



AGENDA
REGULAR MEETING OF THE CITY COUNCIL AND
JOINT MEETING OF THE CLOVERDALE COMMUNITY DEVELOPMENT SUCCESSOR AGENCY BOARD OF DIRECTORS

TUESDAY, AUGUST 9, 2016

PUBLIC BUSINESS SESSION: 6:30 p.m.

**PUBLIC BUSINESS SESSION LOCATION: CLOVERDALE PERFORMING ARTS CENTER, 209 N. CLOVERDALE BLVD.,
CLOVERDALE, CA 95425**

The Cloverdale City Council welcomes you to its meetings that are typically scheduled for the 2nd and 4th Tuesday of the month. Your interest and participation are encouraged and appreciated. *Please silence all pagers, cellular telephones and other communications devices upon entering the meeting.*

ADDRESSING THE CITY COUNCIL:

When asked to do so by the Mayor, those wishing to address the City Council are asked to step up to the podium. Speak directly into the microphone so everyone in the audience can hear your comments and so they'll be recorded into the official record. State your name and City of Residence for the record. Per City Council Policy, three (3) minutes are typically allotted to each speaker. However, Council may at its discretion revise the amount of time allotted. Public comments will normally be received after staff presentations on an agenda item and before the City Council starts deliberations. A Talking Tips sheet is available for your use.

*We may disagree, but we will be respectful of one another.
All comments will be directed to the issue at hand, and addressed to the City Council.
Personal attacks are unacceptable.*

DISABLED OR SPECIAL NEEDS ACCOMMODATION: In compliance with the Americans with Disabilities Act, if you need assistance to attend or participate in a City Council meeting, please contact the City Clerk's office at 894-2521. Notification at least 48-hours prior to the meeting will assist the City Clerk in assuring that reasonable accommodations are made to provide accessibility to the meeting.

WAIVER WARNING: If you challenge decisions/directions of the City Council in court, you may be limited to raising only those issues you or someone else raised at public hearings(s) described in this Agenda, or in written correspondence delivered to the City of Cloverdale at, or prior to, the public hearing(s).

CONVENE PUBLIC BUSINESS SESSION – 6:30 p.m.

OPENING:

- Call to Order
- Pledge of Allegiance
- Roll Call
- Report out of Closed Session –Actions Taken
- Conflict of Interest Declaration
- Agenda Review – Regular Session (Changes and/or Deletions)

PUBLIC COMMENTS:

Any person wishing to speak to the City Council on any item not listed on the agenda may do so at this time. Members of the public have the right to speak on any items on the Council Agenda during that item. Pursuant to the Brown Act, the City Council is not allowed to consider issues or take action on any item not listed on the agenda. Each person wishing to speak must go to the podium when advised by the Mayor and speak directly into the microphone.

PROCLAMATIONS / PRESENTATIONS: NONE

CONSENT CALENDAR:

All items under Consent Calendar will be considered together by one action of the Council unless any Council Member or member of the public requests that an item be removed and considered separately.

- 1. **Minutes of Previous Meeting July 26, 2016 – Moore** *(Pages 1-9)*
- 2. **Action to Support Council Member Joe Palla’s Application to be League of California Cities Redwood Empire Division Director –Cayler** *(Page 11)*
- 3. **Action on Resolution No. 060-2016, Appointing Ms. Carol Giovanatto as the City’s Representative on the Marin/Sonoma Mosquito and Vector Control District Board of Trustees- Cayler** *(Pages 13-14)*
- 4. **Action on Resolution No. 061-2016, Accepting the Downtown ADA Parking Project- Janzen** *(Pages 15-17)*

COMMUNICATIONS: None.

Council may discuss at this time written communications sent to Council members since the last council meeting. Written communication to be discussed will be listed below, if any.

PUBLIC HEARINGS:

- 5. **Public Hearing and City Council Consideration of Placing a Commercial Cannabis Business Tax on the November 8, 2016 ballot- Sanchez, Cayler, Cramer** *(Pages 19-50)*

Recommendation: Staff recommends Council discuss the proposed ballot measure related to a cannabis business tax and, if the desire is to place the measure on the ballot: 1) Approve Ordinance (subject to voter approval); and 2) Approve Resolution placing the Cannabis Business Tax Measure on the November 8, 2016 ballot.

NEW BUSINESS:

- 6. **Discussion and Possible Action to Remove Historic Oak Tree in Lighting and Landscape District Zone No. Two (Vintage Meadows) On Healdsburg Avenue near South Franklin Street- Rincon** *(Pages 51-63)*

Recommendation: Staff recommends the tree be removed and no replacement tree or landscaping be installed at this time. All future tree removals in Vintage Meadows Lighting and Landscape District continue to be considered on a “case-by-case” manner as set forth in the master plan.

- 7. **PG&E Proposal to remove street trees along PG&E’s gas transmission main pipeline-Janzen** *(Pages 65-78)*

Recommendation: Staff recommends that Council authorize Staff to proceed with permit issuance as conditioned in the attached tree maps.

- 8. **Action on Resolution No. 062-2016, Awarding a Construction Contract for the W. Second Street City Park Parking Lot Rehabilitation Project- Janzen** *(Pages 79-82)*

Recommendation: Staff recommends that Council adopt Resolution No. 062-2016, awarding a construction contract to CATS4U, Inc. for the full contract (Base Bid and Additive Alternate bid) and allocate funds from the General Fund and Measure M totaling \$80,000.00.

SUBCOMMITTEE ITEMS:

SUBCOMMITTEE REPORTS: (VERBAL REPORTS: 15 minutes)

- Airport (Chair, Councilmember Cox and Vice Mayor Wolter) - Next Meeting: October 4, 2016, 9:00 a.m.
- Finance, Administration & Police (Chair, Mayor Brigham and Vice Mayor Wolter) - Next Meeting: August 25, 2016, 2:00 p.m.
- Planning & Community Development (Chair, Vice Mayor Wolter and Mayor Brigham) - Next Meeting: August 24, 2016, 4:00 p.m.
- Public Works (Chair, Councilmember Russell and Councilmember Cox) - Next Meeting: September 27, 2016, 10:30 a.m.
- Joint City/Fire District (Chair, Councilmember Palla and Mayor Brigham) - Next Meeting: August 22, 2016, 5:00 p.m.
- Joint City/School District (Chair, Councilmember Palla and Councilmember Cox) – Next Meeting: September 19, 2016, 5:00 p.m.

COUNCIL REPORTS (INCLUDING STUDENT LIAISON): (VERBAL REPORTS: 15 minutes)

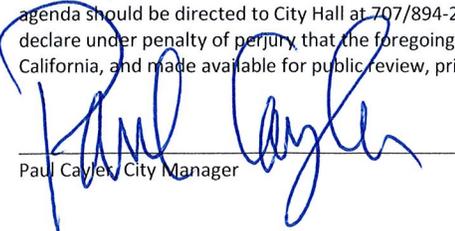
LEGISLATIVE REPORT:

CITY MANAGER/CITY ATTORNEY REPORT:

COUNCIL DIRECTION ON FUTURE AGENDA ITEMS:

ADJOURNMENT: Adjourn to a regular meeting of the City Council and Cloverdale Community Development Successor Agency, Tuesday, August 23, 2016, for Closed Session at 5:30 p.m. (at the City Hall Conference Room 124 N. Cloverdale Blvd., Cloverdale, CA 95425) and Public Business Session at 6:30 p.m. (at the Cloverdale Performing Arts Center 209 N. Cloverdale Blvd., Cloverdale, CA 95425).

The City does not transcribe its proceedings. Anyone who desires a verbatim record of this meeting should arrange for attendance by a court reporter or for other acceptable means of recordation. Such arrangements will be at the sole expense of the individual requesting the recordation. Questions about this agenda should be directed to City Hall at 707/894-2521. State of California, County of Sonoma, City of Cloverdale. CERTIFICATION I, Paul Cayler, do hereby declare under penalty of perjury that the foregoing agenda was posted on the outdoor bulletin board at the City Hall, 124 N. Cloverdale Blvd., Cloverdale, California, and made available for public review, prior to or on this 4th day of August, 2016, at or before 5:00 p.m.



Paul Cayler, City Manager



**DRAFT MINUTES
REGULAR MEETING OF THE CITY COUNCIL AND
JOINT MEETING OF THE CLOVERDALE COMMUNITY DEVELOPMENT SUCCESSOR AGENCY BOARD OF DIRECTORS**

TUESDAY, JULY 26, 2016

CLOSED SESSION 5:30 p.m.

CLOSED SESSION LOCATION: CITY HALL CONFERENCE ROOM, 124 N. CLOVERDALE BLVD. CLOVERDALE, CA 95425

PUBLIC BUSINESS SESSION: 6:30 p.m.

**PUBLIC BUSINESS SESSION LOCATION: CLOVERDALE PERFORMING ARTS CENTER, 209 N. CLOVERDALE BLVD.,
CLOVERDALE, CA 95425**

CLOSED SESSION

CLOSED SESSION: 5:30 pm

OPENING:

- Call to Order: Mayor Brigham called the meeting to order at 5:30 p.m.
- Roll Call: Councilmember Palla, Vice Mayor Wolter, Councilmember Cox, Councilmember Russell, and Mayor Brigham
- Agenda Review - Closed Session (Changes and/or Deletions): None

PUBLIC COMMENTS ON CLOSED SESSION AGENDA: None

RECESS TO CLOSED SESSION:

CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6)

Labor Negotiators: City Manager, Assistant City Manager, and, City Attorney
Employee Organization: Cloverdale Police Officers' Association

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Government Code section 54956.8)

Property: Thyme Square Property, Assessor's Parcel Number: 001-440-049
Agency negotiators: City Manager, Assistant City Manager, and City Attorney
Negotiating parties: City, Alexander Valley Healthcare
Under negotiation: Sale of property

CONVENE PUBLIC BUSINESS SESSION – 6:30 p.m.

OPENING:

- Call to Order: Mayor Brigham called the meeting to order at 6:35 p.m.
- Pledge of Allegiance
- Roll Call: Councilmember Palla, Vice Mayor Wolter, Councilmember Cox, Councilmember Russell, and Mayor Brigham
- Report out of Closed Session –Actions Taken: No reportable action was taken

- Conflict of Interest Declaration: Councilmember Russell reported that she may have a possible conflict of interest on Item 11 due to the location of her home.
- Agenda Review – Regular Session (Changes and/or Deletions): None

PUBLIC COMMENTS:

Earl Ambersini, General Contractor for the Renner project, addressed the Council voicing his frustration with the delay in obtaining a permit for sewer and water lines for the project. He stated that they have been waiting two years for the permit and the project has been stopped for 52 two days. City Manager Cayler responded that the permitting authority is the County not the City. He stated that the City received the plans on June 10, 2016, and provided comments back to the Renner engineer. He further stated that the City is attempting to proceed with the requested annexation but has not received necessary paperwork for the annexation. Discussion ensued regarding the City’s and County’s responsibilities with the Council agreeing that the City has fulfilled its responsibility in the project but recommended City Staff reach out to Mr. Renner again to communicate what documents are necessary for the annexation and express the City’s willingness to meet and work through any existing issues.

PROCLAMATIONS / PRESENTATIONS:

1. Proclamation for Cindy Wilson for her dedicated service to the library system

Mayor Brigham presented the proclamation to Cindy Wilson acknowledging her years of service and many contributions to the community of Cloverdale.

CONSENT CALENDAR:

- 2. Minutes of Previous Meeting: May 17, 2016**
- 3. Minutes of Previous Meeting: May 24, 2016**
- 4. Minutes of Previous Meeting: May 26, 2016**
- 5. Minutes of Previous Meeting: June 14, 2016**
- 6. Motion Order to Approve the Mayor’s Appointment of Lou Enge and Roy Domke, Jr. as Regular Members of the City of Cloverdale’s Planning Commission**

Action: Motion was made by Vice Mayor Wolter to approve the consent calendar; seconded by Councilmember Russell. The motion passed by roll call vote (5-ayes – Councilmember Palla, Vice Mayor Wolter, Councilmember Cox, Councilmember Russell, and Mayor Brigham; 0-noes).

COMMUNICATIONS: None

PUBLIC HEARINGS: None

NEW BUSINESS:

7. Discussion Regarding Ballot Measure Options for Possible Commercial Cannabis Business Tax

City Attorney Sanchez discussed the proposed draft resolution and ordinance, explaining the specifics of the ordinance proposed to go forward for vote on the November ballot. He discussed general taxes versus special taxes, recommending a general tax with no sunset be considered. He also discussed proposed ballot language, stating that he, as the City Attorney would present an unbiased analysis. He recommended Council discuss the draft ballot measure related to a cannabis business tax and give direction to staff.

PUBLIC COMMENTS:

Larry Lossing, Cherry Creek Rd., outside the City limits, expressed concerns regarding the accuracy of the estimated tax revenues expected to be received from the tax measure. He also commented that businesses may choose to set up their business outside the City limits to avoid the tax and suggested a County-wide tax, which would distribute revenue back to municipalities. Mr. Lossing recommended delaying putting this on the ballot. Vice Mayor Wolter responded that the County is also in the process of developing a tax; therefore, businesses will not be able to operate outside the City limits and avoid taxation.

Jason Turner, Cloverdale, commented that this tax measure is a responsible way to generate revenue for the City.

Steve Nurse, Cloverdale, stated that he welcomes this type of tax but he believes legalizing the availability of marijuana in this region is an academic exercise and doubts that the current market will spend 10% more for their product just because it is legal. He urged City Council to keep their eye on the real prize, which is the economic development and tourism.

Paula Wrenn, Cloverdale, expressed concern that bank accounts are not allowed for marijuana businesses and expressed the need for legislation to correct this problem, create better tax control, and a safer environment for the businesses. She also discussed the need for the jobs this industry could bring to the community.

Susan Nurse, Cloverdale, commented that she appreciates the City Council's proactive approach to seek voter approval for this business tax. However, she requested Council take a cautious stance on future permitting and initially consider issuing only one permit for a single business to be located away from the downtown area and monitor this business for a year prior to issuing more permits. Ms. Nurse provided a written statement to the Deputy City Clerk, which is attached to these minutes.

Mark Thayer, Cloverdale, questioned how this resolution compares or coincided with other cities' and County efforts and inquired about the possibility of a uniform ordinance for consistency. City Attorney Sanchez responded that the proposed ordinance has some flexibility written in to allow for modification at a later date, noting that due to timeline restrictions, the Council directed Staff to draft an ordinance rather than wait for other cities and the County.

Oliver Schraner, Cloverdale, commented that he is in favor of this tax. He stated that a webpage is being developed that should address many of the questions that arose during this meeting.

The Council discussed the proposed resolution and ordinance, directing Staff to proceed with steps to put a tax measure on the ballot for November.

8. Discussion and Possible Action on Fiscal Year 2016-2017 CalPERS Unfunded Annual Liability Payment (UAL)

City Manager, Paul Cayler and Fiscal Manager, Joanne Cavallari, explained the CalPERS Unfunded Liability and recommended that the City prepay the UAL to take advantage of the savings opportunity, which would save the City approximately \$16,751 annually.

Action: Motion was made by Councilmember Palla to prepay the UAL; seconded by Councilmember Cox. The motion passed by voice vote (5-ayes – Councilmember Palla, Vice Mayor Wolter, Councilmember Cox, Councilmember Russell, and Mayor Brigham; 0-noes).

9. Consideration of Resolution 058-2016, initiating a General Plan Amendment (GPA) for properties within the Nu Forest annexation area

Assistant City Manager/Community Development Director, David Kelley presented this item, recommending adoption of Resolution 058-2016, initiating a General Plan Amendment for specific properties located west of the Nu Forest property, east of Asti Road, north of the City Corporation yard and south of the existing City limit line.

Jerry Haag, past interim Community Development Director, came to the podium to discuss the history of the project and urged the Council to adopt the Resolution initiating the General Plan Amendment.

PUBLIC COMMENTS:

Shamaine Ege, representative from Nu Forest addressed the Council offering praise to Paul Cayler and David Kelley for their responsiveness. She also thanked Jerry Haag for his diplomacy during the annexation process. She expressed her appreciation to City Staff for the friendly, receptive service provided to Nu Forest.

Action: Motion was made by Councilmember Cox to adopt Resolution No. 058-2016, initiating a General Plan Amendment for specific properties located west of the Nu Forest property, east of Asti Road, north of the City Corporation yard and south of the existing City limit line; seconded by Councilmember Palla. The motion passed by roll call vote: (5-ayes – Councilmember Palla, Vice Mayor Wolter, Councilmember Cox, Councilmember Russell, Mayor Brigham; 0-noes).

