



## Staff Report

**Date:** August 2, 2016

**To:** City Council

**From:** Valerie J. Barone, City Manager

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**Subject:** **Considering major terms for a sublease agreement, to be drafted in a form acceptable to the City Attorney, to allow Clayton Valley Charter High School the temporary right to use Boatwright Sports Complex for student parking and authorizing the City Manager to execute the agreement subject to consent of Cal State University East Bay and approval of the City Attorney.**

**This project qualifies for a Categorical Exemption pursuant to the California Environmental Quality Act Guidelines Sections 15301 – Existing Facilities, 15303 – New Construction or Small Structures and 15305 – Minor Alterations in Land Use Limitations.**

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### Report in Brief

Clayton Valley Charter High School, located at 1101 Alberta Way, has requested a sublease agreement to allow temporary student parking at Boatwright Sports Complex on a month to month basis for a fee of \$850 per month. Staff has negotiated the major deal points, which are discussed below, for a sublease agreement. The City's ability to execute the proposed sublease agreement is subject to the consent of Cal State University East Bay, which leases the subject property to the City.

### Recommended Action

Staff recommends that the City Council authorize the City Manager to work with the City Attorney's Office to draft an agreement between the City and Clayton Valley Charter High School, incorporating the major deal points presented in this report, to allow temporary student parking within the City of Concord's Boatwright Sports Complex for a

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fee of \$850 per month, and authorize the City Manager to execute the agreement subject to consent of Cal State University East Bay and approval of the City Attorney.

### **Background**

On June 21, 2016 the Executive Director of Clayton Valley Charter High School (CVCHS) contacted the City with a proposal to address parking spillover problems from the school onto the adjacent neighborhood south of Academy Road, as well as recurring traffic congestion on Academy Road in the afternoon. The proposal involved the use of Boatwright Sports Complex for overflow student parking to relieve traffic and parking congestion within CVCHS and the surrounding neighborhood.

Prior to presenting this proposal to the City, CVCHS solicited lease agreements from its neighboring property owners which have large parking areas that are mostly vacant during school hours. CVCHS was unsuccessful in securing a lease from these other property owners. CVCHS also consulted with Cal State University East Bay and was directed to the City of Concord to inquire about the Boatwright Sports Complex. The City of Concord and Cal State University East Bay entered into a lease agreement in October 1997 that allowed the City to develop the land into a sports complex. However, Section 26 of this agreement allows the City to sublet the property or assign the Lease with prior written approval of the University.

City and CVCHS staff met on a number of occasions to discuss parking and traffic congestion. These meetings generated a number of ideas as intermediate measures for the City and CVCHS to implement before school resumes on August 10, in addition to the proposal for overflow student parking at the Boatwright Sports Complex. These ideas are presented after the proposed sublease deal points below.

### **Analysis**

The major deal terms that have been negotiated between the City and CVCHS, with input from Cal State East Bay, are listed below. They primarily address public safety, property maintenance, liability, and rent. The University has provided written approval to the City of Concord allowing the City to sublease the property to CVCHS but also requiring certain provision is the sublease (discussed below).

#### Major Negotiated Deal Points for the Sublease

- The sublease will be month-to-month, with a term as required by Cal State East Bay, and will include provisions for either party to terminate the agreement with 30 days advance notice
- Sublease fee will be equal to \$850 per month (\$10,200 annually)
  - CVCHS will pay each month in advance

