	3.7%	8.5%	6.0%
San Leandro	8.3%	3.7%	6.4%	4.5%
Livermore	8.3%	3.7%	6.2%	4.4%
Unincorporated Ala.	8.3%	3.7%	6.4%	4.5%
Other Alameda Cities	41.7%	18.5%	14.9%	8.3%
Alameda Total	*100.0%*	*44.4%*	*100.0%*	*63.6%*
Unincorporated C.C.		3.7%		9.0%
Concord		3.7%		5.1%
Pittsburg		3.7%		4.6%
Antioch		3.7%		3.7%
San Ramon		3.7%		3.2%
Brentwood		3.7%		2.1%
Danville		3.7%		1.7%
Martinez		3.7%		1.4%
Pleasant Hill		3.7%		1.4%
Oakley		3.7%		1.1%
Orinda		3.7%		1.0%
Hercules		3.7%		0.7%
Pinole		3.7%		0.6%
Moraga		3.7%		0.5%
Clayton		3.7%		0.3%
Contra Costa Total	*N/A*	*55.6%*	*N/A*	*36.4%*
**Only in cases where called upon by 3 Board Members*				

Table 28. EBCE Minimum Cities Needed to Carry Weighted Vote

Alameda Only	3 cities	Oakland, Fremont + Hayward or Berkeley
Alameda + Contra Costa	5 cities	Oakland, Fremont, Hayward, Unincorporated Contra Costa Co. + Berkeley or Concord

[64] It should be noted that two cities in Alameda County opted to not join the CCE at this time. Should they join, that could change the voting shares. Similarly, if not all Contra Costa jurisdictions join either MCE or EBCE, the voting shares will be different.

MCE's voting structure differs from EBCE's in two important ways. First, each board member's vote is a weighted. Half of each board member's weighting is equal to his or her entity's share of MCE's total load. The other half is an equal share for each entity. Thus, if a community is one of 26 members representing 18% of MCE's load, the board member's vote would be 10.9% (18%x(1/2) + (1/26)x(1/2)= 9% + 1.9% = 9.9%) Second, multiple entities have the option to be represented by a single board member. For example, Napa County and all the towns/cities within the County are represented by a single board member. This consolidated seat allows for potentially less administrative burden on the represented entities and "streamlines communication and policy setting." On the other hand, it effectively requires the communities with a joint board member to vote as a bloc, and while the bloc maintains the same voting share, it can reduce the "voice" of the communities: one person to speak on their behalf rather than, say, five, or six (or more).

Table 29 shows what the voting shares might be if all the Contra Costa communities joined MCE and each claimed its own board member. Together, the Contra Costa communities (including those already in MCE) would represent 71% of MCE's load and have a total 62% of the voting share.

Table 29. MCE Voting Shares With Each Contra Costa Community Having Its Own Board Member

VOTING SHARES	Entity Share	Load Share	Voting Share
Antioch	1.3%	2.8%	4.1%
Brentwood	1.3%	1.6%	2.9%
Clayton	1.3%	0.3%	1.5%
Concord	1.3%	3.9%	5.2%
Danville	1.3%	1.3%	2.6%
Hercules	1.3%	0.6%	1.8%
Martinez	1.3%	1.1%	2.4%
Moraga	1.3%	0.4%	1.6%
Oakley	1.3%	0.8%	2.1%
Orinda	1.3%	0.8%	2.0%
Pinole	1.3%	0.5%	1.7%
Pittsburg	1.3%	3.5%	4.7%
Pleasant Hill	1.3%	1.0%	2.3%
San Ramon	1.3%	2.4%	3.7%
Unincorporated Contra Costa County	1.3%	6.8%	8.1%
New Contra Costa Members	**19.2%**	**27.6%**	**46.8%**
Existing MCE Contra Costa Members	**6.4%**	**8.0%**	**14.4%**
TOTAL CONTRA COSTA COUNTY	**25.6%**	**35.6%**	**61.2%**
Rest of MCE	**24.4%**	**14.4%**	**38.8%**

CCE Governance: Other

The proposed EBCE JPA Agreement also calls for a formal Community Advisory Committee (Section 4.9). The relevant section states that the purpose of the Committee:

> "shall be to advise the Board of Directors on all subjects related to the operation of the CCA Program … with the exception of personnel and litigation decisions. The Community Advisory Committee is advisory only, and shall not have decision-making authority… The Board shall appoint members of the Community Advisory Committee from those individuals expressing interest in serving, and who represent a diverse cross-section of interests, skill sets and geographic regions."

The Chair of the Community Advisory Committee will serve as a non-voting *ex officio* member of the EBCE Board of Directors.

MCE has no analogous official community advisory committee originating from its JPA agreement. Nonetheless, there is a "Community Power Coalition" that provides input to MCE (*see,* https://www.mcecleanenergy.org/community-power-coalition/). The Coalition works "on a variety of issues ranging from local renewable energy project development – like MCE Solar One in Richmond – to outreach for MCE's Spanish-speaking constituents, to environmental justice and consumer protection issues affecting MCE's low-income customers."