10. Discussion and Possible Action to Appoint City of Cloverdale’s Voting Delegate and Alternate Voting Delegate at League of California Cities 2016 Annual Business Meeting (General Assembly)

City Manager Cayler presented this item, recommending Council appoint the Voting Member for the 2016 League of California Cities Annual Business Meeting, and up to two members delegated as Alternate Delegates, and by motion and minute order authorize the completion of the 2016 Voting Delegate/Alternate Form according to Council direction and submit said form. The Council discussed the League of California Cities 2016 Annual Business Meeting to be held in Long Beach. Councilmember Palla was the only member who could commit to attend this year’s meeting.

Action: Motion was made by Councilmember Cox to appoint Councilmember Palla as the City of Cloverdale’s Voting Delegate at the League of Californian Cities 2016 Annual Business Meeting; Vice Mayor Wolter seconded. The motion order passed by voice vote: (5-ayes – Councilmember Palla, Vice Mayor Wolter, Councilmember Cox, Councilmember Russell, Mayor Brigham; 0-noes).

11. Discussion and Possible Action on Request by Rick and Deborah Wilson to Remove Redwood Trees in Lighting and Landscape District Zone No. Three (The Cottages) On Foothill Blvd near Laurel Court

Due to her residence being located within 500 feet of the trees, Councilmember Russell recused herself and left the dais. Other Councilmembers also live in The Cottages but did not recuse themselves. Since City staff would be removing the trees, there would be very little fiscal impact or reason to warrant their recusal.

City Manager Cayler presented this item, noting that the Wilsons were not present at the meeting. He discussed the trees requested to be removed by the Wilsons. Mr. Cayler recommended that the redwood trees within nine feet of the fence line be removed and the redwood trees greater than nine feet from the fence be retained; thus, four of the six trees in the area would be removed. He commented that no replacement tree will be installed and all future redwood tree removal in The Cottages Lighting and Landscape District will continue to be addressed on a “case-by-case” manner as set forth in the master plan. Discussion ensued about the tree removal and possible expenses.

PUBLIC COMMENTS:

Melanie Bagby, Cloverdale, commented that City Manager Cayler put forth a very reasonable proposal. She stated that the trees deemed to be invasive are preexisting and she does not believe the homeowner should be held responsible for the cost of removal.

Action: Motion was made by Councilmember Palla to follow City Manager Cayler’s recommendation for the tree removal as delineated in the staff report; Councilmember Cox seconded. The motion order passed by voice vote: (4-ayes – Councilmember Palla, Councilmember Cox, Councilmember Russell, Mayor Brigham; 1 noes- Vice Mayor Wolter).

Councilmember Russell returned to the dais.

SUBCOMMITTEE ITEMS: None

SUBCOMMITTEE REPORTS:

- Airport (Chair, Councilmember Cox and Vice Mayor Wolter) Councilmember Cox and City Manager Cayler reported the subcommittee met and reviewed the airport financial data for the past five years. They also discussed the airport lease agreements and Nor Cal Skydiving ADA compliance- Next Meeting: October 4, 2016, 9:00 a.m.
- Finance, Administration & Police (Chair, Mayor Brigham and Vice Mayor Wolter) - Next Meeting: August 25, 2016, 2:00 p.m.
- Planning & Community Development (Chair, Vice Mayor Wolter and Mayor Brigham) Councilmember Next Meeting: August 24, 2016, 4:00 p.m.
- Public Works (Chair, Councilmember Russell and Councilmember Cox) Councilmember Russell reported the subcommittee met and discussed tree removal surrounding PG&E lines. She shared information on the Community Pipeline Safety Initiative, complimenting PG&E on their preparedness and efforts meeting with property owners. The committee also discussed the ADA Parking Project. She thanked City Staff for the three ADA parking spaces in Cloverdale. An update was also provided on the Open Space District. - Next Meeting: September 27, 2016, 10:30 a.m.
- Joint City/Fire District (Chair, Councilmember Palla and Mayor Brigham) - Next Meeting: August 22, 2016, 5:00 p.m. Vice Mayor Wolter expressed concerns about the location of the fire shut off valves at the new Dollar General Store and requested this be discussed at the next committee meeting.
- Joint City/School District (Chair, Councilmember Palla and Councilmember Cox) – Next Meeting: September 19, 2016, 5:00 p.m.

COUNCIL REPORTS (INCLUDING STUDENT LIAISON):

Councilmember Russell discussed SMART. She expressed disappointment that MTC staff recommended Cloverdale and Healdsburg not be included in the transportation project. Councilmember Russell shared the Sonoma-Marin Area Rail Transit District General Manager’s Report. She also provided the Smart Train Fare Fact Sheet and information on Increased Tax Free Benefits (attached). Councilmember Russell also provided an update on Climate Action 2020 and the Sonoma County Transit Authority.

Councilmember Cox reported that he attended a meeting with the California Public Utilities Committee where emergency communication shortfalls were discussed. He stated that a strong message was sent to the Utilities Commission to correct the unacceptable emergency communications.

Councilmember Palla thanked the City Manager and City Staff for the new pedestrian crosswalk warning system on Treadway Dr. and Cloverdale Blvd. He asked if staff could provide an update at the next meeting on the Cloverdale Blvd and School St. crossing. Councilmember Palla commented that he serves on the Board of Directors for the League of California Cities under the Mayor and Councilmembers, adding that his term expires this year; therefore, he has submitted his application for the League of California Cities Redwood Empire Division Director position and requested the Council’s support.

Mayor Brigham reported that she has been receiving questions regarding how to apply for residency in the new affordable housing and suggested that application contact information be put in the Reveille Newspaper. Councilmember Cox commented that a representative from the housing development would be present at a booth during the Bi-National Health Fair to share information regarding the housing.

LEGISLATIVE REPORT: None

CITY MANAGER/CITY ATTORNEY REPORT: City Attorney Sanchez announced that he would be absent for the August 9th City Council meeting and that his associate, Catherine Cook, will be attending in his place.

COUNCIL DIRECTION ON FUTURE AGENDA ITEMS:

Minute Order supporting Councilmember Palla for the League of California Cities Redwood Empire Division Director position.

Discussion regarding a policy setting forth the process to respond to wrongful accusation.

ADJOURNMENT: Mayor Brigham adjourned the meeting at 9:37 p.m. to a regular meeting of the City Council and Cloverdale Community Development Successor Agency, Tuesday, August 9, 2016, for Closed Session at 5:30 p.m. (at the City Hall Conference Room 124 N. Cloverdale Blvd., Cloverdale, CA 95425) and Public Business Session at 6:30 p.m. (at the Cloverdale Performing Arts Center 209 N. Cloverdale Blvd., Cloverdale, CA 95425).

31400 Pine Mountain Road, Cloverdale

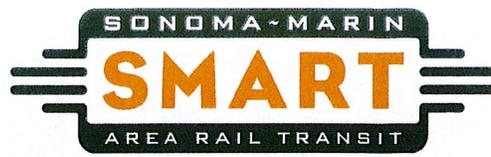
While I appreciate the city council's proactive initiative to seek voter approval for an up-to 10% business tax on future possible marijuana businesses within the city, I ask that you take a cautious stance on the future permitting of such businesses. I know you are not here tonight to consider steps beyond setting up the potential tax, but it is not too soon to begin to gather ideas around the reality of the next step: permitting of such businesses within the city.

We hear that each permitted business will bring an estimated \$150,000 into our general funds, and that there are various types of businesses associated with the marijuana trade. I would ask you to begin thinking ahead now as to how you will establish permitting and prove out the estimated revenues before committing to multiple permits.

I suggest considering an initial single permitted location away from our downtown area. This location could accommodate just a retail or medical dispensary, or include other aspects of the business such as testing, manufacturing, etc – dependent on availability of suitable space and willingness of applicants to take a larger or smaller location. I suggest you hold to this one, single, permitted location for at least 1 year, while you monitor the revenues from the business tax levied. After a year, you can measure the revenues:

- Do they meet expectations?
- What are the upsides and downsides to this business?
- Are we ready to open up more permits?

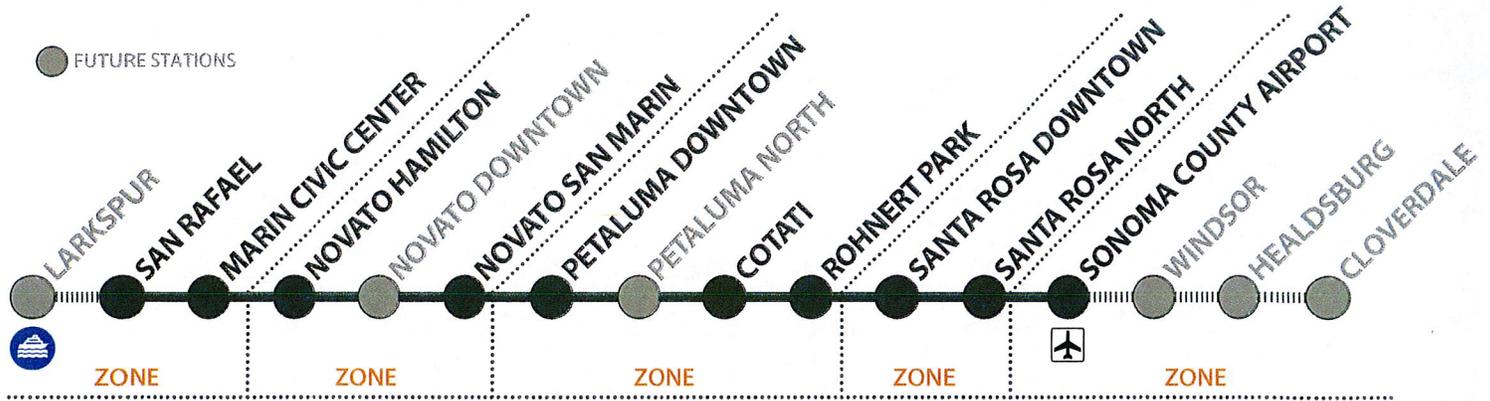
I believe with this new industry there may be unrealistic assumptions of both up-side and down-sides, and that a slow start with just one permitted location will allow us a managed entry into what could easily and quickly become a major, dominating factor in our town. Let's make the reality of future marijuana business in Cloverdale a decision based on facts gathered from our own experience in our own town.



SMART TRAIN FARE FACT SHEET

SMART FARE POLICY ONE-WAY FARES WILL BE

	1 Zone	2 Zones	3 Zones	4 Zones	5 Zones	Daily maximum for all trips on SMART
Adult Fare	\$3.50	\$5.50	\$7.50	\$9.50	\$11.50	\$23.00
Seniors, youth, and passengers with disabilities (50%)	\$1.75	\$2.75	\$3.75	\$4.75	\$5.75	\$11.50



SMART ECO-PASS

Employers, colleges, veterans' groups, and other institutions can purchase annual Eco-Passes for their employees, students, and members to receive fare discounts of up to 50%, based on the number of passes purchased.

DISCOUNTS FOR ANNUAL ECO-PASSES

Number of Passes Purchased	Discounted Cost	Discount Percentage
BUSINESSES & ORGANIZATIONS		
Up to 50	(\$10.01 per day, unlimited use, free weekends) \$2,553.00 per year	23%
51-250	(\$9.10 per day, unlimited use, free weekends) \$2,321.00 per year	30%
251-500	(\$8.19 per day, unlimited use, free weekends) \$2,088.00 per year	37%
Over 500	(\$7.28 per day, unlimited use, free weekends) \$1,856.00 per year	44%
COLLEGE STUDENTS & VETERANS DISCOUNTS		
	(\$6.50 per day, unlimited use, free weekends) \$1,658.00 per year	50%



INCREASED TAX-FREE BENEFITS

SMART Eco-Pass commuters can save even more with increased tax benefits for public transportation. The Federal tax code allows the use of tax-free dollars to pay for transit commuting and parking costs through employer-sponsored programs. Commuter tax benefits are regulated by the Internal Revenue Code, Section 132(f)—Qualified Transportation Fringe.

For the 2016 taxable year, the tax code allows tax-free transportation fringe benefits of up to \$255 per month per employee for transit expenses and up to \$255 per month for qualified parking. Qualified parking is defined as parking at or near an employer's worksite, or at a facility from which employee commutes via transit, vanpool or carpool. Commuters can receive both the transit *and* parking benefits.

Companies can offer:

- A tax-free employer-paid subsidy
- A pre-tax employee-paid payroll deduction
- A combination of both of the above.

Note: Bay Area employers with 50 or more employees are now required to register and offer commuter benefits to their employees to comply with the Bay Area Commuter Benefits Program.

EMPLOYEE SAVINGS

Employees who set aside income on a pre-tax basis for a qualified transportation fringe benefit do not pay federal income or payroll taxes on the income set aside. For example, if you have a combined (local, state, federal) tax rate of 40% and spend \$130 per month on SMART fares, you will save more than \$600 per year. Qualified parking adds even more savings.

If an employer chooses instead to subsidize the benefit it is actually more valuable than an equivalent raise because of the tax advantages (for example, if a subsidy of \$190 is offered, this equals roughly \$317 in taxable income).

EMPLOYER SAVINGS

Providing employees with pre-tax commuter tax benefits can save payroll taxes for employers. The value of the benefit paid to employees is considered a tax-free transportation fringe benefit and not wage or salary compensation, therefore, payroll taxes do not apply. Employers can save roughly 7.5% in payroll taxes (including FICA, SUI, SDI and city taxes) on the amount employees set aside.

If the employer chooses to offer the benefit in addition to the employee's monthly salary, giving an employee \$255 in transit benefits is less expensive for an employer than increasing the employee's salary by \$255.

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**City Council/Successor Agency
Agenda Item Summary**

Agenda Item: 2
Meeting Date: August 9, 2016

Agenda Section

Consent

Staff Contact

Paul Cayler, City Manager

Agenda Item Title

Action to Support Council Member Joe Palla’s Application to be League of California Cities Redwood Empire Division Director at the Friday August 19, 2016, Division Meeting in Arcata, CA.

Summary

At the next Redwood Empire Division Meeting of the League of California Cities on Friday, August 19, 2016, in Arcata, each city in the division will be asked to vote for Division Director. Cloverdale City Council Member Joe Palla submitted his application for the position. Council Member Palla has served the Redwood Empire Division in several capacities, including President, member of the executive committee, and chair of the Division Legislative Committee, which he was instrumental in forming. Council Member Palla has chaired the Division Legislative Committee since its inception. At the upcoming meeting in Arcata, CA, each applicant for Division Director will have an opportunity to address the membership. After that, each city will vote for the candidate they would like to represent the Redwood Empire Division on the statewide Board of Directors. Council Member Palla has served on the League of California Cities’ Board of Directors for 4 years as an “At-Large” position (2013-2014), and as the Mayors’ and Council Members Department Director (2015-2016). The position that Council Member Palla currently holds with the Mayor’s and Council Members Department will end at the Annual Conference in October 2016. Council Member Palla requests the Cloverdale City Council take action by formal minute order to support his application for Division Director.

Options

- 1) Support Council Member Palla’s application to be the League of California Cities Redwood Empire District Director; or 2) Reject Council Member Palla’s application.

Budget/Financial Impact

None.

Subcommittee Recommendation

None.

Recommended Council Action

The City Manager recommends that the City Council by minute order support Council Member Palla’s application to be a League of California Cities Redwood Empire Division Director, and that Cloverdale representatives attending the Division meeting in Arcata, CA on August 19, 2016, vote in support of Council Member Palla.

Attachments:

cc:

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**City Council/Successor Agency
Agenda Item Summary**

Agenda Item: 3
Meeting Date: August 9, 2016

Agenda Section Consent	Staff Contact Paul Cayler, City Manager
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Agenda Item Title

Action on Resolution No. 060-2016, Appointing Ms. Carol Giovanatto as the City of Cloverdale’s Representative on the Marin/Sonoma Mosquito and Vector Control District Board of Trustees

Summary

The City of Cloverdale is a member jurisdiction of the Marin/Sonoma Mosquito and Vector Control District. The District is governed by a 24 seat Board of Trustees. The District’s governing law is the California State Health and Safety Code, which sets forth that each member jurisdiction may appoint one member of the Board of Trustees. Said member must be an elector for the City from which she is appointed and a resident of the portion of the City within the District. The City of Cloverdale does not currently have an appointment to the District Board of Trustees. Long time Cloverdale resident Ms. Carol Giovanatto has stated that she is interested in an appointment to the District Board of Trustees. Carol has a broad professional background and experience in local government, and is a qualified resident of the City of Cloverdale. If appointed to the Board of Trustees’s, Carol will serve an initial two-year term.