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- CVHS and the City will reassess the sublease amount after three months' time and renegotiate the annual amount based on actual usage of the overflow lot, maintenance costs, and other similar factors
- CVHS campus security will monitor crosswalks at the intersection of Ygnacio Valley Road and Alberta Way during the following times (the times will be modified to accommodate any unusual scheduling that occurs at CVCHS):
  - Mornings: 7:45 am – 8:15 am
  - Afternoons: 2:15 pm – 2:45 pm (Wednesday, Thursday)  
2:45 pm – 3:15 pm (Monday, Tuesday, Friday)
- Boatwright Fields entrance gate will be open from 6:45 am – 8:15 am, Mon-Fri
  - Entrance gate will close at 8:15 am and exit gate will open upon exiting at all times
- CVCHS campus security will monitor the Boatwright Sports Complex parking lot and student behavior frequently throughout the day, but no less than 3 times daily
- CVHS will analyze the ability to install security cameras and connect to the CVHS security network
- The agreement will contain an indemnification clause to hold harmless the City of Concord, to the satisfaction of the City Attorney
- The agreement will require CVCHS to have proof of insurance that names the City of Concord as additional insured, to the satisfaction of the City Attorney
- The following provisions will be included in the agreement to satisfy the needs of Cal State University, East Bay prior to execution of the agreement:
  - A draft of the sublease agreement will be provided to the University for review prior to signing; University consent is required
  - The term of the sublease will include a specific term
  - The agreement will contain an indemnification clause to hold harmless the CSU Board of Trustees and California State University, East Bay
  - The agreement will require CVCHS to have proof of insurance that names the CSU Board of Trustees and California State University, East Bay as additional insured
  - The City of Concord will provide Cal State East Bay with certified copy of the City's insurance covering the sublease arrangement with CVCHS
  - Cal State East Bay will retain priority to use the parking lots for commencement activities

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- As per the original sublease agreement, the City of Concord will remain primarily responsible for maintenance and security of the Boatwright Sports Complex parking lots
- Terms and conditions should the City cede security of the complex and parking lots to CVCHS

Separate from creating overflow student parking at Boatwright Sports Complex, the following measures are planned to help address congestion around CVCHS::

1. CVCHS intends to use a supplemental parking lot located at the rear of the school (off of Academy Road) to accommodate parking demand for A-period (early) students. Additionally, A-period students will have an earlier dismissal schedule, hence spreading out the afternoon traffic load from the school over a longer period.
2. The City will arrange for a traffic flow study adjacent to the school site in the morning and afternoon hours and develop long-term measures to address off-site traffic congestion from the school. This study will be conducted by a City-approved traffic consultant who will be retained by the City. Once the cost of the study is known, CVCHS will be asked to pay for it. It is not anticipated to be a high cost study.
3. The City will install "KEEP CLEAR" pavement markings on eastbound Academy Road at White Oak Drive to facilitate the right turn movement during the after school traffic rush period.
4. The City will continue with the ongoing proposal to re-establish permit parking on Red Oak Drive south of Academy Road as requested by a majority of the residents on the street. This item is scheduled for City Council review and consideration on July 26. If approved by the City Council, staff will make every effort to install permit parking signs on Red Oak Drive prior to the school opening on August 10.
5. In an effort to impress traffic safety upon the students and parents, the Police Traffic Unit will conduct high-visibility enforcement of vehicle code violations in the area and Parking Services will be requested to do heavy parking enforcement along Academy Road and Alberta Way (and their adjoining streets) during the first week or two of school starting and then periodically thereafter. Traffic enforcement activity will be focused during the morning drop-off and afternoon pick-up periods. Parking enforcement will be performed during the morning, late morning, and afternoon.
6. Police staff will work with the CVCHS staff to develop an education component on traffic and parking issues for CVCHS students and parents. CVCHS will use the school's social media, email notifications, and briefings during classes throughout the year to remind everyone about proper locations to park, use of the

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drop-off/pick-up area, and observing traffic laws (lane markings, stop signs, crosswalks, speed limits, etc.). CVCHS officials were given a Police Traffic Unit point of contact for assistance and for input as the beginning of the school year approaches.

### **Alternatives**

The City Council could choose to deny the request from Clayton Valley Charter High School and direct City staff to work with CVCHS on carrying out items 1-6 above.

### **CEQA**

Based on the description in this staff report and attachments, this project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301 – Existing Facilities, 15303 – New Construction or Small Structures and 15305 – Minor Alterations in Land Use Limitations.

### **Financial Impact**

The license agreement would provide \$10,200 annually to the City. One of the provisions of this agreement is to reassess the lease amount after three months' time, and renegotiate the annual amount based on actual use of the parking lot, costs incurred by the City and any other relevant factors.

### **Public Contact**

Clayton Valley Charter High School has received a copy of the agenda report and the City Council Agenda has been posted.