The recitals to EBCE's JPA agreement lay out what can be described as its envisioned values. Besides offering competitive rates and lowering greenhouse gasses, this includes (Recitals, Section 6):

- Establishing an energy portfolio that prioritizes the use and development of local renewable resources and minimizes the use of unbundled renewable energy credits;
- Promoting an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals;
- Demonstrating quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments);
- Recognize the value of workers in existing jobs that support the energy infrastructure of Alameda County and Northern California. The Authority, as a leader in the shift to a clean energy, commits to ensuring it will take steps to minimize any adverse impacts to these workers to ensure a "just transition" to the new clean energy economy;
- Delivering clean energy programs and projects using a stable, skilled workforce through such mechanisms as project labor agreements, or other workforce programs that are cost effective, designed to avoid work stoppages, and ensure quality;
- Promoting personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities;
- Provide and manage lower cost energy supplies in a manner that provides cost savings to low-income households and promotes public health in areas impacted by energy production; and

- Create an administering agency that is financially sustainable, responsive to regional priorities, well managed, and a leader in fair and equitable treatment of employees through adopting appropriate best practices employment policies, including, but not limited to, promoting efficient consideration of petitions to unionize, and providing appropriate wages and benefits.

Contra Costa communities considering joining EBCE should consider these enunciated values prior to committing to membership.

Timing and Process to Join/Form

The timing required to serve Contra Costa businesses and residents vary markedly among the CCE options. The quickest path the CCE service would be to join with MCE. The first step for a community to join MCE is for its governing body or representative (e.g., city manager) to provide MCE a non-binding letter of interest. The entity's governing body would then need to adopt a resolution requesting MCE membership; have a first reading of an ordinance to join MCE; execute a memorandum of understanding between the entity and MCE to address preliminary data and communication issues; and provide a signed request for PG&E to provide MCE its load data. These steps would need to occur during MCE's "inclusion period" which currently runs from December 1, 2016 through May 31, 2017. Only communities in Contra Costa County are eligible to request MCE membership during this period.

MCE would then evaluate the impact of the new load on its system. If the net result of adding the new community is that MCE's rates would increase, then that community's membership would be tabled until a future date. If the MCE analysis shows that adding the community is favorable, then the MCE Board would vote to accept (or not) the community into MCE. At that point, the local ordinance for MCE membership would receive a second reading and adoption. MCE would them modify its official Implementation Plan to reflect the new community, and submit the updated plan to the California Public Utilities Commission. Once approved (none have been rejected), the phase-in of the community into MCE can occur.

Based on MCE's currently Inclusion Period, Contra Costa County and the jurisdictions not already served by MCE could begin MCE service as early as late 2017.

Although it has just recently formed, the EBCE board has extended an offer to interested Contra Costa communities to join EBCE. In a letter from Chris Bazar, Director, Alameda County Community Development Agency, EBCE would welcome Contra Costa members into its Phase 2 or Phase 3 rollout.[65]

The current EBCE JPA documents states in Section 3.1, Addition of Parties:

> Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or county requesting that the incorporated municipality or county, as the case may be, become a member of the

[65] The letter suggests that Phase 2 would commence in the summer of 2018 and Phase 3 in Fall 2018 or Spring 2019.

> Authority, (b) the adoption by an affirmative vote of a majority of all Directors of the entire Board satisfying the requirements described in Section 4.12, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(12) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership fee, if any, and (e) satisfaction of any conditions established by the Board..

Thus, a Contra Costa community would need to adopt a resolution requesting membership in the EBCE, the board of Directors of EBCE would have to vote to authorize the applying community's membership, followed by the applying entity passing an ordinance to join. To be part of the Phase 2 rollout, a City would have need to have an ordinance passed by June 30, 2017.

Implementing a Contra Costa County only CCE would likely have a time line similar to joining EBCE. If the County and its cities were committed to this path, it could potentially begin service as early as 2018. This is consistent with Peninsula Clean Energy, which went from putting out an RFP for a technical study to Phase 1 implementation in 18 months (April 2, 2015 to October 1, 2016). A more measured timeline would suggest that a new Contra Costa CCE would spend much of 2017, planning and generating local support, with implementation beginning in late 2018 or 2019.

Costs to Join the CCE

This section discusses direct, non-reimbursable costs to cities for joining either EBCE or MCE. So far, cities joining MCE have not had to pay for any of the costs incurred by MCE to plan for or integrate their load. They have often spent on the order of $10,000 to $15,000 for consultants to evaluate the risks to the city and its residents and businesses that could come from joining MCE. Both MCE and EBCE have extended a no-cost opportunity to join to the Contra Costa jurisdictions who are not already members of MCE.

The start-up costs for a new Contra Costa CCE would be significant—Alameda County has committed $3.4 million to its effort. However, consistent with other CCEs, these costs would be initially reimbursed to the County and funding cities by a loan taken out by the CCE's JPA, which would in turn be paid down via CCE rates over the initial few years. As such, the only "cost to join" a Contra Costa CCE felt by any individual city would be indirect at best (i.e., asked to backstop any CCE loads with the entities' credit).

Exiting the CCE

MCE's JPA Section 7.0 lays out the process and ramifications of a MEC member withdrawing from the JPA. First, an entity may withdraw from the JPA within 30 days of its notification of joining the JPA, assuming that MCE has not entered into any wholesale power agreements to serve the entity. (Section 7.1.1.1) After MCE has entered into wholesale power agreements to serve the entity, the entity may withdraw from MCE, effective the beginning of the JPA's fiscal

year by giving at least 6 months' written notice of its intent to withdraw. The withdrawing entity may be subject to "certain continuing liabilities" as laid out in Section 7.3:

> **7.3 Continuing Liability; Refund**. Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party also shall be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party.

Neither the precise calculation of the liabilities nor now it would be collected is specified.