Options

- 1) Adopt the attached proposed resolution; or 2) Reject the resolution.

Budget/Financial Impact

None.

Subcommittee Recommendation

None.

Recommended Council Action

The City Manager recommends that the City Council adopt the Resolution No. 060-2016, formally appointing Ms. Carol Giovanatto to serve as the City of Cloverdale’s representative on the Marin/Sonoma Mosquito and Vector Control District Board of Trustees.

Attachments:

- 1. Proposed Resolution

cc:

**CITY OF CLOVERDALE
CITY COUNCIL
RESOLUTION NO. 060-2016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVERDALE APPOINTING MS. CAROL GIOVANATTO TO SERVE AS CLOVERDALE’S REPRESENTATIVE ON MARIN/SONOMA MOSQUITO & VECTOR CONTROL DISTRICT

Whereas, the Marin/Sonoma Mosquito & Vector Control District, hereinafter District, is governed by a Board of Trustees for which there are 24 seats; and

Whereas, the California State Health and Safety Code is the District’s main governing law, and the Health and Safety Code specifies that each member of the Board of Trustees is appointed by the member jurisdiction’s governing body, and said member shall be an elector of the City from which he/she is appointed, and a resident of that portion of the City which is in the District; and

Whereas, the first term of any trustee shall not exceed two years, and each subsequent reappointment, if any, may be for a term of two or four years at the discretion of the appointing power; and

Whereas, in the event of the resignation, death or disability of any member of the Board of Trustees, his/her successor shall be appointed by the governing body, which appointed him/her; and

Whereas, the City of Cloverdale currently does not have an appointee to the District Board of Trustees; and

Whereas, Ms. Carol Giovanatto has stated that she is interested in an appointment to the District Board of Trustees to represent the City of Cloverdale; and

Whereas, Ms. Carol Giovanatto has a broad professional background and experience in local government; and

Whereas, Ms. Carol Giovanatto a qualified resident and elector of the City of Cloverdale.

Therefore, be it resolved that the City Council of the City of Cloverdale hereby appoints Ms. Carol Giovanatto to be Cloverdale’s voting representative on the District’s Board of Trustees effective immediately for a two year term.

It is hereby certified that the foregoing Resolution No. 060-2016 was duly introduced and adopted as amended by the City Council of the City of Cloverdale at its regular meeting held on the 9th day of August, 2016, by the following voice vote: (X-ayes, X-noes)

AYES:
NOES:
ABSENT:
ABSTAIN:

Approved:

Attested:

Mary Ann Brigham, Mayor

Linda Moore, Deputy City Clerk



**City Council/Successor Agency
Agenda Item Summary**

Agenda Item: 4
Meeting Date: August 9, 2016

Agenda Section Consent	Staff Contact Eric Janzen, Engineering Technician
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Agenda Item Title

Resolution No. 061-2016, Accepting the Downtown ADA Parking Project.

Summary

The Cloverdale Downtown Accessible Parking project, funded under the Community Development Block Grant (CDBG) for fiscal Year 2013/2014, has been completed. The project constructed accessible parking stalls in front of the Performing Arts Center and at the corner of East Second Street and North Cloverdale Blvd. Work was completed by Yukon Construction, Inc. and within their proposed quote of \$23,993.90.

The work under this contract has been completed in accordance with the terms of the contract and to the City’s satisfaction. Accordingly, staff is recommending that the Council adopt a resolution accepting the improvements and authorizing the City Engineer to release the retention and to file a Notice of Completion at the County Recorder’s office.

Options

1. Accept the improvements.
2. Do not accept the improvements

Budget/Financial Impact

The Project is funded through Community Development Block Grant (CDBG) for fiscal Year 2013/2014. The final Project costs are summarized below:

Original Contract Amount	\$23,993.90
Change Orders	\$ 0.00
Total Construction Cost	\$23,993.90
1% Retention Withheld	-\$239.93

Subcommittee Recommendation

This item was presented at the July 26, 2016 Public Works sub-committee meeting. The sub-committee supported presenting this item to Council for approval.

Recommended Council Action

Adopt Resolution 061-2016, accepting the Downtown ADA Parking for North Cloverdale Blvd and East Second Street and authorizing the City Engineer to release the retention and file a Notice of Completion at the County Recorder’s office.

Attachments:

1. Resolution; Accepting the completion of the Cloverdale downtown ADA parking project.

cc:

**CITY OF CLOVERDALE
CITY COUNCIL
RESOLUTION NO. 061–2016**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVERDALE
ACCEPTING THE COMPLETION OF THE CLOVERDALE DOWNTOWN ADA PARKING PROJECT
AND FILING A NOTICE OF COMPLETION WITH THE COUNTY RECORDER’S OFFICE**

WHEREAS, in accordance with California Public Contract Code Section 20162 and other applicable law, the City of Cloverdale solicited bids for the Cloverdale Downtown ADA Parking Project (Project); and

WHEREAS, by Resolution No. 028-2016 adopted on April 26, 2016, the City Council found the bid submitted by Yukon Construction, Inc., to be the lowest responsive bid and awarded the Project to Yukon Construction, Inc., in the amount of \$23,993.90, conditioned upon Yukon Construction, Inc.’s timely executing the Project contract and submitting all required documents, and authorized and directed the City Manager to execute the Project contract and any contract change orders so long as the total Project cost did not exceed the total funding for this Project; and

WHEREAS, the final contract amount is \$23,993.90; and

WHEREAS, the Project has been inspected and determined to have been completed in accordance with the contract requirements; and

WHEREAS, based upon the foregoing, staff recommends acceptance of the Project on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLOVERDALE AS FOLLOWS:

1. The project entitled Cloverdale Downtown ADA Parking Project with a final contract amount of \$23,993.90 is accepted as complete.
2. The Director of Public Works is hereby authorized and directed to file a Notice of Completion concerning the Project with the Sonoma County Clerk’s Office within ten (10) days of the date of this Resolution.
3. Staff are hereby authorized and directed to release all undisputed retention, within sixty (60) days of the date of this Resolution and in accordance with the terms of the Project contract, California Public Contract Code Section 7107 and applicable law.

It is hereby certified that the foregoing Resolution No. 061-2016 was duly introduced and duly adopted by the City Council of the City of Cloverdale at its regular meeting held on the 9th day of August 2016, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTESTED:

MaryAnn Brigham, Mayor

Linda Moore, Deputy City Clerk

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**City Council
Agenda Item Summary**

Agenda Item: 5
Meeting Date: August 9, 2016

Agenda Section	Staff Contact
Public Hearings	Jose M. Sanchez, City Attorney Paul Cayler, City Manager Stephen Cramer, Chief of Police

Agenda Item Title

Public Hearing and City Council Consideration of Placing a Commercial Cannabis Business Tax on the November 8, 2016 ballot.

Summary

At its June 14, 2016 regular meeting, the City Council directed staff to return with information on the procedure and deadlines to place a local cannabis business tax measure on the November ballot. At its regular meeting on June 28, 2016, the City Council discussed these options and directed staff to return with a draft ballot measure and tax ordinance for discussion. City Council and the public gave input on the draft documents at the July 26, 2016 City Council meeting. If Council desires to move forward with a tax measure, final action to place the item on the November ballot is required at tonight’s meeting.

Ballot Measure and Cannabis Business Tax Ordinance:

Based on direction from the City Council and information on best practices gathered by city staff, the ballot measure and cannabis business tax ordinance are structured as follows:

- A business operations tax rate of up to 10% on gross receipts (this is not a sales tax) of all permitted cannabis businesses within the City;
- The ability for City Council to set different tax rates for different types of marijuana businesses (dispensaries could be taxed at the maximum 10%, for example, while a manufacturing or testing business could be taxed at 4%; nonprofit dispensaries could also be taxed at a lower rate than for-profit dispensaries if so desired by the City Council);
- No sunset date;
- All tax revenues go to the City’s general fund;
- Clear procedures establishing how the business tax is levied and collected; and
- Strict penalties for violators to encourage compliance and compensate the City for staff time to regulate the business tax.

The use of a percentage tax on gross receipts, rather than a tax on square footage, means that the City would only collect revenues from businesses based on their actual sales. A square-footage tax (used by a small number of jurisdictions) would mean that a cultivation business, for example, would pay the same operations tax amount each month, even if it lost its harvest and was unable to sell the cannabis that month.

Based on Council input, the definition of “Cannabis” in the Ordinance has been amended to ensure that it includes all strains of the plant.

The draft ballot measure reads as follows:

“City of Cloverdale Cannabis Business Tax.

To fund essential City services such as police, streets, parks, libraries, senior and youth programs, shall an ordinance be adopted imposing a tax on all permitted cannabis businesses in Cloverdale, at a rate of up to 10% on gross receipts, to raise estimated revenues of \$90,000 per business, with no sunset date, subject to audits, with funds staying local and allowing for the tax rate to vary by business activity type?”

Information on Cannabis Taxes in California Cities:

Currently, there are at least eighteen cities in the State with cannabis taxes on the books. Some cities have a tax in place, but do not levy it because they do not allow marijuana businesses to locate within the city. Voters in Davis recently passed a ballot measure allowing for a 10% tax on gross receipts of *non-medical* marijuana businesses; the intent is for the tax to be levied if a statewide measure legalizing recreational marijuana sales passes in November.

Some cities tax dispensary sales only, while others also tax cultivation and other operations. Some cultivation taxes are based on square footage of an operation, while others tax a percentage of gross receipts. A tax measure could be designed to cover all “marijuana business operations,” including dispensary sales, cultivation, and even distribution, delivery, and testing businesses.

Below is a sampling of commercial marijuana taxes in California cities.

City	Tax Information	Date Passed	% of Yes Votes	Est. Revenues
Alturas	10% of gross receipts/ general tax	June 2016	81%	n/a
Sacramento	4% of gross receipts/ general tax *City has 30-plus dispensaries	November 2010	71%	\$2.86 million <i>*An attempt to pass a special tax to replace this general tax failed at the June 2016 ballot</i>
Shasta Lake	6% (initially) of gross receipts, allows up to 10% / general tax *City has 2 dispensaries	November 2014	73%	\$175,000-\$200,000
Santa Cruz	7% (initially) of gross receipts, allows up to 10% / general tax *City has 2 dispensaries	November 2014	82%	\$150,000-\$275,000
Palm Springs	10-15% of gross receipts/ general tax *City has an estimated 6 dispensaries	November 2013	66%	\$1 million
Berkeley	\$25 per square foot for first 3,000 square	November 2010	83%	n/a

	feet for nonprofit collectives; \$10 per square foot after 3,000 square feet			
Desert Hot Springs	10% on proceeds from dispensary sales \$25 per square foot of cultivation up to 3,000 square feet, then \$10 per square foot	November 2014	72% (dispensary sales) 68% (cultivation proceeds)	n/a *City has approved zoning for large scale indoor cultivation operations that could bring up to \$10 million in tax revenues

Arguments For and Against Ballot Measures

Prior to the election, arguments for and against ballot measures are distributed to voters along with sample ballots. These arguments may be filed by the City Council, any member of the City Council, a bona fide citizens association, any registered voter, or a combination of associations and voters. If more than one argument for or against a measure is submitted, the City Clerk is required to select one argument in each category (for and against). Priority for the selection is given as follows:

- 1) To the City Council, or to any City Council member who authored the argument with authorization of the Council (majority vote);
- 2) To the bona fide sponsor or proponents of the measure;
- 3) To a bona fide association of citizens; and
- 4) To individual voters who are eligible to vote on the measure.

Up to five people may sign an argument for or against a ballot measure. A City Council member signing an argument may identify him or herself as City Council member, even without the consent to do so by a majority of the Council. The Resolution before the Council contains language authorizing the Mayor or her designee to submit an argument in favor of the ballot measure; it does not authorize the Mayor to do so on behalf of the entire Council. However, additional City Council members may sign the argument in addition to the Mayor.

Budget/Financial Impact

If a cannabis business tax is placed on the ballot and approved by voters, it is estimated that the City could make up to \$90,000 in revenue from each cannabis-related business (if the Council later votes to allow such businesses to locate in the City).

Recommended Council Action

Discuss the proposed ballot measure related to a cannabis business tax and, if the desire is to place the measure on the ballot: 1) Approve Ordinance No. 708-2016 (subject to voter approval); and 2) Approve Resolution No. 059-2016, placing the Cannabis Business Tax Measure on the November 8, 2016 ballot.

Attachments

City Council Ordinance No. 708-2016

City Council Resolution No. 059-2016

2688130.3

**CITY OF CLOVERDALE
CITY COUNCIL
ORDINANCE NO. 708-2016**

**AN ORDINANCE OF THE CITY COUNCIL OF CLOVERDALE AMENDING THE
CLOVERDALE MUNICIPAL CODE BY ADDING CHAPTER 3.46, "CANNABIS
BUSINESS TAX"**

WHEREAS, in 1996 the California voters approved Proposition 215, "The Compassionate Use Act," which provides that qualified patients may obtain and use marijuana for medical purposes with a physician's recommendation and will not be subject to certain criminal penalties under state law; and

WHEREAS, in 2003, the state Legislature enacted Senate Bill 420, the "Medical Marijuana Program Act," as a supplement to The Compassionate Use Act, which allows cities to adopt and enforce rules consistent with the Medical Marijuana Program Act; and

WHEREAS, in 2015, the state Legislature enacted the Medical Marijuana Regulation and Safety Act, which creates a regulatory, permitting, and oversight structure for the medical marijuana industry at the state level but does not impede on land use and police powers of local governments; and

WHEREAS, the City Council of the City of Cloverdale desires to impose a tax on all cannabis businesses that may operate within Cloverdale if future land use regulations allow for such businesses; and

WHEREAS, California Constitution Article XIIC, Section 2(b), provides that no local government may impose a general tax unless and until that tax is submitted to the electorate and approved by a majority votes; and

WHEREAS, the tax imposed by this Ordinance is an excise tax on the privilege of conducting business within the City and will only become effective if approved by a majority of the City' voters at the November 8, 2016 municipal election.

NOW, THEREFORE, the City Council of the City of Cloverdale does ordain as follows:

SECTION 1. Voter Approval. This Ordinance shall impose a general tax, as defined by Article XIIC, Section 1(a) of the California Constitution and Government Code section 53723, on cannabis businesses, and therefore must be approved by a majority of voters voting on the tax. Approval of this Ordinance is therefore subject to and conditioned upon the approval by the voters of the imposition of the general tax imposed by this Ordinance. This Ordinance shall not take effect if a majority of the voters voting in the election on this Ordinance do not vote in favor of it.

SECTION 2. Amendment of Code. Chapter 3.46 of the Cloverdale Municipal Code is added to read as follows:

Chapter 3.46

CANNABIS BUSINESS TAX

Sections:

- 3.46.010 Purpose of chapter.
- 3.46.020 Tax imposed.
- 3.46.030 Definitions.
- 3.46.040 Other licenses, permits, taxes, fees or charges.
- 3.46.050 Payment of tax does not authorize unlawful business.
- 3.46.055 Registration with tax administrator.
- 3.46.060 Payment – Location.
- 3.46.070 Amount of business tax owed.
- 3.46.080 Payment – Time limits.
- 3.46.090 Payments and communications made by mail – Proof of timely submittal.
- 3.46.100 Payment – When taxes deemed delinquent.
- 3.46.110 Notice not required by city.
- 3.46.120 Payment – Penalty for delinquency.
- 3.46.130 Waiver of penalties.
- 3.46.140 Refunds – Credits.
- 3.46.150 Refunds and procedures.
- 3.46.160 Exemptions – Application – Issuance conditions.
- 3.46.170 Exemptions – General.
- 3.46.180 Enforcement – Duties of tax administrator and police chief.
- 3.46.190 Rules and regulations.
- 3.46.200 Apportionment.
- 3.46.210 Audit and examination of records and equipment.
- 3.46.220 Tax deemed debt to city.
- 3.46.230 Lien – Recordation.
- 3.46.240 Warrant for collection of tax.
- 3.46.250 Seizure and sale.
- 3.46.260 Successor’s and assignee’s responsibility.