The proposed EBCE JPA Agreement contains no language concerning a community's exit from EBCE or the JPA.

Remaining With PG&E

Although this study suggests CCE program options would likely produce both environmental and economic benefits for the jurisdictions included in the study, continuing service with PG&E remains an option for not only a community but also for any individual or business whose community has selected CCE service (i.e., each individual account maintains its right to opt-out of CCE service). There are benefits of remaining with PG&E, even at a community level. First, remaining with PG&E takes no city action. Thus, a city's leadership and staff can concentrate their limited resources on matters that may be more pressing. Second, PG&E is regulated by the State via the California Public Utilities Commission (CPUC), which oversees its power procurement and approves its rates. While CCEs are partially regulated by the CPUC (e.g., ensuring that the CCE complies with any applicable laws), they are not subject to rate regulation. Some may see State oversight as a benefit, with an official "watchdog" overseeing power supply and procurement, while others might see the local CCE board accountability as a benefit. Third, PG&E is much larger than any of the CCE options that Contra Costa communities might pursue, which (as discussed) might reduce community input and value but also provide some economies of scale. For example, one poor power contract entered might have significant rate or operational ramifications for a CCE. For PG&E, given its size, the impact of that same poor contract would be diluted. Lastly, simply because a Contra Costa community does not join a CCE in 2017 or 2018 does not necessarily preclude it from doing so in the future, although waiting may result in an "entry fee" or perhaps a high PCIA rate.

Summary

The following lays out the principal benefits and risks of each of the options considered.

Potential Benefits of Forming Contra Costa CCE (relative to joining MCE or EBCE)

- More local control (voting shares not diluted)
- Can form JPA and policies to fully reflect County interests and values
- Greatest potential for local economic development (due largely to more local control)
- Even if formed, individuals may still select PG&E as their power provider

Potential Risks/Downsides of Forming Contra Costa CCE (relative to joining MCE or EBCE)

- Commitment of County and city resources to establish a new CCE agency
- Higher risks due lack of experience, fewer partners
- Would need to establish programs, contractors, credit, etc.
- Longest time line to begin enrolling customers
- Given MCE's presence in five Contra Costa communities, potential customer confusion with multiple CCEs in the same county

Potential Benefits of joining MCE (relative to joining EBCE)

- Five other Contra Costa County communities have already joined
- Established, successful program
- Credit capacity and programs in place
- Likely easier transition/implementation
- Able to enroll customers sooner than EBCE
- Programs that create jobs and economic benefits could be implemented more quickly

Potential Risks/Downsides of joining MCE (relative to joining EBCE)

- May have less Board representation (if all of Contra Costa County and its jurisdictions are represented by a shared seat)
- May be less of a "fit" compared to East Bay identification and sensibilities (or, for some cities, this may be a benefit)
- Programs are already in place; less/minimal input into their formation
- Joining a large board serving a very diverse customer base and geography

Potential Benefits of joining EBCE (relative to joining MCE)

- Coming in closer to the "ground floor" — opportunity to influence policy direction and program development
- May be more mission or cultural alignment (East Bay vs. Marin) (or perhaps for some communities, not)

- Board will more likely be one seat per member jurisdiction (not a shared seat)
- Weighted voting process is a little clearer
- EBCE working on a local development business plan with emphasis on local power production in the East Bay

Potential Risks/Downsides of joining EBCE (relative to joining MCE)

- Take longer to enroll County communities
- Take longer for job-creating programs to get up and running
- May be a small fish among some very large fish (Oakland, Hayward)
- Union focused policies may be difficult for some (or preferable)
- Given MCE's presence in five Contra Costa communities, potential customer confusion with multiple CCEs in the same county

Potential Benefits of Remaining with PG&E (relative to joining or forming a CCE)

- Experienced provider
- State regulatory protection
- Continuity- same firm provides all services
- No action needed by City/County—status quo
- May be able to join a CCE at a later date (but perhaps at some cost)

Potential Risks/Downsides Benefits of Remaining with PG&E (relative to joining or forming a CCE)

- Higher GHG emissions
- Less local renewable generation
- Higher electricity rates than CCE rates under most scenarios
- Less local control
- Less local input into policies and offerings
- Less local economic development

Chapter 8: Other Issues Investigated

Synergies on the Northern Waterfront

Contra Costa County has an ongoing initiative to economically develop its Northern Waterfront. The Northern Waterfront stretches from the City of Hercules at San Pablo Bay, along the southern shore of the Carquinez Straight and Suisun Bay, and out to the San Joaquin Delta region of Oakley. The County's Northern Waterfront Economic Development Initiative is a regional cluster-based economic development strategy with a goal of creating 18,000 new jobs by 2035. The Initiative leverages existing competitive advantages and assets by focusing on advanced manufacturing sub-sectors in five targeted clusters (advanced transportation fuels, bio-tech/bio medical, diverse manufacturing, food processing, and clean tech).

To assess the potential positive impacts a CCE might have on this Area, the study looked at the Northern Waterfront to assess local generation potential within the area. Of the potential 3,350 MW of solar resources in the County, approximately 40% lies within the Northern Waterfront. As shown in Table 30, there are over 700 potential solar sites in the area, which could theoretically generate over 2,000 GWhs. Of these sites, over 800 MW have the highest potential ranking, meaning that they are the most appropriate for actual development. In fact, all the local solar capacity specified in Scenarios 3 or 4 could be met at sites in the Northern Waterfront alone.

Table 30 Solar Potential in the Northern Waterfront

Location	Solar Sites	PV Potential (MW)	PV Production (GWh)	Build Cost ($ Thousands)
Antioch	189	327	524	$747,130
Concord	108	191	306	$442,015
Crockett	21	58	93	$125,187
Hercules	52	90	144	$200,512
Martinez	139	300	480	$629,130
Oakley	43	76	121	$178,390
Pinole	17	24	39	$57,208
Pittsburg	153	298	477	$679,851
Rodeo	14	35	57	$85,875
Grand Total	736	1,400	2,241	$3,145,298

How much solar could actually be sited in the Northern Waterfront would depend upon (a) the degree to which there is competition for sites for perhaps higher-value projects and (b) the CCE's policies toward fostering local projects.

In addition to this renewable potential, the Northern Waterfront also hosts six major power plants (Table 31). In addition to these, the refineries in the area also generate much of their own power.

A Contra Costa CCE could contract with one of more of these facilities to provide the CCE's Resource Adequacy Requirements or a portion of its energy needs. Alone, a Contra Costa CCE would not be able to use all—or even most—of the power produced by any of these or other major power plant of this magnitude (e.g., the cancelled Oakley power plant).

Table 31. Natural Gas Power Plants in the Northern Waterfront

Plant	Location	Capacity (MW)	Year in Service	Owner	Type
Crockett Cogen	Crocket	**275**	**1995**		**Steam-Cogen**
Los Medanos	Pittsburg	555	2001	Calpine	Combined cycle -Cogen
Delta Energy Facility	Pittsburg	887	2002	Calpine	Combined cycle
Gateway	Antioch	530	2009	PG&E	Combined cycle
March Landing	Antioch	760	2013	NRG	Combined cycle
Pittsburg	Pittsburg	1,029	1970s	NRG	Steam, combined cycle

"Minimum" CCE Size?

MRW's analysis above assumed that all eligible Contra Costa County cities join the Contra Costa County CCE program with a participation rate of 85% from each city, resulting in an anticipated CCE load of about 3.6 million MWh per year.[66] If fewer customers join, CCE rates will generally be higher because about $7 million of annual CCE costs are invariant to the amount of CCE load. Along with the number of customers, the customer make-up is also important. For example, a higher share of residential customers would improve the competitiveness of the CCE, while a higher share of commercial customers or industrial customers would weaken the competitiveness of the CCE. Because cities vary in their distribution of customers by rate class, a city opting out of the CCE could affect the competitiveness of the CCE due to both the reduction in CCE load and the shift in customer make-up.

To identify the "minimum" load needed for CCE customer rates to be no higher than PG&E customer rates, we will analyze only the period between 2018 and 2030. The "minimum" load for this period is approximately 440,000 MWh per year, assuming the average customer portfolio for Contra Costa County and Supply Scenario 1. This value was estimated by assuming that the fixed costs remained the same (i.e., did not scale with sales) and then lowering the sales until the hypothetical reduced CCE's rates were equal to PG&E's. As shown in Figure 31, this is roughly the load from the big cities (Concord and Pittsburg) and is much smaller than the load from the unincorporated area. As long as two medium-sized cities or one larger city joins the CCE, this "minimum" load will be met. It is not a true minimum, however, because the true minimum depends on the make-up of the customer portfolio; for example, for the stand-alone city of Pittsburg,[67] due to its load with more industrial proportion, the CCE program would not be cost-competitive.

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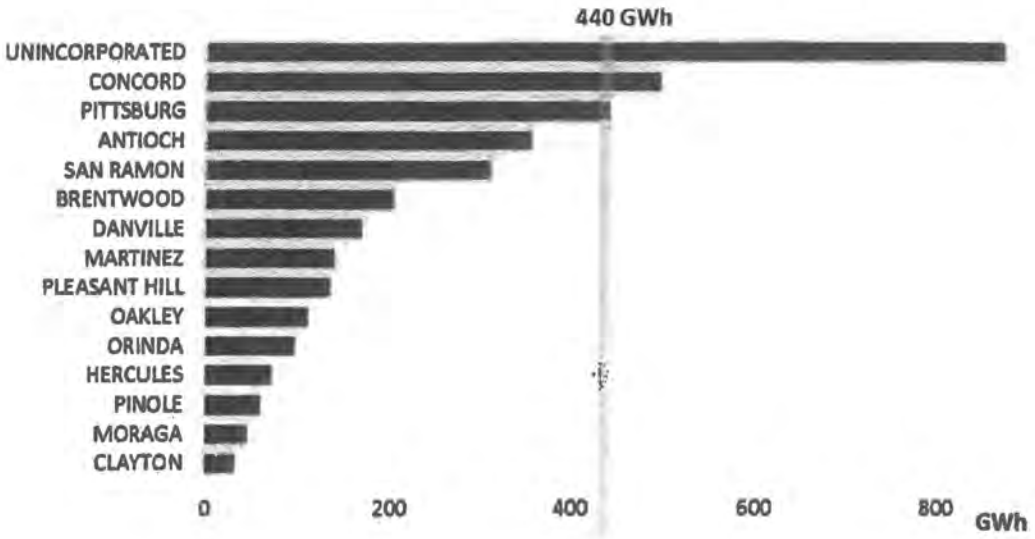
[66] In the alternate supply scenarios, the "minimum" annual load assuming the average customer portfolio for Contra Costa County and the base case is 550,000 MWh (Scenario 2).