- 3.46.270 Deficiency determinations.**
- 3.46.280 Tax assessment – Authorized when – Nonpayment – Fraud.**
- 3.46.290 Tax assessment – Notice requirements.**
- 3.46.300 Tax assessment – Hearing – Application and determination.**
- 3.46.310 Conviction for chapter violation – Taxes not waived.**
- 3.46.320 Violation deemed misdemeanor – Penalty.**
- 3.46.330 Severability.**
- 3.46.340 Effect of state and federal reference/authorization.**
- 3.46.350 Remedies cumulative.**
- 3.46.360 Amendment or repeal.**

3.46.010 Purpose of chapter.

This chapter shall be known as the “cannabis business tax” and is enacted solely to raise revenue for the general governmental purposes of the city and not for purposes of regulation or of raising revenues for regulatory purposes. All of the proceeds from the tax imposed by this chapter shall be placed in the city’s general fund and used for the usual current expenses of the city. The cannabis business tax under the provisions of this chapter is not a sales or use tax and shall not be calculated or assessed as such. The cannabis business tax shall not be separately identified or otherwise specifically assessed or charged to any member, customer, patient, or caretaker.

3.46.020 Tax imposed.

There is established and imposed a cannabis business tax on every such business operating in the city at the rate set forth in this chapter.

3.46.030 Definitions.

The definitions set forth in this section shall govern the application and interpretation of this chapter.

(A) “Business” shall include all activities engaged in or caused to be engaged in within the city, including any commercial or industrial enterprise, trade, profession, occupation,

vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

(B) “Employee” means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner’s family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission or room and board.

(C) “Engaged in business” means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the city or coming into the city from an outside location to engage in such activities. A person shall be deemed engaged in business within the city if:

- (1) Such person or person’s employee maintains a fixed place of business within the city for the benefit or partial benefit of such person;
- (2) Such person or person’s employee owns or leases real property within the city for business purposes;
- (3) Such person or person’s employee regularly maintains a stock of tangible personal property in the city for sale in the ordinary course of business;
- (4) Such person or person’s employee regularly conducts solicitation of business within the city;
- (5) Such person or person’s employee performs work or renders services in the city on a regular and continuous basis involving more than five working days per year;
- (6) Such person or person’s employee utilizes the streets within the city in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of “engaged in business.”

(D) "Evidence of doing business" means whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, represent that such person is engaged in cannabis business in the city, then these facts may be used as evidence that such person is engaged in business in the city.

(E) "Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales from the cannabis business, including membership dues and fees; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, memberships, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

- (1) Cash discounts allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- (5) Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

- (6) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- (7) Cash value of sales, trades or transactions between departments or units of the same business;
- (8) Transactions between a partnership and its partners;
- (9) Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:
 - (a) The voting and nonvoting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or
 - (b) Which owns at least eighty percent of the voting and nonvoting stock of such other corporation; or
 - (c) At least eighty percent of the voting and nonvoting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had;
- (10) Transactions between a limited liability company and its member(s), provided the limited liability company has elected to file as a Subchapter K entity under the Internal Revenue Code and that such transaction(s) shall be treated the same as between a partnership and its partner(s) as specified in subsection (E)(9);
- (11) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business, shall not be excluded when in excess of one dollar;
- (12) Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the

amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

“Gross receipts” subject to the cannabis business tax shall be that portion of gross receipts relating to business conducted within the city.

(F) “Cannabis” means all parts of the plant *Cannabis sativa* L., *Cannabis indica*, and *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant, whether crude or purified; and every compound, manufacture, oil, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including food products containing cannabis. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code and Section 19300.5 of the California Business and Professions Code.

(G) “Cannabis business” means any business activity which entails the distribution, delivery, dispensing, exchanging, bartering or sale of either medical or non-medical cannabis, including but not limited to, cultivating, planting, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, labeling, storing, packaging, wholesale, testing, and/or retail sales of cannabis, products including cannabis, and any ancillary products in the city, whether or not carried on for gain or profit.

(H) “Cannabis business tax,” “business tax,” or “cannabis tax” means the tax due for engaging in cannabis business in the city pursuant to this chapter.

(I) “Medical Cannabis” means cannabis authorized in strict compliance with Health & Safety Code Sections 11362.5, 11362.7 et seq., as such sections may be amended from time to time.

(J) “Non-medical cannabis” means cannabis authorized in strict compliance with any state or federal law pertaining to cannabis that is not medical cannabis.

(K) “Person” means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign,

domestic, and nonprofit), cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

(L) “Operator” shall mean any person conducting, operating, or maintaining in whole or in part as principal, agent, officer, employee or independent contractor, any cannabis business or medical marijuana business as defined in this chapter, taxable under this chapter.

(M) “Sale” means and includes any sale, exchange, or barter.

(N) “Tax administrator” or “administrator” means the finance director or such other administrator designated by the city manager to administer this chapter.

3.46.040 Other licenses, permits, taxes, fees or charges.

Nothing contained in this chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license or permit required by, under or by virtue of any provision of any other title or chapter of this code or any other ordinance or resolution of the city or under any applicable state or federal law, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this code or any other ordinance or resolution of the city.

3.46.050 Payment of tax does not authorize unlawful business.

(A) The payment of a business tax required by this chapter, and its acceptance by the city, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this code and all other applicable laws, nor to carry on any cannabis business in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such cannabis business is in violation of any law.

(B) No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the city.

3.46.055 Registration with tax administrator.

(A) Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is later, each operator of any cannabis business operating in the city shall register the business with the tax administrator and obtain from him or her a cannabis business tax certificate, to be at all times posted in a conspicuous place on the premises.

(B) The certificate shall, among other things, state the following:

1. The name of the business;
2. The address of the business;
3. The date upon which the certificate was issued.

3.46.060 Payment – location.

The tax imposed under this chapter shall be paid to the administrator in lawful money of the United States at the offices of the finance director in Cloverdale, California. “Lawful money” shall mean any coin, currency or negotiable instrument, exchangeable for said coin or currency, which the United States Congress has declared to be a national legal tender.

3.46.070 Amount of business tax owed.

(A) Every person engaged in cannabis business in the city shall pay a business tax at a rate of up to ten percent (10%) of gross receipts. The tax under this chapter shall not be imposed on cannabis businesses unless and until the city council, by resolution, takes action to set a tax rate not to exceed ten percent of gross receipts.

(B) Notwithstanding the maximum tax rate of ten percent (10%) of gross receipts established under subsection (A), the city council may, in its discretion, at any time by resolution, implement a lower tax rate for all cannabis businesses or establish differing tax rates for different categories of cannabis businesses, as defined in such resolution, subject to the maximum rate of ten percent of gross receipts. The city council may, by resolution, also increase any such tax rate from time to time, not to exceed the

maximum tax rate of ten percent (10%) of gross receipts established under subsection (A).

(C) In establishing different tax rates for different categories of cannabis businesses pursuant to subsection (B), the city council may enact a rate using a basis other than gross receipts. By way of example only and without imposing any limitation on the basis of the tax rate for a category of cannabis business, the rate may be based upon the square footage of the building used by or number of employees of a cannabis business. If the city council establishes a tax rate for a cannabis business on a basis other than gross receipts, in no event shall that tax paid by a cannabis business in that category exceed 10% of the business's gross receipts.

3.46.080 Payment – time limits.

The business tax imposed by this chapter shall be due and payable as follows:

(A) Each person owing a tax under this chapter shall, on or before the last day of each calendar month, prepare a tax statement to the administrator of the total gross receipts and the amount of tax owed for the preceding calendar month. At the time the tax statement is filed, the full amount of the tax owed for the preceding calendar month shall be remitted to the administrator.

(B) All tax statements shall be completed on forms provided by the administrator.

(C) Tax statements and payments for all outstanding taxes owed to the city are immediately due to the administrator upon cessation of business for any reason.

3.46.090 Payments and communications made by mail – proof of timely submittal.

Whenever any payment, statement, report, request or other communication received by the administrator is received after the time prescribed by this chapter for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this chapter for the receipt thereof, or whenever the administrator is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the administrator may regard such payment,

statement, report, request or other communication as having been timely received. If the due date falls on Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the City Hall building at 124 N. Cloverdale Blvd., Cloverdale, CA 95425 is open.

3.46.100 Payment – when taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not paid on or before the due date specified in Section 3.46.080.

3.46.110 Notice not required by city.

The administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter, and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

3.46.120 Payment – penalty for delinquency.

(A) Any person who fails or refuses to pay any business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to twenty-five percent of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax; and

(2) An additional penalty equal to twenty-five percent of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and on the unpaid penalties.

(3) In addition to the penalties imposed, any person who fails to remit any tax imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of tax, exclusive of penalties, from the last day of the month following the monthly period for

which the amount or any portion thereof should have been paid until the date of payment.

(4) Only payments for the full amount due shall be accepted unless an alternate payment agreement is reached with the administrator.

(B) Whenever a check is submitted in payment of a business tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus the return check fee; penalties and interest as provided for in this section; and any amount allowed under state law.

(C) The cannabis business tax due shall be that amount due and payable from the first date on which the person was engaged in cannabis business in the city, together with applicable penalties and interest calculated in accordance with subsection (A).

(D) Any person whose cannabis business tax is delinquent by at least sixty calendar days may be subject to revocation of a city business license or other city permit associated with the subject cannabis business.

3.46.130 Waiver of penalties.

The administrator may waive the first and second penalties imposed upon any person if:

(A) The person provides evidence satisfactory to the administrator that failure to pay timely was due to circumstances beyond the control of the person and occurred, notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax and accrued interest owed the city prior to applying to the administrator for a waiver.

(B) The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four-month period.

(C) A request for relief from the first and second penalties must be filed in writing within thirty days of the date the remittance was due to the city, but no later than ten days of the city's notice to the operator of the amount past due.

3.46.140 Refunds – credits.

(A) No refund shall be made of any tax collected pursuant to this chapter, except as provided in Section 3.46.150.

(B) No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution or other termination of a business.

(C) Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against such person's business taxes for the next calendar month.

3.46.150 Refunds and procedures.

(A) Whenever the amount of any business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded to the claimant who paid the tax; provided, that a written claim for refund is filed with the administrator within one year of the date the tax was originally due and payable.

(B) The administrator or the administrator's authorized agent shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the administrator to do so.

(C) In the event that the business tax was erroneously paid and the error is attributable to the city, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the city shall retain an amount from the refund reasonably calculated to cover expenses in verifying the error.

3.46.160 Exemptions – application – issuance conditions.

Any person desiring to claim exemption from the payment of the tax set forth in this chapter shall make application upon forms prescribed by the administrator and shall furnish such information and make such affidavits as may be required by the administrator.

3.46.170 Exemptions – general.

Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the state of California or preemptive federal or state law.

3.46.180 Enforcement – duties of tax administrator and police chief.

It shall be the duty of the administrator to enforce each and all of the provisions of this chapter, and the police chief shall render such assistance in the enforcement of this chapter as may from time to time be required by the administrator.

3.46.190 Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this chapter generally, the administrator, with the concurrence of the city attorney, may from time to time promulgate administrative rules and regulations

3.46.200 Apportionment.

(A) None of the tax provided for by this chapter shall be applied so as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States or the state of California.

(B) If any case where a business tax is believed by a taxpayer to place an undue burden upon interstate commerce or be violative of such constitutional clauses, the taxpayer may apply to the administrator for an adjustment of the tax. It shall be the

taxpayer's obligation to request in writing for an adjustment within one year after the date of payment of the tax. If the taxpayer does not request in writing within one year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year and all prior years.

(C) The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the administrator may deem necessary in order to determine the extent, if any, of such undue burden or violation. The administrator shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the administrator shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this chapter.

(D) Should the administrator determine that the gross receipt measure of tax to be the proper basis, the administrator may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the administrator.

3.46.210 Audit and examination of records and equipment.

(A) The administrator shall have the power to audit and examine all books and records of persons engaged in cannabis business including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis business, and, where necessary, all equipment of any person engaged in cannabis business in the city for the purpose of ascertaining the amount of business tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this chapter. If such person, after written demand by the administrator, refuses to make available for audit, examination or verification such books, records or equipment as the administrator requests, the administrator may, after full consideration of all information within his or her knowledge concerning the cannabis business and activities of the person so refusing, make an

assessment in the manner provided in Sections [3.46.250](#) through [3.46.270](#) of any taxes estimated to be due.

(B) It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of at least four years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the administrator shall have the right to inspect at all reasonable times.

3.46.220 Tax deemed debt to city.

The amount of any tax, penalties and interest imposed by the provisions of this chapter shall be deemed a debt to the city and any person carrying on any cannabis business without first having paid such tax shall be liable in an action in the name of the city in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business and for attorneys' fees in the enforcement of this chapter.

3.46.230 Lien – recordation.

If any amount required to be paid to the city under the ordinance codified in this chapter is not paid when due, the administrator, upon expiration of the second delinquency period referenced in Section [3.46.120\(A\)\(2\)](#), may, within four years after the amount is due, record in the office(s) of the county recorder(s) of any county in the state of California a certificate specifying the amount of tax, penalties and interest due, the name and address of the operator liable for the same and the fact that the administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the recording, the amount required to be paid together with penalties and interest shall constitute a lien upon any and all real property in any county owned by the operator or thereafter acquired by the operator. The lien shall have the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged.

3.46.240 Warrant for collection of tax.

At any time within four years after any operator is delinquent in the payment of any amount herein required to be paid off after the last recording of a certificate of lien under Section 3.46.230, the administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to any sheriff, qualified law enforcement officer, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution. The administrator may pay or advance to the sheriff, law enforcement officer, marshal or constable the same fees, commissions and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution.

3.46.250 Seizure and sale.

At any time within four years after any operator is delinquent in the payment of any amount, the administrator may forthwith collect the amount in the following manner: The administrator shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall be only of property of the operator not exempt from execution under the provisions of the California Code of Civil Procedure.

3.46.260 Successor's and assignee's responsibility.

If any operator, while liable for any amount under this chapter, sells, assigns or otherwise transfers the business, whether voluntarily or involuntarily, the operator's subsequent successor, assign or other transferee, or other person or entity obtaining ownership or control of the business, shall satisfy any tax liability owed to the city associated with the business. Failure to do so for the benefit of the city will result in being personally liable to the city for the full amount of the tax liability, which includes interest and penalties.

The successor operator, assign, purchaser, transferee, or other person or entity seeking to obtain ownership or control of the business shall notify the administrator of the date of

transfer at least thirty days prior to the transfer date; or if the agreement to sell, transfer, or otherwise dispose of the business was made less than thirty days prior to the date of transfer, notice shall be provided immediately.

The successor operator, assign, purchaser, transferee, or other person or entity who obtains ownership or control of the business shall be deemed to have complied with the requirement of this section to satisfy the unpaid tax liability if that person or entity complies with the requirements of California Revenue and Taxation Code Section 7283.5 by withholding from the purchase price an amount sufficient to cover the tax liability, or by otherwise paying the tax liability until the administrator provides a "Tax Clearance Certificate" showing that it has been paid and stating that no amount is due through the date of transfer.

The administrator, within ninety days of receiving a written request from a successor operator, assign, purchaser, transferee, or other person or entity who obtains or attempts to obtain ownership or control of the business, may issue a "Tax Clearance Certificate" stating either the amount of tax liability due and owing for the business, or stating that there is no tax liability due and owing for the business. The administrator may also request financial records from the current or former owner or operator to conduct an audit of the tax that may be due and owing. After completing the audit within ninety days after the date that the records were made available, the administrator may issue a tax clearance certificate within thirty days of completing the audit, stating the amount of the tax liability owed, if any. If the city determines that the records provided for an audit are insufficient, the administrator may rely on the facts and information available to estimate any tax liability associated with the property. The administrator may issue a tax clearance certificate stating the amount of the tax liability, if any, based on such facts and information available. A written application for a hearing on the amount assessed on the tax clearance certificate must be made within ten days after the serving or mailing of the certificate. The hearing provision of Section 3.46.300 shall apply. If an application for a hearing is not made within the time prescribed, the tax clearance certificate shall serve as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate.

3.46.270 Deficiency determinations.

If the administrator is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 3.46.280 through 3.46.300.

3.46.280 Tax assessment – authorized when – nonpayment – fraud.

(A) Under any of the following circumstances, the administrator may make and give notice of an assessment of the amount of tax owed by a person under this chapter at any time:

- (1) If the person has not filed any statement required under the provisions of this chapter;
- (2) If the person has not paid any tax due under the provisions of this chapter;
- (3) If the person has not, after demand by the administrator, filed a corrected statement, or furnished to the administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter; or
- (4) If the administrator determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of forty percent of the

amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.