[67] See Figure 2. Pittsburg is the only city with this highly industrial profile.

Figure 31. Potential load (85% participation) per city



Individuals and Communities Self-Selecting 100% Renewables

The existing CCEs all offer customers an option to choose to receive 100% of their power from renewable resources in exchange for a rate premium. However, each CCE's program is different. MCE Clean Energy has offered its "Deep Green" at a rate premium of 1¢/kWh because its inception. Sonoma Clean Power offers its "Evergreen" option at approximately the same price as PG&E's "Solar Choice" rate. Lancaster Choice Energy offers its Smart Choice as a fixed monthly premium rather than a variable rate. In all cases, only a very modest number of CCE customers—on the order of a few percent—have selected the 100% green rate option.

Table 32. CCE 100% Green Rate Premiums

CCE	Rate Option	Increment Above Default Rate
Marin Clean Energy	Deep Green	1¢/kWh
Sonoma Clean Power	EverGreen	3.5¢/kWh
Lancaster Choice Energy	Smart Choice	$10/month
Peninsula Clean Energy	ECO100	1¢/kWh
CleanPowerSF	SuperGreen	2¢/kWh
Potential Contra Costa Co. CCE	TBD	~1.5¢/kWh

Any full renewable pricing option offered by the Contra Costa County CCE would have to be set by the CCE's management. The value shown in Table 32, ~1.5¢/kWh, is the average incremental cost of green power used in the CCE supply assessment (Scenario 2) over the study period. (Initially, it would have to be ~1.9¢/kWh.) The number of customers selecting the rate would not impact the economics of the CCE customer who remain on the standard rate.

- Separate CCE opt-out notifications would be needed. A key feature of the opt-out notification is the price comparisons against PG&E. As the default rate would be different for these communities, a different notice would have to be sent. This would simply increase the start-up cost for the CCE, the increment could be paid for by the city electing a different default rate.
- Having a higher default rate might increase the number of oft-outs in the community.
- PG&E's billing system would have to be able to handle city- or zip code-specific default options. That is, as new residential or businesses move to a self-selected green community, the billing system would need to know to default them on a different rate schedule than a customer in a different CCE community. This may or may not be an issue.

Competition with a PG&E Solar Choice Program

PG&E has been offering a solar choice program known as Green Tariff Shared Renewable Program since February 2015.[68] The program was established under Senate Bill 43, and pursuant to Decision 15-01-051 from the CPUC, to extend access to renewable energy to ratepayers that are currently unable to install onsite generation.[69] It offers homes and businesses the option to purchase 50% or 100% of their energy use from solar resources. The program provides those with homes or apartments or businesses that cannot support rooftop solar the opportunity to meet their electricity requirements through renewable energy and support the growth of renewable energy resources.

PG&E's current Solar Choice program costs residential customers an additional 3.58¢/kWh. Given that MRW projects that the CCE can offer 100% green power at ~1.5¢/kWh over its own Scenario 1 or Scenario 2 rate (which is projected to be less than PG&E's), we do not believe PG&E's Community Solar Program will be price competitive with similar CCE product options.

The program is open for enrollment until subscriptions reach 272 MW or January 1, 2019, whichever comes first.[70] While this does limit the ability for PG&E to provide a 100% renewable

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[68] PG&E website http://www.pge.com/en/b2b/energysupply/wholesaleelectricsuppliersolicitation/RFO/CommunitySolarChoice.page?WT.mc_id=Vanity_communitysolarchoice. Accessed 5/16/2016

[69] California Public Utilities Commission, Decision 15-01-051, p.3

[70] Solar Choice Program FAQs website, https://www.pge.com/en/myhome/saveenergymoney/solar/choice/faq/index.page Accessed, 5/16/2016

option in the long-run, at the start of the CCE this program it provides an opportunity for customers who desire 100% renewable power to remain with PG&E.

Differences Between the Analyses for Contra Costa and Alameda Counties

In the first half of 2016, MRW prepared a similar CCE analysis for Alameda County.[71] Although the fundamental approach and results of study and this one are the same, there are several differing assumptions resulting in differing results. If we compare the results of the present study with the results obtained in the Alameda CCE study, we observe that the savings for CCE customers are very similar in both studies, though PG&E rates and CCE rates are both approximately 1¢/kWh higher in the current study than in the prior study (**Table 33**).

Table 33. Average prices for 2018-2030 Scenario 1 for Contra Costa and Alameda County CCE programs

Average Period 2018-2030	Contra Costa County	Alameda County
Price natural gas ($/MMBtu)	5.70	4.90
Wholesale ($/MWh)	51.30	44.80
PG&E Capacity ($/MWh)	74	39
CCE Capacity ($/MWh)	52	39
Wind ($/MWh)	56	57
Solar Distant ($/MWh)	51	51
Solar Local ($/MWh)	98	74
% Local Solar by 2030	25%	10%
PG&E rate (¢/kWh)	11.7	10.4
PCIA rate (¢/kWh)	1.4	1.4
CCE rate (¢/kWh)	9.4	8.3
Difference CCE-PGE (¢/kWh)	2.3	2.1

The results of the present study for Contra Costa County differ from the prior results for Alameda County because we updated our forecast to reflect new PG&E rate filings and other public forecasts. The main changes between the models are as follows:

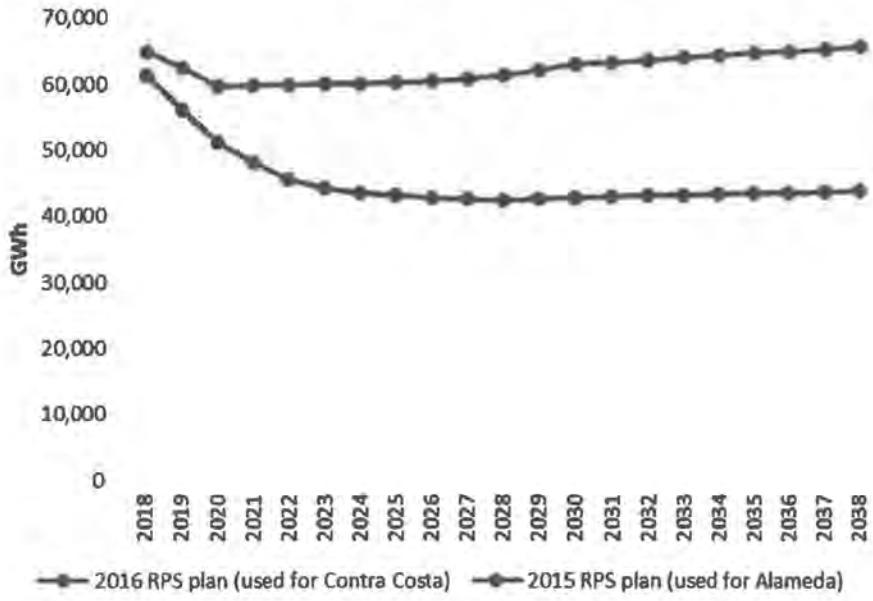
- **Bundled Load Forecast**: As a result of increased interest in CCE, PG&E's most recent bundled load forecasts are 3% below the previously available forecasts for 2017 and an average of 25% below the previously available forecasts over the 2018-2030 period (see Figure 32).[72] Less load reduces PG&E's procurement costs, increases the share of fixed costs

[71] The final version of the Alameda CCE technical study was published on July 1, 2016. https://www.acgov.org/cda/planning/cca/documents/Feas-TechAnalysisDRAFT5312016.pdf

[72] The sources for the 2017 bundled load forecasts are PG&E's 2017 preliminary and final ERRA forecasts. (The June 2016 preliminary forecast was used in the Alameda County CCE study, and the November 2016 final forecast

paid by remaining bundled customers, and increases the revenue provided to bundled customers from CCE exit fees. These effects mostly offset each other, resulting in little net change to bundled rates.[73]

Figure 32: Bundled Load Forecasts used in the Alameda and Contra Costa County Analyses



- **Natural gas prices**: Projections for natural gas prices are about $0.80/MMBtu higher than they were in the spring when the Alameda County report was developed. The higher natural gas prices increase wholesale market prices by $7/MWh (14%).
- **Diablo Canyon Retirement application**: In July 2016, PG&E, together with other entities, submitted a proposal to retire the two units of Diablo Canyon when their licenses expire in November 2024 and August 2025. Per the proposal, PG&E would replace Diablo Canyon production with energy efficiency and greenhouse gas-free generation resources. These resources would include the following: (1) 2,000 GWh of load reduction from additional energy efficiency to be installed by January 2025, (2) 2,000 GWh of load reduction or generation from GHG-free generation resources to be on-line between 2025 and 2030, and (3) a voluntary commitment from PG&E to meet a 55% RPS for 2031-2045 (instead of the 50% requirement currently in effect). The joint proposal estimated that the retirement of Diablo Canyon would result in a need for new generation capacity ("load-resource balance") around 2030, which is about five years earlier than previously anticipated.

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was used in the present study.) The sources for the 2018-2030 bundled load forecasts are PG&E's RPS plans for 2015 (filed in January 2016, used for Alameda County) and for 2016 (draft filed in August 2016, used for Contra Costa).

[73] CCE exit fees are designed so that bundled customers' rates are not affected by CCE departures. In practice, some impact is likely in one direction or the other, and the magnitude and direction of this impact may each vary year by year.

The new energy efficiency resources together with other costs of the nuclear plant retirement would be recovered through non-generation rates (mostly Public Purpose Program and Nuclear Decommissioning charges), and the new RPS resources would be recovered through a new "Clean Energy Charge" applied to all PG&E retail customers. For those load serving entities that are willing to commit to procuring the equivalent new RPS resources, PG&E has proposed a "self-provision" option that would exempt existing DA and CCE loads from the Clean Energy Charge. In the analysis for Contra Costa County, MRW assumed that Contra Costa CCE would choose the "self-provision" option.

MRW assumed for this study that the Diablo Canyon retirement proposal would be adopted, though the proposal is under evaluation by the Commission and is subject to modification. Based on this proposal, we modified the PG&E and Contra Costa County CCE power supply forecasts as follows:[74]

1) PG&E's RPS requirements were increased for 2030-2038 from 50% to 55%,[75]
2) Contra Costa County CCE's RPS requirements were increased for 2030-2038 to 55% (vs. the 50% that was used in the Alameda County CCE study), and
3) We began increasing the price of capacity five years earlier than we had in the Alameda County CCE study, reflecting the earlier load-resource balance date due to the retirement of Diablo Canyon. For both Alameda and Contra Costa counties, MRW assumed that the CCEs would build their own power plants (alone or in combination with other public entities) in place of purchasing market capacity when market prices rise above the cost of a new self-build.