(B) The notice of assessment shall separately set forth the amount of any tax known by the administrator to be due or estimated by the administrator, after consideration of all information within the administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

3.46.290 Tax assessment – notice requirements.

The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the administrator for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

3.46.300 Tax assessment – hearing – application and determination.

Within ten days after the date of service, the person may apply in writing to the administrator for a hearing on the assessment. If application for a hearing before the city is not made within the time herein prescribed, the tax assessed by the administrator shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the administrator shall cause the matter to be set for hearing before him or her not later than thirty-five days after the receipt of the application, unless a later date is agreed to by the administrator and the person requesting the hearing. Notice of such hearing shall be given by the administrator to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the administrator should not be confirmed and fixed as the tax due. After such hearing the administrator shall determine and reassess the proper tax to be charged and shall give written notice

to the person in the manner prescribed in Section 3.46.290 for giving notice of assessment. The amount determined to be due shall be payable after fifteen days.

3.46.310 Conviction for chapter violation – taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

3.46.320 Violation deemed misdemeanor – penalty.

Any person violating any of the provisions of this chapter, or any regulation or rule passed in accordance herewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

3.46.330 Severability.

Should any provision of this chapter, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

3.46.340 Effect of state and federal reference/authorization.

(A) Unless specifically provided otherwise, any reference to a state or federal statute in this chapter shall mean such statute as it may be amended from time to time; provided, that such reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a state or federal agency or court of law, with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment

or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute, or interpretation thereof, shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute, or new interpretation thereof, shall be applicable to the maximum possible extent.

(B) To the extent that the city's authorization to collect or impose any tax imposed under this chapter is expanded as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.

3.46.350 Remedies cumulative.

All remedies and penalties prescribed by this chapter or which are available under any other provision of law or equity, including but not limited to the California False Claims Act (Government Code Section [12650](#) et seq.) and the California Unfair Practices Act (Business and Professions Code Section [17070](#) et seq.), are cumulative. The use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

3.46.360 Amendment or repeal.

This chapter of the Cloverdale Municipal Code may be repealed or amended by the city council without a vote of the people. However, as required by Chapter XIII C of the California Constitution and Government Code section 53750(h), voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this chapter beyond the maximum amount of ten percent of a cannabis business's gross receipts or revise the methodology by which the tax is calculated, if the revision would result in an increased tax being levied on any cannabis business. The people of the city of Cloverdale affirm that the following actions shall not constitute an increase of the rate of a tax:

- (A) The restoration of the rate of the tax to a rate that is no higher than the maximum ten percent tax rate set by this chapter, if the city council has previously acted to reduce the rate of the tax;
- (B) The city council's adoption of an resolution, as authorized by Section 3.46.070(A), to raise the tax rate provided the tax rate is not raised to a rate higher than ten percent of a cannabis business's gross receipts;
- (C) An action that interprets or clarifies the methodology of calculating the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;
- (D) The establishment of a class of persons that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or
- (E) The collection of the tax imposed by this chapter, even if the city had, for some period of time, failed to collect the tax.

SECTION 3. CEQA.

The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The Cannabis Business Tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed the ordinance codified in this Chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or

unconstitutional without regard to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional.

SECTION 5. Effective Date.

The City Clerk shall certify the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law. If this Ordinance is approved by a majority of the voters as set forth in Section 1 of this Ordinance, it shall take effect immediately upon certification of the election results by the City Council.

APPROVED by the following vote of the People of the City of Cloverdale at the November 8, 2016 election: _____ % voting in favor; and

ADOPTED this ____ day of _____ 2016 by the following roll call vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

APPROVED:

ATTEST:

_____,
MaryAnn Brigham, Mayor

_____,
Paul Cayler, City Clerk

APPROVED AS TO FORM:

_____,
Jose M. Sanchez, City Attorney

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2680104.2

**CITY OF CLOVERDALE
CITY COUNCIL
RESOLUTION NO. 059-2016**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVERDALE CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION ON NOVEMBER 8, 2016 TO CONSIDER THE CITY OF CLOVERDALE CANNABIS BUSINESS TAX MEASURE; ORDERING THE SUBMITTAL OF THE ORDINANCE TO THE VOTERS AT THE ELECTION; AND REQUESTING THAT THE SONOMA COUNTY BOARD OF SUPERVISORS CONSENT TO THE CONSOLIDATION OF THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION AND PREVIOUSLY CALLED MUNICIPAL ELECTION TO BE HELD ON THE SAME DATE AND DIRECT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION

WHEREAS, the passage of the Medical Marijuana Regulation and Safety Act by the California Legislature establishes a regulatory, permitting, and oversight structure of medical marijuana businesses at the state level and allows local jurisdictions to enact taxes on such businesses; and

WHEREAS, the City Council desires to find new revenue sources for the General Fund in order to fund essential City services to preserve and improve the quality of life in Cloverdale; and

WHEREAS, a Cannabis Business Tax would create a local revenue source for City services that cannot be taken by Sacramento or Washington, ensuring our tax dollars are spent locally to help keep the City financially stable; and

WHEREAS, the City desires to protect and maintain City services its constituents have identified as priorities, such as emergency response services; preventing and investigating property crimes, like thefts and burglaries; maintaining adequate street maintenance and pothole repair; supporting the City's local businesses; maintaining and improving parks and libraries; and enhancing the fiscal stability of the City of Cloverdale.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cloverdale does hereby find, determine, and declare as follows:

1. The foregoing recitals are true and correct and are hereby incorporated by reference.
2. Pursuant to California Constitution Article XIII C, Section 2; Government Code sections 53724 and 37101; and Elections Code section 9222, the City Council of the City of Cloverdale hereby calls an election at which it shall submit to the qualified voters of the City the Cloverdale Cannabis Business Tax Measure, which if approved, would adopt a business tax at a rate of up to 10% on gross receipts of permitted cannabis businesses. The City Council hereby requests that the election be consolidated with the statewide election to be held on November 8, 2016 and the previously called municipal election. The City Council acknowledges that the

consolidated election will be held and conducted in the manner prescribed in Election Code section 10418.

3. The question to be presented to the voters shall be as set forth below. This question requires the approval of a majority of qualified electors casting votes:

City of Cloverdale Cannabis Business Tax.		
To fund essential City services such as police, streets, parks, libraries, senior and youth programs, shall an ordinance be adopted imposing a tax on all permitted cannabis businesses in Cloverdale, at a rate of up to 10% on gross receipts, to raise estimated revenues of \$90,000 per business, with no sunset date, subject to audits, with funds staying local and allowing for the tax rate to vary by business activity type?	YES	
	NO	

4. The Ordinance authorizing the general tax to be approved by the voters is as set forth in Attachment 1 hereto. The Ordinance specifies that the rate of the Cannabis Business Tax shall be no more than percent (10%) of the gross receipts of all cannabis businesses operating in the City. The tax can only be ended by voters. The Ordinance and Cannabis Business Tax shall be approved if a simple majority of votes cast on the measure are affirmative. The full text of the Ordinance proposed to be adopted by the voters shall be available upon request to the Office of the City Clerk and on the City’s website.

5. The City Clerk is authorized, instructed and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the general municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

6. The Board of Supervisors is requested to instruct the Office of the Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one (1) election. The City recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City’s cost of placing the measure on the election ballot.

7. Arguments; Impartial Analysis; Deadlines

- a. The last day for submission of primary arguments for or against the measure shall be by 5 p.m. on August 22, 2016.
- b. The last day for submission of rebuttal arguments for or against the measure shall be by 5 p.m. on September 1, 2016.

- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.
 - d. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the primary arguments.
 - e. Pursuant to California Elections Code section 9282, the Mayor is hereby authorized to submit a written argument in favor of the proposed measure, not to exceed three hundred (300) words. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, the Mayor is also authorized to submit a rebuttal argument, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.
 - f. Pursuant to California Elections Code section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by August 22, 2016.
 - g. Pursuant to California Elections Code section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.
8. The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the Registrar of Voters of the County of Sonoma, together with the attached ballot measure.
9. The jurisdictional boundaries of the City of Cloverdale have not changed since the last general municipal election.
10. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines"). The Cannabis Business Tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not

involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

11. This Resolution shall become effective immediately upon its passage and adoption.

It is hereby certified that the foregoing Resolution No. 059-2016, was duly introduced and duly adopted by the City Council of the City of Cloverdale at its regular meeting held on the 9th day of August, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTESTED:

MaryAnn Brigham, Mayor

Paul Cayler, City Clerk

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2688197.3



**City Council/Successor Agency
Agenda Item Summary**

Agenda Item: 6
Meeting Date: August 9, 2016

Agenda Section

New Business

Staff Contact

Mark Rincon, Public Works Director

Agenda Item Title

Discussion and Possible Action to Remove Historic Oak Tree in Lighting and Landscape District Zone No. Two (Vintage Meadows) On Healdsburg Avenue near South Franklin Street.

Summary

City staff received a citizen’s report on Monday August 1, 2016 that the Historic Oak Tree had lost an eight-inch diameter branch on Saturday night (7/30/2016) or early Sunday morning (7/31/2016.) City Staff went to the site on Tuesday morning to remove the branch and debris, but found the fallen branch had been removed by the neighbors.

Murray Rosen, our Lighting and Landscape Crew Leader and City Arborist, inspected the tree and has determined that the tree has become a hazard and needs to be removed. Attached is Mr. Rosen’s Hazardous Tree Evaluation Form. The traffic island, where the tree is located, has been posted with a warning signs and the posting will remain until action is taken with the tree. Murray Rosen reported that City Staff have, over the last several years, attempted to stabilize the tree. However, the tree has continued to decline at an accelerating rate despite the efforts of City Staff.

The tree is a Valley Oak (sp. Quercus lobata) estimated to be approximately 300 to 350 years old. The tree was spared when the Vintage Meadows development was constructed by adjusting the street layout to include a large traffic island to circumvent the tree. The tree underwent a stabilization approximately three years ago. However, the tree, given its advanced age, continues to deteriorate at a rapid pace. Advanced deterioration is evidenced throughout the tree and the supporting soils around the tree.

Staff has met with three tree service companies to receive estimates for its removal. Estimates include stump grinding, or, if the trunk is not rotted, possibly leaving a four-foot section to be carved into a bench by City Staff as a lasting tribute to the tree.

Options

- 1) Remove the tree per staff recommendation; or
- 2) Do not remove the tree and review options; or
- 3) Provide other direction to Staff

Budget/Financial Impact

The fiscal impact of the tree removal will impact the budget of Vintage Meadows’ Lighting and Landscape District (Zone No. 2). The cost of tree removal depends on the scope of work selected by the City, and whether the removed tree is to be replaced with appropriate landscaping. Estimated cost for tree removal is \$6,000.

Subcommittee Recommendation

Due to the emergency nature of this item, it has not been presented to the Public Works Subcommittee.

Recommended Council Action

The Public Works Director recommends that the tree be removed. No replacement tree or landscaping will be installed at this time. All future tree removals in Vintage Meadows Lighting and Landscape District continue to be considered on a “case-by-case” manner as set forth in the master plan.

Attachments:

1. Hazardous Tree Evaluation Form.
 2. Invoice of previous tree pruning.
 3. Photographs of the tree in question.
-

cc:



A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas
TREE HAZARD EVALUATION FORM 2nd Edition

Site/Address: Island - Healdsburg Ave and Franklin
 Map/Location: City of Cloverdale - Vintage Meadows
 Owner: public private unknown other
 Date: 8/3/16 Inspector: Murray Rosen and Hector Galvan
 Date of last inspection: 6/15/16

HAZARD RATING:						
<u>4</u>	+	<u>3</u>	+	<u>3</u>	=	<u>10</u>
Failure Potential		Size of part		Target Rating	=	Hazard Rating
<input checked="" type="checkbox"/>						Immediate action needed
<input type="checkbox"/>						Needs further inspection
<input type="checkbox"/>						Dead tree

TREE CHARACTERISTICS

Tree #: 1 Species: Quercus lobata - Valley Oak
 DBH: 6 FT # of trunks: 1 Height: 100 FT Spread: 60 FT
 Form: generally symmetric minor asymmetry major asymmetry stump sprout stag-headed
 Crown class: dominant co-dominant intermediate suppressed
 Live crown ratio: 40 % Age class: young semi-mature mature over-mature/senescent
 Pruning history: crown cleaned excessively thinned topped crown raised pollarded crown reduced flush cuts cabled/braced
 none multiple pruning events Approx. dates: 2013 - June - numerous times in past
 Special Value: specimen heritage/historic wildlife unusual street tree screen shade indigenous protected by gov. agency

TREE HEALTH

Foliage color: normal chlorotic necrotic Epicormics? Y N
 Foliage density: normal sparse Leaf size: normal small
 Annual shoot growth: excellent average poor Twig Dieback? Y N
 Woundwood development: excellent average poor none
 Vigor class: excellent average fair poor
 Major pests/diseases: wood peckers, rot, mushrooms, cankers, dead wood

SITE CONDITIONS

Site Character: residence commercial industrial park open space natural woodland/forest
 Landscape type: parkway raised bed container mound lawn shrub border wind break
 Irrigation: none adequate inadequate excessive trunk wetted
 Recent site disturbance? Y N construction soil disturbance grade change line clearing site clearing
 % dripline paved: 0% 10-25% 25-50% 50-75% 75-100% Pavement lifted? Y N
 % dripline w/ fill soil: 0% 10-25% 25-50% 50-75% 75-100%
 % dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%
 Soil problems: drainage shallow compacted droughty saline alkaline acidic small volume disease center history of fail
 clay expansive slope _____ aspect: _____
 Obstructions: lights signage line-of-sight view overhead lines underground utilities traffic adjacent veg. _____
 Exposure to wind: single tree below canopy above canopy recently exposed windward, canopy edge area prone to windthrow
 Prevailing wind direction: _____ Occurrence of snow/ice storms never seldom regularly

TARGET

Use Under Tree: building parking traffic pedestrian recreation landscape hardscape small features utility lines
 Can target be moved? Y N Can use be restricted? Y N
 Occupancy: occasional use intermittent use frequent use constant use

TREE DEFECTS

ROOT DEFECTS:

Suspect root rot: Y N Mushroom/conk/bracket present: Y N ID: _____
 Exposed roots: severe moderate low Undermined: severe moderate low
 Root pruned: _____ distance from trunk Root area affected: _____ % Buttress wounded: Y N When: _____
 Restricted root area: severe moderate low Potential for root failure: severe moderate low
 LEAN: 15 deg. from vertical natural unnatural self-corrected Soil heaving: Y N
 Decay in plane of lean: Y N Roots broken Y N Soil cracking: Y N
 Compounding factors: Large, deep cavities at base Lean severity: severe moderate low

CROWN DEFECTS: Indicate presence of individual defects and rate their severity (s = severe, m = moderate, l = low)

DEFECT	ROOT CROWN	TRUNK	SCAFFOLDS	BRANCHES
Poor taper		L	L	L
Bow, sweep				
Codominants/forks		L	L	L
Multiple attachments		m	m	m
Included bark			m	m
Excessive end weight			m	m
Cracks/splits		S	S	S
Hangers				
Girdling				
Wounds/seam		S	S	S
Decay	S	S	S	S
Cavity	S	S	S	S
Conks/mushrooms/bracket		m	m	m
Bleeding/sap flow				
Loose/cracked bark	S	S	S	S
Nesting hole/bee hive		S	S	S
Deadwood/stubs			S	S
Borers/termites/ants				
Cankers/galls/burls				
Previous failure			S	S

HAZARD RATING

Tree part most likely to fail: Scaffolding and Roots Failure potential: 1 - low; 2 - medium; 3 - high; 4 - severe
 Inspection period: _____ annual _____ biannual _____ other monthly Size of part: 1 - <6" (15 cm); 2 - 6-18" (15-45 cm);
 Failure Potential + Size of Part + Target Rating = Hazard Rating 3 - 18-30" (45-75 cm); 4 - >30" (75 cm)
4 + 3 + 3 = 10 Target rating: 1 - occasional use; 2 - intermittent use;
 3 - frequent use; 4 - constant use

HAZARD ABATEMENT

Prune: remove defective part reduce end weight crown clean thin raise canopy crown reduce restructure shape
 Cable/Brace: _____ Inspect further: root crown decay aerial monitor
 Remove tree: Y N Replace? Y N Move target: Y N Other: _____
 Effect on adjacent trees: none evaluate
 Notification: owner manager governing agency Date: 8/1/2016

COMMENTS

See photos and attached comments.