On February 27, 2017, PG&E withdrew portions of its Diablo Canyon retirement proposal. In particular, PG&E states it will still pursue GHG-free replacement resources, but will do so in a different CPUC proceeding. MRW does not believe that this change has a material impact on this analysis.

[74] We also accounted for the changes in the Public Purpose Program and Nuclear Decommissioning fees in our calculation of the Residential bills.

[75] The generation share of the 2025-2030 commitment for 2,000 GWh of load reduction or GHG-free generation was assumed to be subsumed by procurement needed to meet a 50% RPS by 2030 and therefore did not result in incremental renewable generation in our model.

Chapter 9: Conclusions

Overall, a CCE in Contra Costa County appears feasible. Given current and expected market and regulatory conditions, a Contra Costa County CCE should be able to offer its residents and business electric rates that are less than that available from PG&E.

Sensitivity analyses suggest that these results are relatively robust. Only when very high amounts of local renewable energy are assumed in the CCE portfolio (Scenario 4), combined with other negative factors, do PG&E's rates become consistently more favorable than the CCE's.

A Contra Costa County CCE would also be well positioned to help facilitate the installation of greater amounts renewable generation in the County. Because the CCE would have a much greater interest in developing local solar than PG&E, it is much more likely that such development would actually occur with a CCE in the County than without it.

The CCE can also reduce the amount greenhouse gases emitted by the County, but only under certain circumstances. Because PG&E's supply portfolio has significant carbon-free generation (large hydroelectric and nuclear generators), the CCE must contract for significant amounts of carbon-fee power above and beyond the required qualifying renewables in order to actually reduce the County's electric carbon footprint. Therefore, if carbon reductions are a high priority for the CCE, a concerted effort to contract with hydroelectric or other carbon-free generators would be needed.

A CCE can also offer positive economic development and employment benefits to the County. At the peak, the CCE could create approximately 500 to 700 new jobs in the County, plus an additional 200 jobs in the neighboring counties if local renewable development is prioritized.

While the analytical focus of this report has been on a stand-alone Contra Costa County CCE for those communities not already in MCE that is not the only, nor necessarily best, choice for these communities. Overall, there is insufficient data to suggest that a stand-alone Contra Costa CCE would offer lower rates or greater GHG savings that joining MCE or EBCE. Either forming or joining a CCE would likely offer modestly lower rates and more local economic development that remaining with PG&E. Joining MCE would likely result in the quickest and least risky path to CCE implementation, however with diminished local input into CCE policy formation. Because it has yet to be formed, joining with EBCE would take longer and involve more uncertainty than joining the already-established MCE, but would offer greater input into the CCE's policies and formation.

Although this study suggests CCE program options would likely produce both environmental and economic benefits for the jurisdictions included in the study, continuing service with PG&E remains an option for not only a community but also for any individual or business whose community has selected CCE service. PG&E is an experienced power provider and is regulated by the state. Furthermore, remaining with PG&E takes no city action. Lastly, simply because a Contra Costa community does not join a CCE in 2017 or 2018 does not necessarily preclude it from doing so in the future, although waiting may result in an "entry fee" or perhaps a high PCIA rate.

NEWS AND PERSPECTIVES FROM PACIFIC GAS AND ELECTRIC COMPANY
MAY 11, 2017

Posted on March 16, 2017

Nearly 70 Percent of PG&E's Electric Power Mix Free of Greenhouse Gases

By Denny Boyles

Nearly 70 percent of the electricity PG&E delivered to its customers in 2016 came from greenhouse gas-free resources, the company announced this week.

One of the nation's cleanest energy companies, PG&E delivered an average of 32.8 percent of its electricity in 2016 from renewable resources including solar, wind, geothermal, biomass and hydroelectric sources. That's more than a 3 percent increase in just one year and the highest percentage yet for the state's largest combined natural gas and electric company. A total of 69.3 percent of PG&E's electric power mix is from nuclear, large hydro and renewable sources of energy.

"Delivering this amount of renewable electricity strongly confirms PG&E's continued commitment to a cleaner energy future for our customers and all of California," said PG&E Corporation CEO and President Geisha Williams. "We embrace our role as a leader in renewable energy, and we are full speed ahead in reaching our next targets."

PG&E owns one of the nation's largest hydro-electric systems, which emit no greenhouse gases.

This record level of renewable deliveries also propels PG&E toward California's goal of 50 percent renewables by 2030.

The renewable energy milestone comes as the energy company has continued to deliver strong electric reliability over the last decade. By investing in its electric infrastructure and integrating innovative technology to make its power grid smarter and more resilient, PG&E has reduced the number and duration of power outages impacting its customers.

California's Renewables Portfolio Standard is one of the most progressive clean energy mandates in the country. Established in 2002, it required energy providers to increase renewable energy deliveries to 20 percent by 2017, and in 2008 expanded the goal to 33

percent by the end of 2020. Nearly achieving 33 percent renewable energy delivery and continuing the company's advanced pace of renewable energy integration reflects PG&E's larger commitment in the fight against climate change, said Williams.

PG&E has been a leader in clean energy and energy efficiency for nearly 50 years, beginning with energy conservation programs in the 1970s and continuing in the early 2000s with the first clean energy power purchase contracts.

PG&E's diverse renewable power mix includes solar, wind, geothermal, bio-power and small, eligible-renewable hydroelectric energy. In 2016, PG&E expanded purchases of biomass electricity to help address the state's historic tree mortality crisis.