Comments to Tree Hazard Evaluation Form for Healdsburg Ave Oak Tree

The estimated age of the Oak Tree at Healdsburg Ave and Franklin St. is 300-350 years. The tree has been in decline for several years and a number of remedial pruning efforts to prolong the life of the tree have been made as recently as 2013.

On July 31st the tree dropped a large limb that covered Healdsburg Ave. and that event has caused us to revisit and further inspect the health of the tree. The tree has a long vertical crack along the trunk, there are cavities on the trunk and on all the large scaffolding limbs, rot is present, cracks are visible on all the scaffolding limbs, large cavities are at the base of the tree at the root flares and are undermining the stability of the tree which is evidenced by the ground heaving on the side of the tree opposite the lean side.

Efforts have been made to prune out the dead wood and reduce the length of the scaffolds to keep them inside the island to reduce the risk of a limb falling however the tree has so many problems that are compromising its health the risk of keeping the tree is not acceptable considering it sits in the middle of a residential area where we have frequent vehicle and pedestrian traffic.

In our opinion the tree is a public safety hazard should be removed as soon as possible.

City Arborists,

Murray Rosen, WE-9065 A

Hector Galvan, WE-1017 0A

Image Tree Service, Inc.
 564 Caletti Ave
 Windsor, CA 95492
 (707)433-5355



Invoice

Date	Invoice #
06/25/2013	4944
Terms	
Due on receipt	

Bill To
City of Cloverdale. 124 N. Cloverdale Blvd Cloverdale, CA 95425

Date	Service	Activity	Quantity	Rate	Amount
06/25/2013	T4- TREE SERVICE	Safety prune one oak tree St Healdsburg and Franklin	1	1,800.00	1,800.00
<p>change to Vintage meadows - zone 2</p> <p>6/24 - work completed - OK to pay</p> <p>MR</p>					
				Total	\$1,800.00

It has been a pleasure working with you. We appreciate your feedback, visit us on YELP.com. Please remember, accounts not paid within terms are subject to a 1.5% monthly finance charge. Visa and MasterCard accepted. Thank you for choosing Image Tree Service, Inc!



8" split on
trunk.
14' long.

Open Safford's
or Dimmick's

1 p. 100-101

Broken
scaffolds-





Crack on
base of tree

Probe went
inside the
tree 3" deep



② - Flare

①

Large open
cut in

foot flare.

Maybe went
inside the

3 ft.

Foot Figure ②



②

Foot have rot and decay.

Open

Large open
cavity on rock
flanks

Cavity 2ft deep
with rot and decay

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**City Council/ Successor Agency
Agenda Item Summary**

Agenda Item: 7
Meeting Date: August 9, 2016

Agenda Section

Public Hearing

Staff Contact

Eric Janzen, Engineering Technician

Agenda Item Title

Proposal by PG&E to remove street trees along PG&E’s gas transmission main pipeline.

Summary

PG&E has submitted an encroachment permit application (EP 29-2016) requesting the removal of approximately 75 street trees within the City limits. All trees are located in the Public Right-of-Way and along the route of PG&E’s gas transmission pipeline.

Background: As part of PG&E’s ongoing maintenance and inspection of the natural gas transmission main pipeline, PG&E has identified several trees growing adjacent to the pipeline which may be of concern. As these trees continue to grow, there is a possibility that their root structures could eventually affect the integrity of the pipe or limit access for maintenance.

PG&E met with City Staff in February, 2016 to discuss the possibility of removing trees along the gas pipeline. PG&E considers all of the trees within the City limit “manageable” without removal but would prefer to remove them as a preventative measure. The trees are located along South Cloverdale Blvd. starting at the southern City Limit, continuing along Franklin Street and Jefferson Street and ending at the northern City limit.

City Staff have reviewed the tree maps provided by PG&E and have identified some trees for which removal would also benefit the City. Staff have also identified trees that could be removed if PG&E obtained the consent of the adjacent private property owner and several trees that should remain. City Staff are presenting these findings to Council to provide an opportunity for comment. City Staff are prepared to move forward with approval of the permit, conditioned as noted in the tree maps, unless the Council finds that further consideration is warranted.

Options

1. Authorize Staff to proceed with permit issuance as conditioned in the attached tree maps, or
2. Provide other direction to Staff.

Budget/Financial Impact

Approval will provide minor cost savings for sidewalk completion project funded under the CDBG FY 2014/15 and FY 2015/16.

Subcommittee Recommendation

This item was presented at the June 26th, 2016 Public Works sub-committee meeting. The sub-committee supported presenting this item to the full Council for discussion.

Recommended Council Actions

Authorize Staff to proceed with permit issuance as conditioned in the attached tree maps.

Attachments:

Tree maps

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Images: 2013\work\03_3175\Coastland_Civil_Engineering_Hillside_Parking_Lot_1.jpg Xrefs:
 Path: F:\Civil 3D Projects\033375\03-3375.dwg Layout Name: Hillside Dr. Plot Date: Jul 08, 2016 at 14:28

FOR REDUCED PLANS, THE ORIGINAL SCALE IS IN INCHES

ORIGINAL PLOT DATE



CONSTRUCTION NOTES

- (R5) DIGOUT REPAIR PER DETAIL 1
- (R6) EX. MANHOLE - PROTECT IN PLACE.
- (R7) EX. MONUMENT - PROTECT IN PLACE.



PREPARED UNDER THE DIRECTION OF
Heidi E. Utterback
 HEDI E. UTTERBACK, RCE 53723 DATE 07/07/16
 DESIGNED BY HEU
 DRAWN BY CLG/LMM
 REVIEWED BY HEU



Coastland Civil Engineering, Inc.
 1400 Neotomas Avenue, Santa Rosa, CA 95405
 707.571.8005 Fax 707.571.8037 Fax

CLOVERDALE CALIFORNIA
 CITY PARK PARKING LOT REHABILITATION
 W. SECOND ST.
**HILLSIDE DR. LOCALIZED
 PAVEMENT REPAIR (ADD. ALT.)**

PROJECT NUMBER 03-3375
 DRAWING DATE JULY 2016
 SHEET NUMBER **3**
 PAGE 3

E

D

C

B

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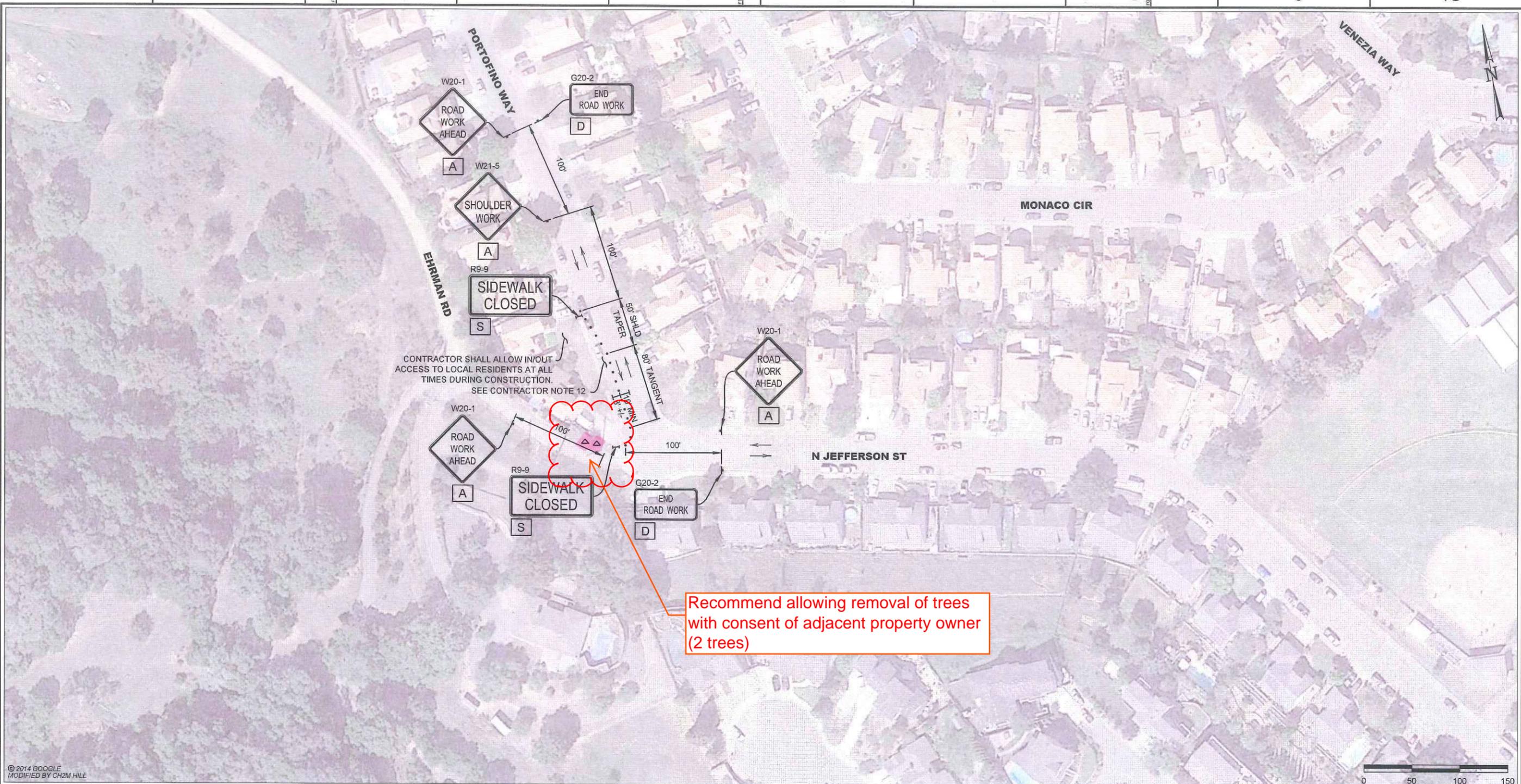
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- △ = TREE TO BE REMOVED
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SIGN PANEL SIZE

- A 48" X 48"
- D 48" X 24"
- S 24" X 12"

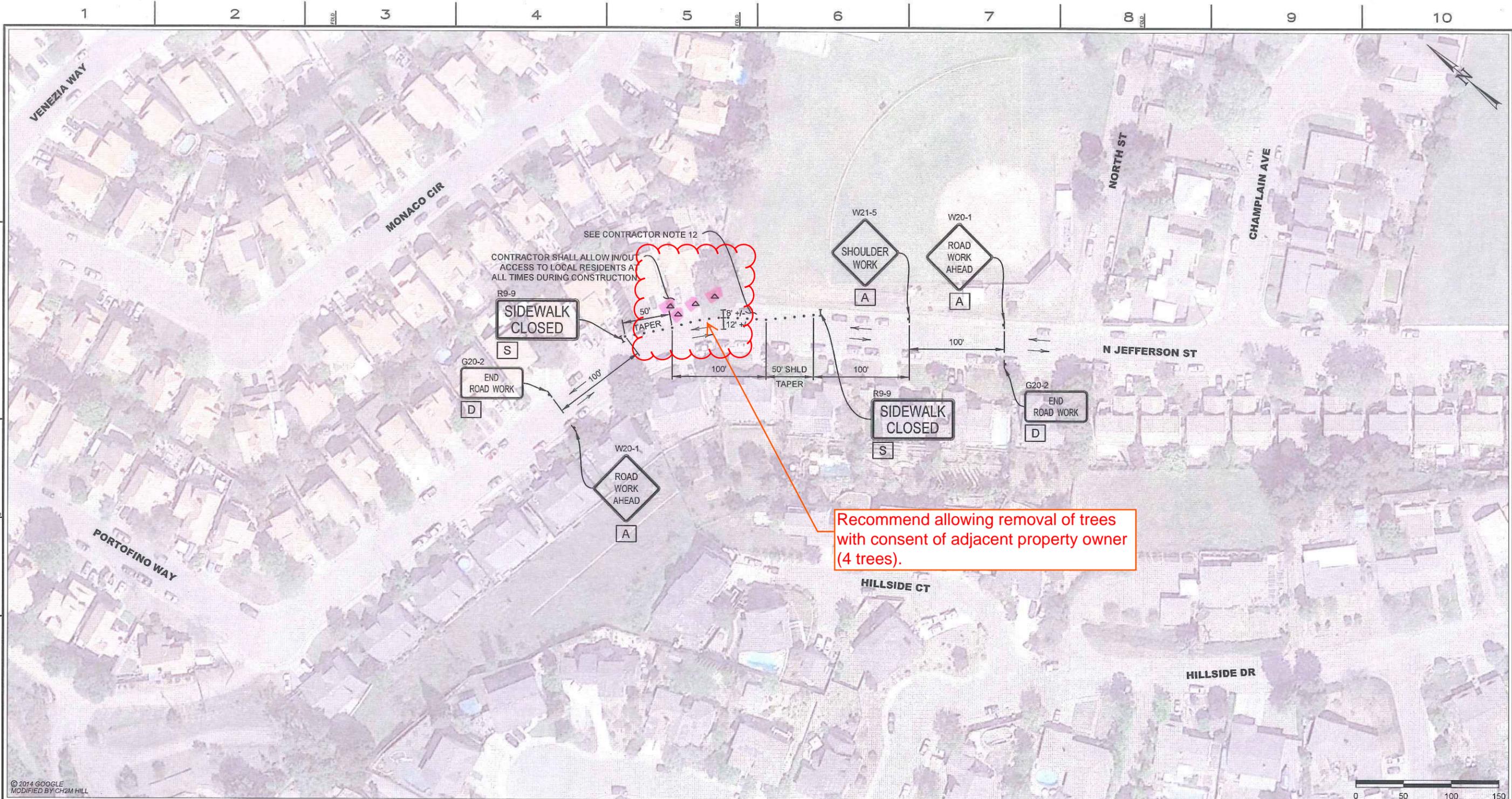


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REVISIONS								

CLOVERDALE CPSI
TREE REMOVAL
(RW-V-8072-15)
CLOVERDALE, CALIFORNIA

PACIFIC GAS AND ELECTRIC COMPANY
SAN RAMON, CALIFORNIA

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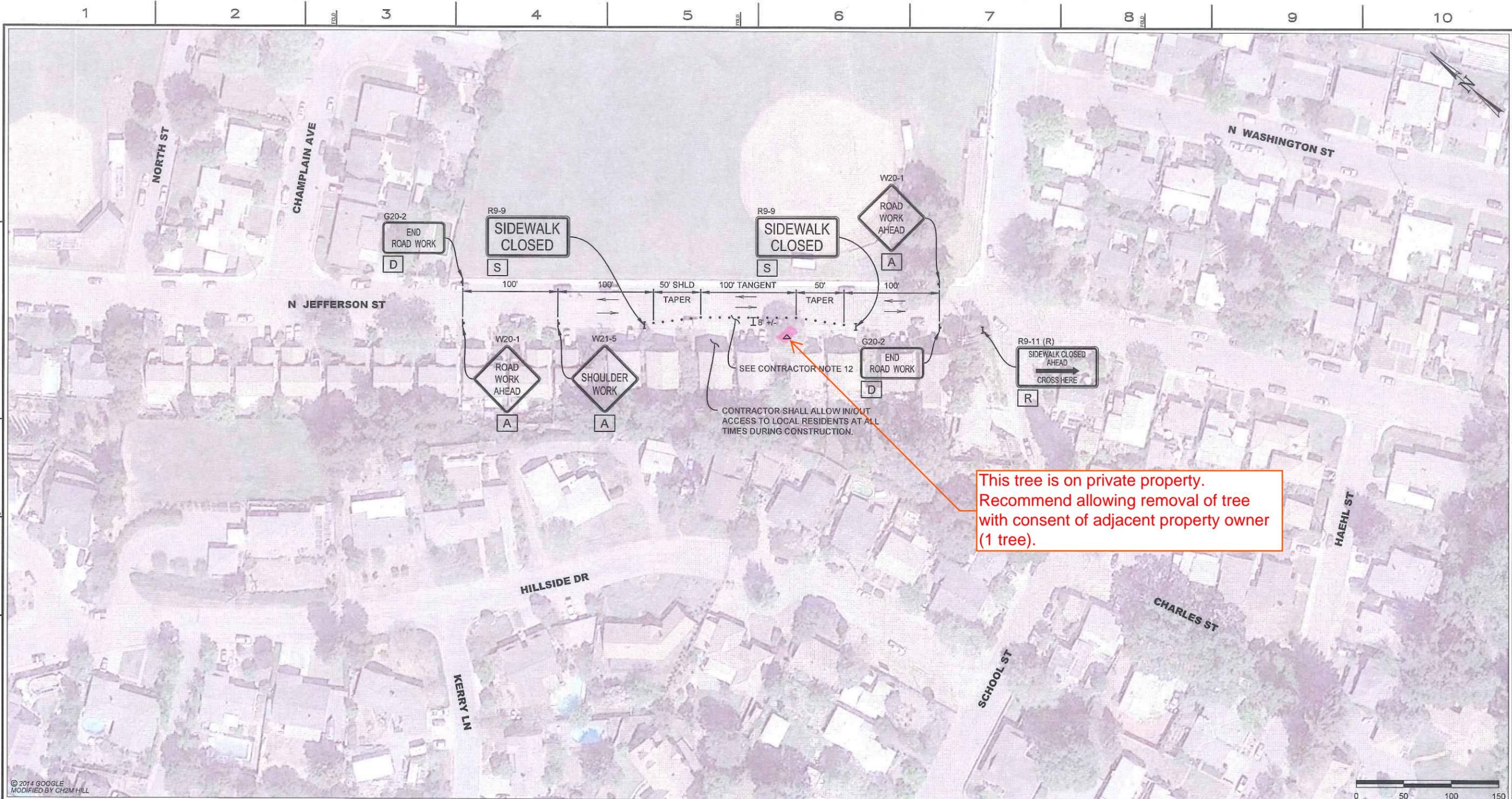


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CLOVERDALE, CALIFORNIA

PACIFIC GAS AND ELECTRIC COMPANY
SAN RAMON, CALIFORNIA

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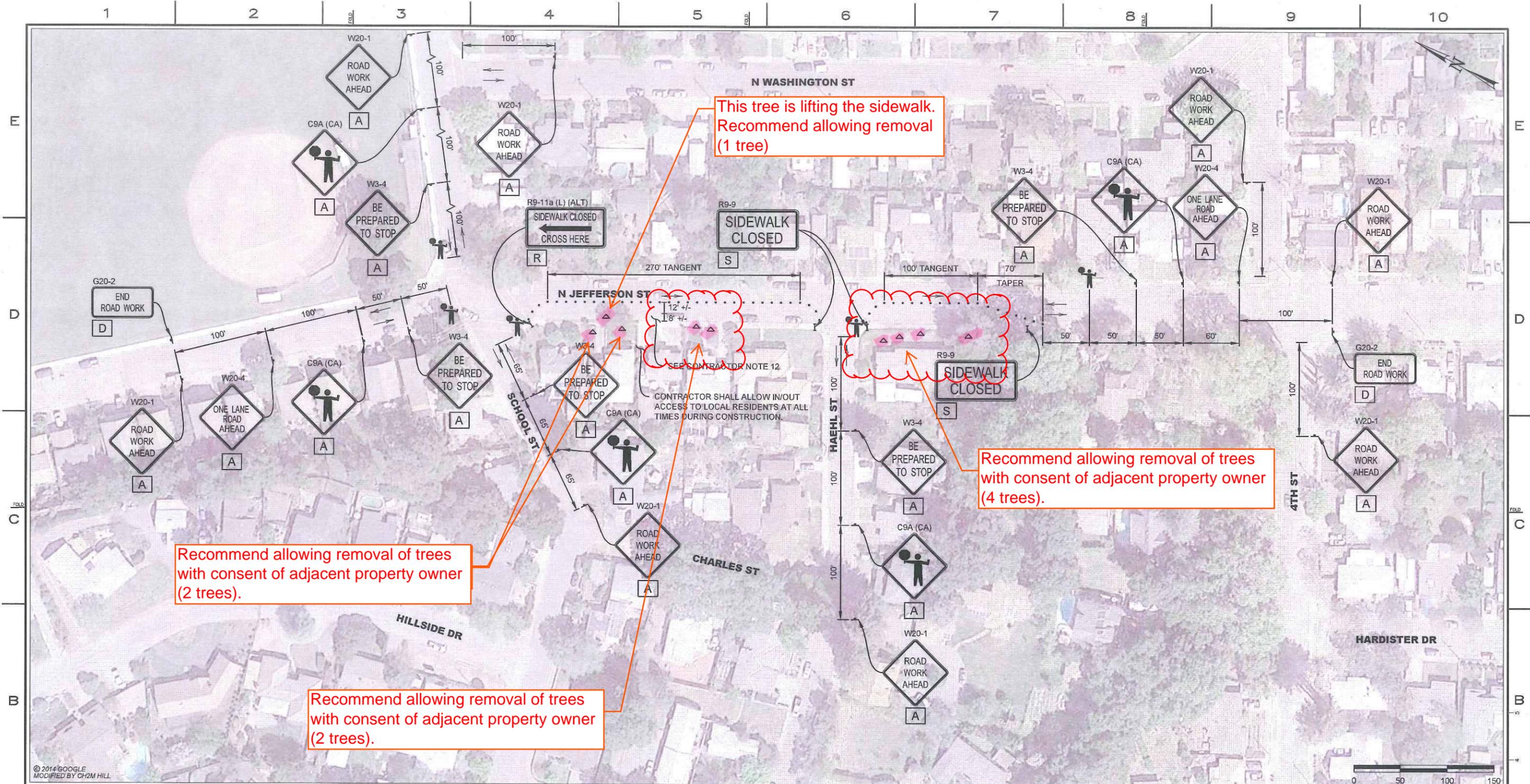


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	SUPV
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	KDY
DATE	05/04/16
SCALES	AS SHOWN

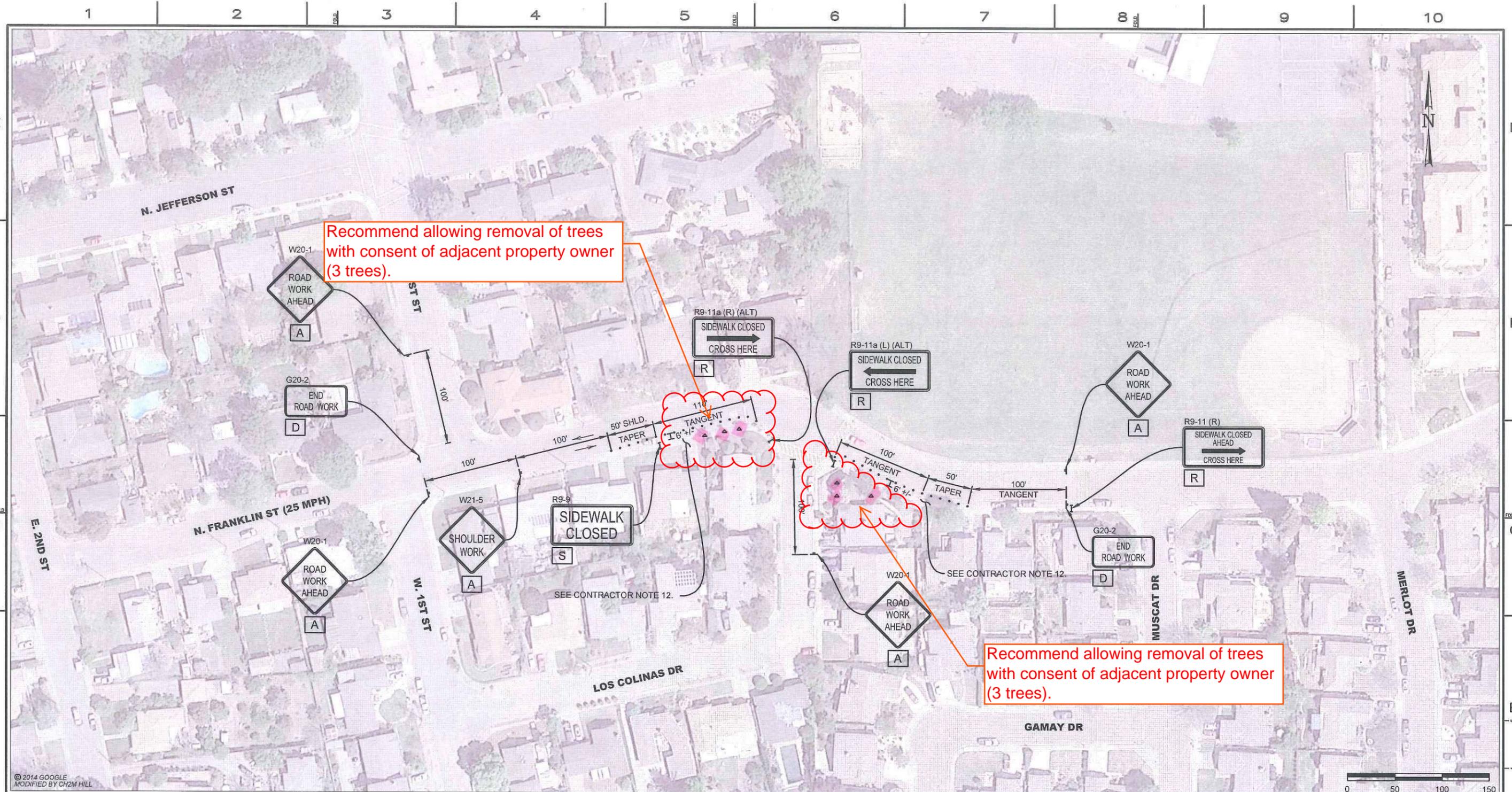
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CLOVERDALE, CALIFORNIA

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SIGN PANEL SIZE

A	48" X 48"
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R	24" X 18"
S	24" X 12"

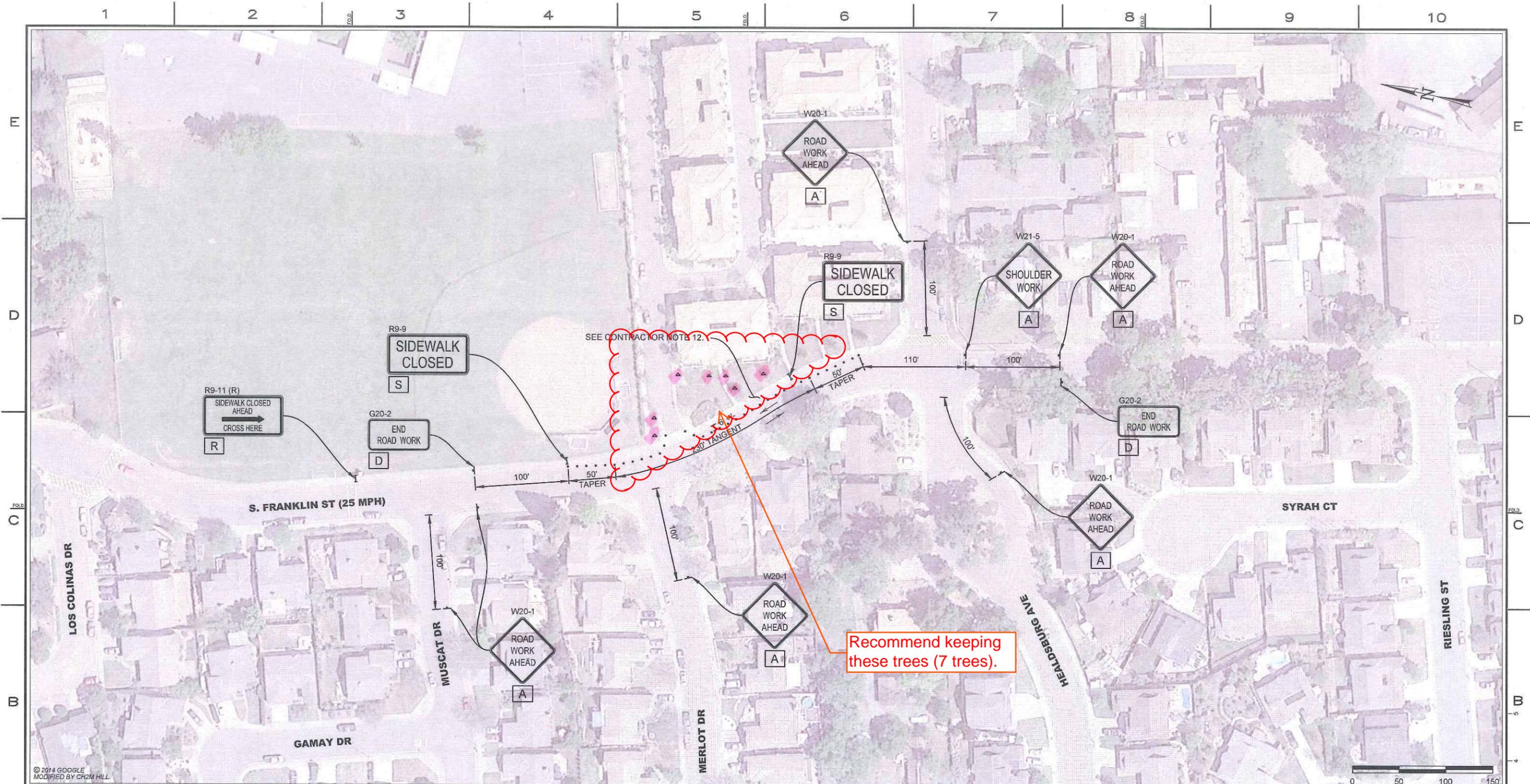


NO.	DATE	DESCRIPTION	GM/SPEC	DWN	CHKD	SUPV	APVD BY
0	05/04/16	ISSUED FOR PERMIT					

CLOVERDALE CPSI
TREE REMOVAL
(RW-V-8069-15)
CLOVERDALE, CALIFORNIA

PACIFIC GAS AND ELECTRIC COMPANY
SAN RAMON, CALIFORNIA

MICROFILM	
BILL OF MATL	
DWG LIST	
SUPSDS	
SUPSD BY	
SHEET NO.	2 OF 6 SHEETS



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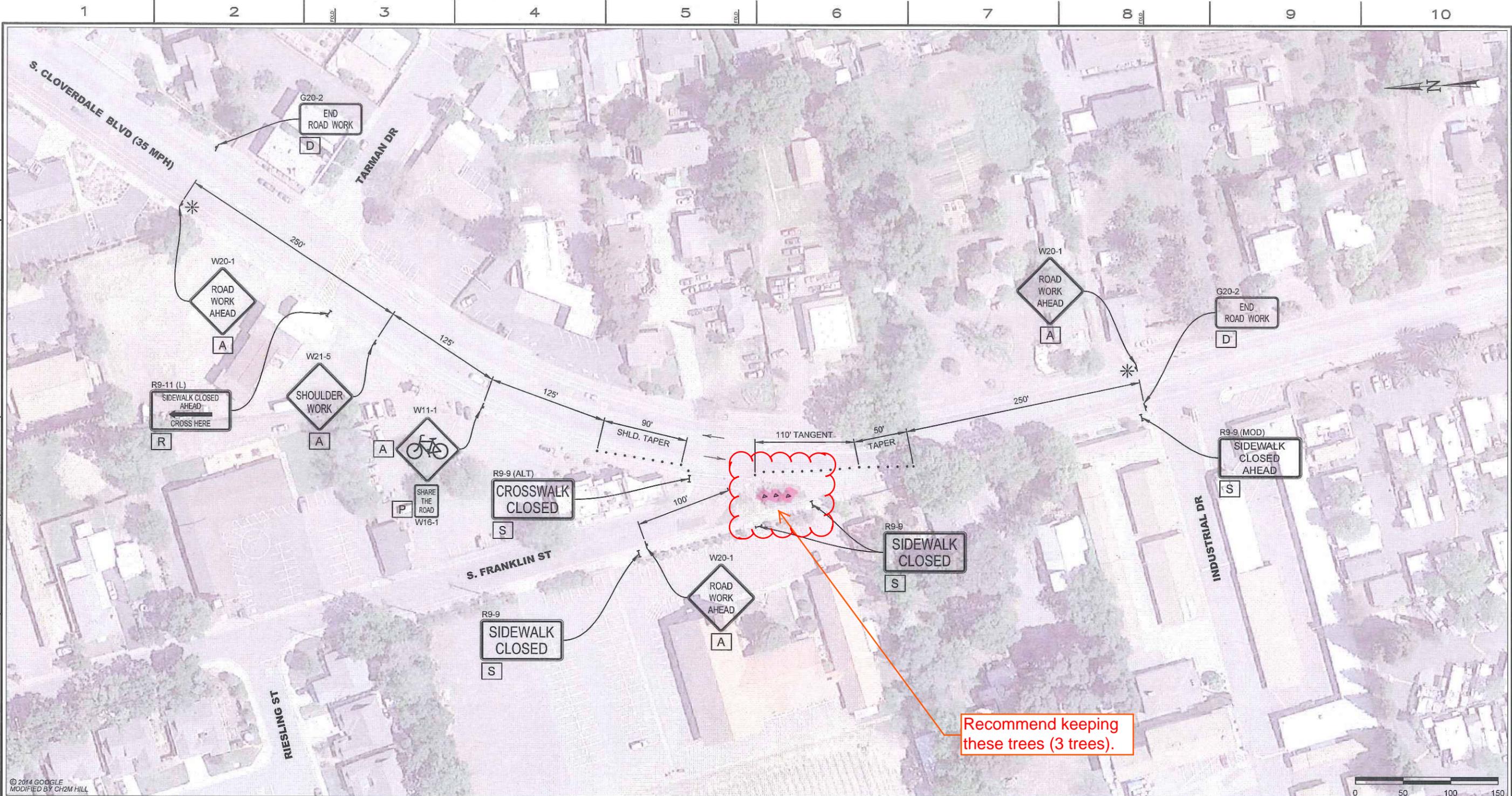
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CLOVERDALE CPSI
TREE REMOVAL
(RW-V-8068-15)
CLOVERDALE, CALIFORNIA