In addition, PG&E has connected 285,000 customers with private rooftop solar to the energy grid — representing about 25 percent of the nation's rooftop solar and more than 2,409 MWs of clean energy. The company owns one of the nation's largest hydro-electric systems, as well as Diablo Canyon Power Plant, both of which emit no greenhouse gases. The entire diverse portfolio allows PG&E to deliver more than 69.3 percent of its power from sources which emit no greenhouse gases.

Email Currents at Currents@pge.com.

Keywords: Clean Energy, Climate Change, Diablo Canyon Power Plant, Geisha Williams, Geothermal Power, Greenhouse Gas Emissions, Hydropower, News, Renewables, Solar Power, Wind Power

ATTACHMENT 6

February 21, 2017

John Kopchik
Director, Department of Conservation and Development
Contra Costa County
30 Muir Street
Martinez, CA 94553

Dear Mr. Kopchik:

This letter is in response to your request for East Bay Community Energy (EBCE) to indicate its desire to expand beyond Alameda County and its willingness to engage interested Contra Costa County jurisdictions as EBCE members. This letter also outlines the terms of EBCE membership.

As you may know, the EBCE Board of Directors met for the first time on January 30, 2017. During that meeting, the Board had a robust discussion on this topic and was strongly in favor of formally inviting Contra Costa County and its Cities to join EBCE. The general sense was that it would be an exciting and positive development to have a more regionally focused East Bay Community Choice Energy (CCE) program. Some EBCE Board members expressed a willingness to present at your upcoming Board of Supervisors and City Council meetings as Contra Costa County officials deliberate on which CCE option would be in the best interests of their constituents.

With regards to the terms of membership, the EBCE Board discussed each of the points your letter raised, and we can provide you the following feedback:

- ***Cost to Join:*** The Board agreed that there would be no cost for Contra Costa County jurisdictions to join the JPA. EBCE will absorb all of the initial launch expenses, including load data analysis, communications costs and noticing requirements. The Board believes these one-time costs are offset by the longer-term value of including Contra Costa County communities in order to form a larger, regional program. We do request, however, that new member jurisdictions identify appropriate municipal staff to assist in coordinating the JPA resolution and Agreement, passage of the CCE ordinance and help with local public outreach, such as organizing workshops and having a presence at community events.

- ***Required actions and steps in the membership process:*** The Board agreed that the steps for joining EBCE would be the same as for the Alameda County jurisdictions, namely that the prospective members must pass the required CCA ordinance, authorize access to their load data, hold at least two duly noticed public hearings, and pass the JPA resolution in order to become a party to the EBCE Joint Powers Agreement. A copy of the CCE ordinance, JPA Agreement and JPA resolution are attached for your reference. For the purposes of completing EBCE's implementation plan, conducting public outreach, and procuring power for customers in new member jurisdictions, we request that interested jurisdictions cast deciding votes by June 30, 2017. It should be noted that there will be additional opportunities to join EBCE in 2018, if that is preferred. See below for more information regarding timimg.

Letter to John Kopchik, Director
Department of Conservation and Development
Contra Costa County
February 21, 2017

- ***Representation on EBCE Board:*** Each Contra Costa County jurisdiction choosing to join EBCE will have a seat on its Board, which is the same manner of representation as other Alameda County members. As you may know, EBCE has a two-tiered voting structure, the first being one-city/one-vote with simple majority to carry the vote. In this case, every jurisdiction will have one equal vote, and it is anticipated that most votes will proceed in this fashion. However, if at least three members call for a weighted vote, then each city's voting share would be determined by its electrical load; weighted votes may only be used to overturn an affirmative vote and may not be used to resurrect or overturn a negative vote. Please see Attachment 4 for a comparision of EBCE and CCCo jurisdictional loads. New Board members can be seated once the JPA resolution has been passed, and the first and second readings of the CCE ordinance are complete.

- ***Estimated date of service commencement:*** Your letter asked for a date when electric service could begin. As of this writing, it is likely that EBCE will begin serving Phase 1 customers (a subset of the total number of accounts) in Spring of 2018. Phase 2 customers, including additional Contra Costa County accounts, would be enrolled in the Summer or Fall of 2018. Cities that join after the June 30th deadline or in 2018 will be enrolled in Phase 3, likely to be the late Fall of 2018 or Spring of 2019.

The EBCE Board is excited about the prospect of creating a regional East Bay Community Energy program. A member of our Board and Alameda County interim staff will attempt to attend as many of your upcoming presentations as possible, including the Board of Supervisors meeting on March 21. If possible, we would very much like the opportunity to make a more formal presentation at that meeting if the Contra Costa County Board of Supervisors and staff are agreeable.

Finally, for the purposes of planning, it would be helpful to know how many Contra Costa County jurisdictions would be interested in joining EBCE. As noted above, we are requesting that the County and any interested cities complete their decision-making and passage of the required resolution and ordinance by June 30, 2017 if they are interested in a Spring/Summer 2018 enrollment period.

We hope this addresses your questions on behalf of Contra Costa County and interested cities. Please don't hesitate to contact us if you'd like to discuss any of these matters further.

Sincerely Yours,

Chris Bazar
Director, Alameda County Community Development Agency

Cc: EBCE Board of Directors

Attachments:

1) EBCE JPA Agreement and sample resolution
2) Copy of CCE ordinance
3) PG&E Attestation form for load data authorization
4) Load size / voting shares comparision by jurisdiction