PACIFIC GAS AND ELECTRIC COMPANY
SAN RAMON, CALIFORNIA

MICROFILM

BILL OF MATL	
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SHEET NO.	1 OF 6 SHEETS



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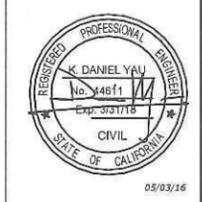
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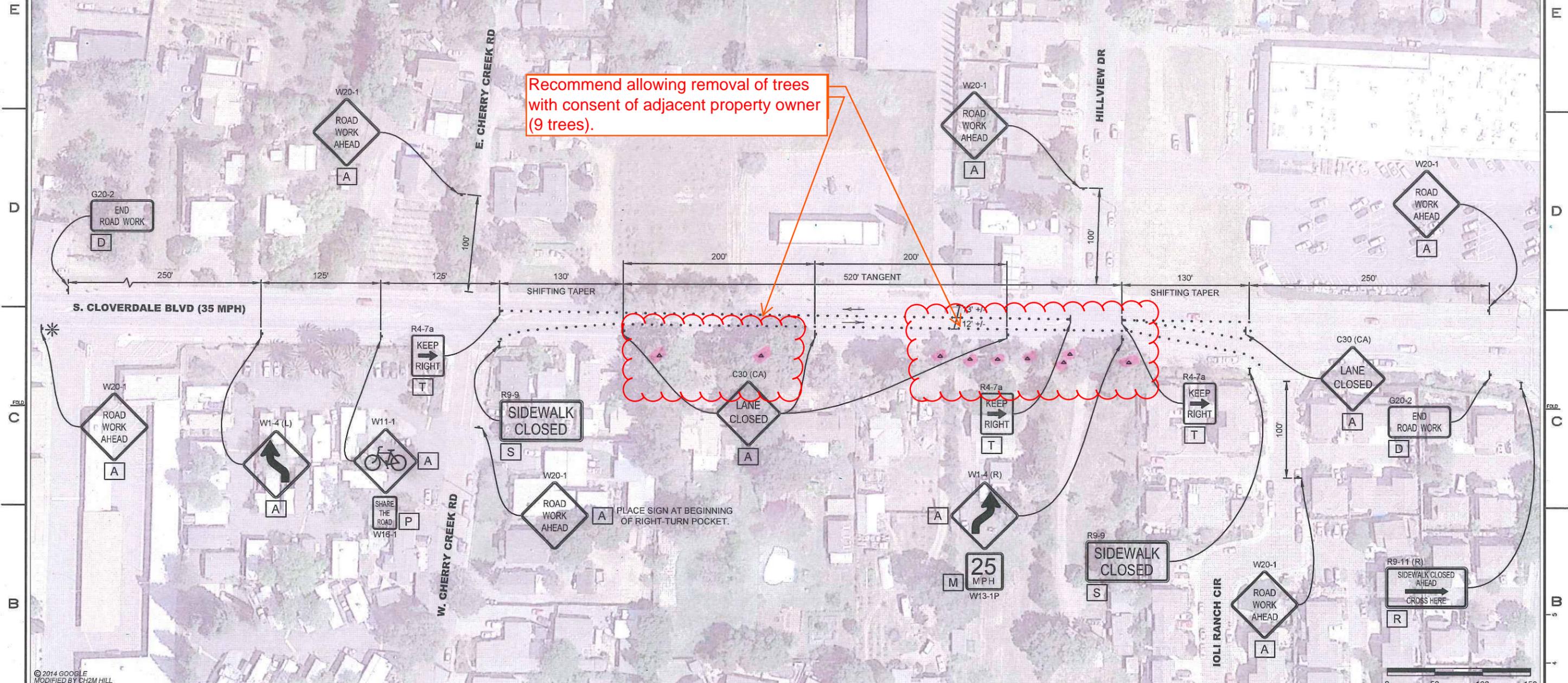


NO.	DATE	DESCRIPTION	GM/SPEC	DWN	CHKD	SUPV	APVD BY	KDY
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CLOVERDALE CPSI
TREE REMOVAL
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CLOVERDALE, CALIFORNIA

PACIFIC GAS AND ELECTRIC COMPANY
SAN RAMON, CALIFORNIA

BILL OF MATL
DWG LIST
SUPSDS
SUPSD BY
SHEET NO. 2 OF 2 SHEETS
0



Recommend allowing removal of trees with consent of adjacent property owner (9 trees).

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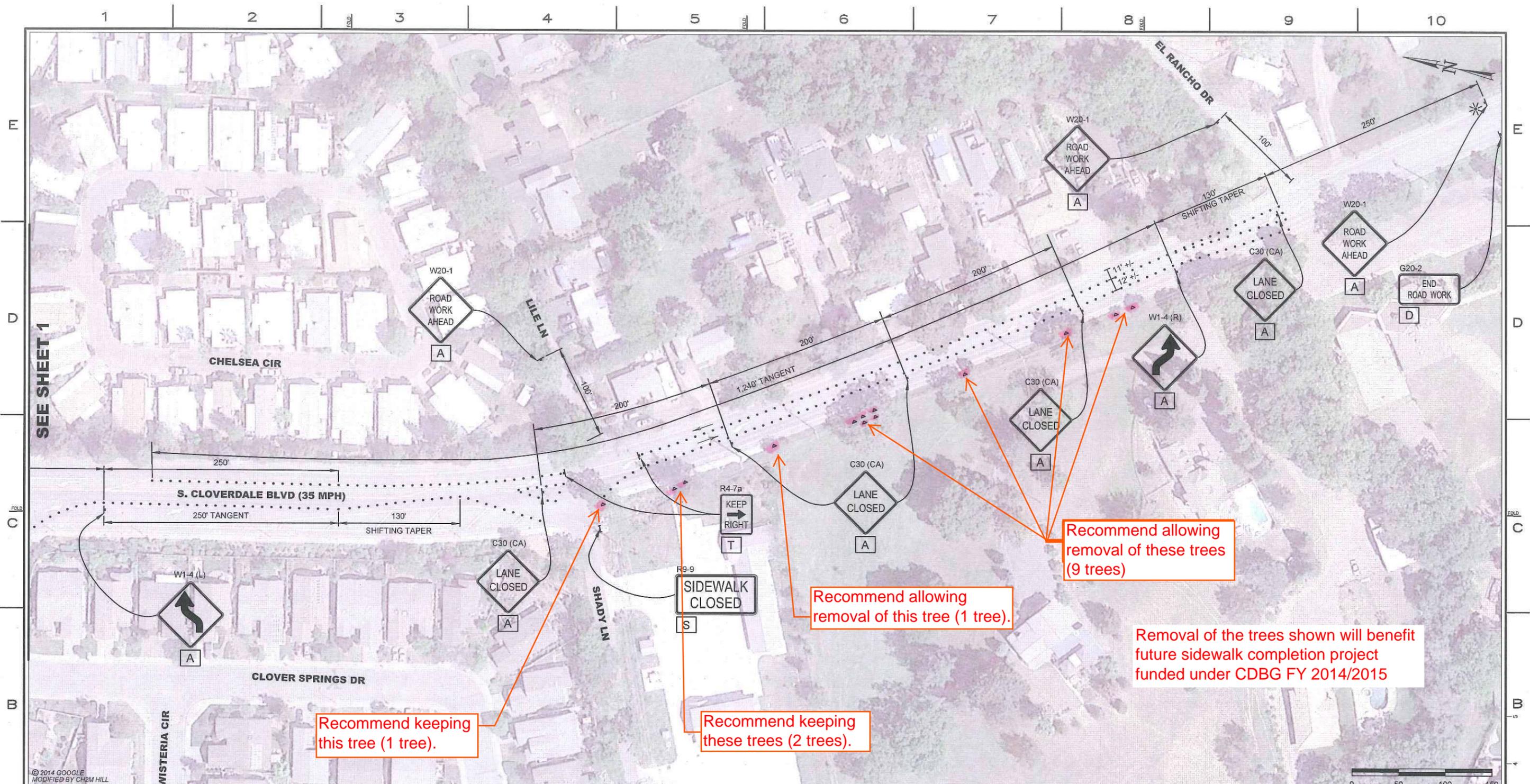
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CLOVERDALE CPSI
TREE REMOVAL
(RW-V-8065-15)
CLOVERDALE, CALIFORNIA

PACIFIC GAS AND ELECTRIC COMPANY
SAN RAMON, CALIFORNIA

BILL OF MATL	
DWG LIST	
SUPSDS	
SUPSD BY	
SHEET NO.	1 OF 2
SHEETS	



Recommend allowing removal of these trees (9 trees)

Recommend allowing removal of this tree (1 tree).

Removal of the trees shown will benefit future sidewalk completion project funded under CDBG FY 2014/2015

Recommend keeping this tree (1 tree).

Recommend keeping these trees (2 trees).

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1	05/03/16	ISSUED FOR PERMIT						

CLOVERDALE CPSI
 TREE REMOVAL
 (RW-V-8076-15 & RW-V-8077-15)
 CLOVERDALE, CALIFORNIA

PACIFIC GAS AND ELECTRIC COMPANY
 SAN RAMON, CALIFORNIA

MICROFILM	
BILL OF MATL.	
DWG LIST	
SUPSDS	
SUPSDS BY	
SHEET NO.	2 OF 2 SHEETS



City Council
Agenda Item Summary

Agenda Item: 8
Meeting Date: August 9, 2016

Table with 2 columns: Agenda Section (New Business) and Staff Contact (Eric Janzen, Engineering Technician)

Agenda Item Title

Action on Resolution No. 062-2016, Awarding a Construction Contract for the W. Second Street City Park Parking Lot Rehabilitation Project

Summary

The W. Second Street City Park Parking Lot Rehabilitation Project consists of the restoration of the paved surfaces within the City Park parking lot and restriping of parking stalls (the Base Bid). An Additive Alternate paving project was included in the bid packet which consists of the restoration of paving on Hillside Drive near 573 Hillside Drive (the Additive Alternate bid). Maps for each paving location are attached. The project was advertised for bids in accordance with the Public Contract Code and bids were opened on July 26, 2016 during the regularly scheduled Public Works sub-committee meeting. Two bids were received ranging from a low of \$58,377.00 to a high of \$59,820.92. One bid was deemed non-responsive for failure to present required bid bond or equivalent cash deposit resulting in one qualifying bid submitted by CATS4U, Inc. in the amount of \$59,820.92. All bids were evaluated on the Base Bid only in accordance with the advertised "Notice to Contractors".

The bid package was structured with a Base Bid that includes all work at City Park and one additive alternate bid for all work on Hillside Drive. This was done to provide flexibility in the scope of the project depending upon the amount of the base bid and total project funding.

Options

- 1. Award a construction contract to the lowest responsible bidder and allocate funds for entire contract.
2. Award a construction contract to the lowest responsible bidder and allocate funds for Base Bid only.
3. Reject bid.

Budget/Financial Impact

Staff is requesting that the City Council appropriate \$60,000 from the General Fund to cover the cost of the paving at City Park. The project was originally budgeted in FY 15/16 at \$50,000.00. However, due to delays in obtaining qualifying bids, the funding for this project was not carried over from the previous fiscal year and requires Council approval to allocate funds under the current fiscal year. The paving of Hillside Drive will be funded through available Measure M Sales Tax funds.

Table with 2 columns: Description (Construction Contract (Base Bid), Additive Alternate, Contingency, Total Estimated Construction Cost) and Amount (\$59,820.92, \$14,351.06, \$4,828.02, \$80,000.00) and Fund Source (General Fund, Water Fund, Measure M Fund).

Subcommittee Recommendation:

Bids were opened and read aloud at the July 26, 2016 Public Works sub-committee meeting. Sub-committee input was not required to meet the requirements of the applicable Public Contract Codes.

Recommended Council Action

Adopt Resolution No. 062-2016, awarding a construction contract to CATS4U, Inc. for the full contract (Base Bid and Additive Alternate bid) and allocate funds from the General Fund and Measure M totaling \$80,000.00.

Attachments:

1. Location Map
 2. Resolution
-

[Type text]

**CITY OF CLOVERDALE
CITY COUNCIL
RESOLUTION NO. 062-2016
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVERDALE
AUTHORIZING THE CITY MANAGER TO SIGN
SIGN A CONSTRUCTION CONTRACT WITH CATS4U, INC. FOR THE W. SECOND STREET CITY PARK PARKING
LOT REHABILITATION PROJECT**

WHEREAS, in accordance with California Public Contract Code Section 20162, the City of Cloverdale Notice to Bidders for the W. Second Street City Park Parking Lot Rehabilitation Project and other applicable law; and

WHEREAS, bids for the Project were opened on July 26, 2016, in accordance with California Public Contract Code Section 4105.5 and other applicable law; and

WHEREAS, one qualifying bid was received in the amount of \$59,820.92 with an Additive Alternate bid in the amount of \$14,351.06 from CATS4U, Inc; and

WHEREAS, staff has determined that the CATS4U, Inc bid satisfies the bidding requirements for the Project; and

WHEREAS, staff has verified that CATS4U, Inc. possesses a valid California Contractor's License, Class A, number 465781, expiration date March 31, 2017, as required to qualify to perform the Project; and

WHEREAS, the Project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the following authorities: Section 15301(c) of Title 14 of the California Code of Regulations for operation, repair and maintenance of existing highways, streets, sidewalks, gutters, bicycle and pedestrian facilities, and similar facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLOVERDALE AS FOLLOWS:

1. The above recitals are true and correct and are hereby incorporated into this Resolution as findings of the City Council of the City of Cloverdale.
2. The Project is exempt from CEQA in accordance with Section 15301(c) of the CEQA Guidelines.
3. In accordance with California Public Contract Code Section 20160 and following and other applicable law, the City Council of the City of Cloverdale hereby finds the bid of CATS4U, Inc. for the W. Second Street City Park Parking Lot Rehabilitation Project to be the lowest, responsive bid and waives any irregularities in such bid in accordance with applicable law.
4. The contract for the W. Second Street City Park Parking Lot Rehabilitation Project is hereby awarded to CATS4U in the amount of \$74,171.98 to include the Base Bid improvement and the Additive Alternate improvement, conditioned upon CATS4U, Inc.'s timely executing the Project contract and submitting all required documents, including, but not limited to, executed bonds, certificates of insurance, and endorsements, in accordance with the Project bid documents.

[Type text]

5. The City Manager is hereby authorized and directed to execute a contract with CATS4U, Inc. for performance of the Project in accordance with the bid documents and applicable law upon submission by Coastside Concrete of all documents required pursuant to the Project bid documents.

6. The City Manager is hereby authorized to execute any contract changes orders in accordance with the Project contract documents so long as the total Project cost does not exceed \$80,000.00.

7. City staff is hereby directed to issue a notice of award to CATS4U, Inc.

8. This Resolution shall become effective immediately.

9. All portions of this resolution are severable. Should any individual component of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining resolution portions shall be and continue in full force and effect, except as to those resolution portions that have been adjudged invalid. The City Council of the City of Cloverdale hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more section subsection, clause sentence, phrase or other portion may be held invalid or unconstitutional.

It is hereby certified that the foregoing Resolution No. 062–2016 was duly introduced and duly adopted by the City Council of the City of Cloverdale at its regular meeting held on the 9th day of August, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTESTED:

MaryAnn Brigham, Mayor

Linda Moore, Deputy City Clerk